

## **Public Health Committee Cover Paper**

**Title: Draft Revised Tobacco Legislation**

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### **I. INTRODUCTION**

1.1 Consumption of tobacco on St Helena is high. This is particularly concerning among young people, pregnant women, and women in the reproductive age group. Adult men and women smoke in equal proportions. Overall, more than a quarter of the population smoke.

1.2 Current tobacco legislation do not fully meet the FCTC recommendations. Working with colleagues from Public Health England, WHO and the AG's office and subsequent to previous deliberations at Public Health Committee meetings, a draft legislation is attached for consideration by the committee. The key elements of the proposal are as below.

### **II. TOBACCO CONTROL ORDINANCE, 2018**

#### **1. Key Objectives**

- Reduce the attractiveness of tobacco: packaging, labelling, display, advertisement
- Reduce consumption by young people: sale, use and access
- Reduce consumption in enclosed public places, work places, and vehicles
- Supply and demand management using excise duty
- Eventual reduction in the incidence and prevalence of smoking-related ill-health

#### **2. Key Headline Provisions**

- **Packaging, Display, Labelling, Promotion and Advertising**
  - follow UK laws (**allows us to use tested laws**)
  - import only tobacco meeting standardised packaging (**will have impact on source of tobacco imported to the island**)
  - tobacco packs must carry health warning and have no adverts
  - may not mislead or imply one brand is less harmful compared to another
  - must not be displayed in shops or to the public
  - No self-service for tobacco products by customers
  - Price lists may be made available to customers over 18 on request and must be on plain A4 paper
  - tobacco business cannot be advertised or promoted or sponsor events
  - tobacco livery, logo, crèche cannot be displayed on buildings, banners, vehicles or any other assets
  - all tobacco imported to the island must have all labels in English

- **Tobacco Sales & Import**
  - No sales to anyone under 18 years of age
  - Requirement for someone who looks under 18 to produce an ID (**what are the options?**)
  - Cigarettes and Cigars cannot be sold in units of less than 20, and any other tobacco products not less than 30g
  - All tobacco dealers must be registered and licensed (**should this be the public health committee?**)
  - Tobacco must not be offered to anyone under 18 years of age
  - Minimum excise duty for tobacco established
  - Tobacco shaped toys, sweets, confectionaries, or any other paraphernalia e.g. key rings, T-shirts, mugs, etc. with tobacco product logo cannot be imported to the island
  - Tobacco must not be offered free as incentive, games or lottery prizes, or as cash rebate or as prizes for any competition
  - No importation of menthol or other flavoured tobacco products
  
- **Enclosed Public Places**
  - No smoking in partial or fully enclosed public places
  - All places of work must be smoke-free
  - No smoking in any work vehicle
  - No smoking in vehicles with an under 18 present
  - No smoking in vehicles used by the public whether for hire or not
  - The governor can designate any public location as smoke-free be it that they are enclosed or not
  - Only private dwellings and specific places will be exempt e.g. care home
  
- **Offences**
  - Advertising or promoting tobacco products
  - Importing non-standard packaged tobacco products
  - Avoiding to pay minimum excise duty
  - Non-compliance with smoke-free public places provisions
  - Non-compliance with registration and licensing for tobacco sales
  - Non-compliance with display and labelling provisions
  - Non-compliance with any of the importation provisions
  - Not displaying 'No Smoking' in smoke-free places
  - Selling tobacco with to a young person under 18
  - Selling tobacco in units less than prescribed minimum quantity
  - Selling tobacco in automated machines or self-serve or allowing consumer to handle before purchase
  - As a guardian or parent permitting a child under-18 to smoke
  - Obstruction of enforcement officer in their duties
  - For continued violation, each day of violation is a separate offence

- Businesses can be held liable for contravention of the provisions of the ordinance and the proprietor, director or other relevant personnel of the business will be held responsible
  
- **Enforcement**
  - Police & Customs Officials
  - ? Environmental Health and Fire Officers
  - Authority to enter premises based on reasonable suspicion
  - Power to seize goods
  - Power to issue fixed penalty notices
  - Power to stop and search
  
- **Fines & Penalties**
  - Fines on adults not children (**not criminalise children**)
  - Non-compliance as criminal offence
  - Proportionately more fines for businesses than individuals
  - Fixed penalty
  - Rescind license after 3 offences in a 24-month period
  - Tobacco products not meeting packaging or labelling standard will be confiscated
  - If a registered/licensed tobacco dealer is convicted under the ordinance, license is revoked for 3 years and all fees paid forfeited
  - How much should the fine for various offences be?

### 3. Issues for discussion

- a. Set license fee for tobacco dealer; it is proposed that the licensing/registration fee for tobacco retailer be in line with the fee for alcohol licensing fees.
  
- b. Agree licensing authority and process; it is proposed that the Health Directorate in consultation with the Public Health Committee become the licensing authority.
  
- c. Set fines for offences; it is proposed that the fines be set as proposed in the draft bill and that the maximum for offence related to children be set at £2000.
  
- d. Use of Fixed Penalty; it is proposed that fixed penalty provision is made in this bill and that this come into effect with this bill.
  
- e. Agree list of enforcement officers; it is proposed that Police, Customs and Environmental Health Officers are included as enforcement officers. There is also provision for other named officials to be named as enforcement officers as required.

- f. ID issuing process/cost/authority; it is proposed that a pragmatic approach to issuing of ID for those 18 years and over is implemented.

#### **4. Next Steps**

- a. Agree overall timing for completion and future consultation on legislation
- b. Scheduled for further consultation and committee reviews
- c. Consultation with legislative council
- d. Consultation with CLG and AG's office
- e. For wider community consultation