

St Helena Government - Health Directorate

Policy to strengthen legislation to reduce tobacco use among the population of St Helena to meet the provisions of the United Nations Framework Convention on Tobacco Control

Background

Reducing tobacco use and exposure to tobacco smoke are priority objectives of the SHG Health Directorate to reduce the burden of earlier deaths, chronic illness, and disability caused by non-communicable diseases. Smoking is a leading preventable risk factor for diseases such as cardiovascular disease (heart attacks and strokes), type two diabetes, respiratory diseases (COPD), and a range of cancers. Reducing smoking by encouraging and supporting smokers to quit and deterring young people from starting smoking, and protecting non-smokers from exposure to tobacco smoke are key means to achieving the SHG Strategic Development Plan objectives 'Altogether Healthier' and 'Altogether Wealthier'.

The Framework Convention on Tobacco Control (FCTC) is a Global Treaty under the United Nations with the objective of reducing tobacco use. The FCTC has been signed by 180 countries internationally, including the UK, and it requires Parties to implement evidence-based measures to reduce tobacco use and exposure to tobacco smoke. The provisions of the FCTC are strongly recommended by to all states by the World Health Organisation, and the UK Government has a programme to encourage the UK Overseas Territories to strengthen compliance with the FCTC to improve public health and meet key international obligations.

To comply with the FCTC and implement the evidence-based measures to reduce tobacco the current St Helena Tobacco Ordinance (2011) requires to be updated. The St Helena Government Public Health Committee on 6th February 2019 approved for the legislation to be updated to include the new provisions to enhance the prevention of disease and protection of community members. This Policy document sets out the aim and objectives of the proposed legislative changes, identifies the areas of legislation that require to be altered, and sets out how the legislative changes may be monitored and evaluated.

This policy was updated in October 2019.

Aim

To reduce tobacco smoking and exposure to tobacco smoke among the population of St Helena by updating the 2019 Tobacco Ordinance to add the FCTC evidence-based measures to the existing provisions.

Objectives

-To reduce the attractiveness of tobacco smoking by regulating packaging, labelling, display and advertising

- To reduce uptake and consumption of tobacco by young people by regulating sale, use and access to tobacco and related products
- To reduce consumption of tobacco and exposure to second-hand smoke by strengthening prohibitions on smoking in enclosed public places, workplaces and vehicles
- To strengthen the regulation of the supply and demand of tobacco and related products
- To provide regulation of e-cigarette and e-liquid importation, advertisement and sale; deter use by the general population; and reduce risk of youth uptake

Policy Specification

The policy will achieve an update of, and replacement for the Tobacco Control Ordinance 2011, in a Control of Tobacco and Related Products Ordinance 2019.

The 2019 legislation will include the following provisions. The provisions added in 2019 to achieve compliance with the FCTC are marked *.

Smoke-Free Premises and Vehicles

- The following apply both to smoked tobacco and e-cigarettes:

- All premises open to the public must be smoke-free (enclosed and substantially enclosed areas).
- On Government premises smoke-free includes the areas adjoining buildings even when these are not enclosed or substantially enclosed.
- Places of work used by more than one person or attended by members of the public must be smoke-free in enclosed and substantially enclosed areas.
- A person/ persons may not smoke in a vehicle occupied by a passenger aged under 18 years. - Vehicles used by the public, and vehicles used in the course of paid and voluntary employment must be smoke-free when conveying passengers aged under 18 years.
- The Governor may declare additional places as smoke-free if significant risk is identified from smoke exposure.

Sale of Tobacco or related products

- To introduce licensing for sales of tobacco and related products, and e-cigarettes, whereby only registered licensed dealers can sell these.
- To prohibit sale of tobacco to a person aged under 18; and to prohibit use of a child to buy tobacco.
- To prohibit sale of e-cigarettes and related products (liquids / refills etc) to a person aged under 18; and to prohibit use of a child to buy e-cigarettes and related products.
- To require 'proof of age' for purchases of tobacco and related products and e-cigarettes and related products to ensure sales only to persons aged over 18 years.

- To prohibit tobacco and related products being obtained through the internet, mail or automatic vending machines
- To prohibit purchase of e-cigarettes and related materials by persons aged under 18
- To prohibit import of e-cigarettes and related materials that contain nicotine containing more than 19mg/ml of nicotine, (and thereby products of unspecified level of nicotine).
- To prohibit import of smoke-less oral tobacco; and all novel nicotine delivery products that are not tobacco or e-cigarettes (for example, IQOS, 'Heat not Burn' and 'Heet sticks'). (UK Registered pharmaceutical products known as 'nicotine replacement therapy' (patches, gum, medications) are not prohibited.)

Sales and Display of Tobacco for Sale

- To prohibit display of tobacco and related products and any advertisement related to tobacco, including its packaging and pricing by retailers and at other places where products are sold.
- To prohibit display of e-cigarettes and related products and any advertisement related to e-cigarettes including packaging and pricing by retailers and at other places where products are sold.
- A price list for tobacco and related products and e-cigarettes and related products can be made available to customers by providing a plain A4 sized sheet on request only (not displayed.)
- To prohibit sales of tobacco or related products and e-cigarettes and related products in health care facilities, government buildings, sports or recreational facilities, educational facilities, and any additional prescribed place.
- To prohibit sweets, toys and all other objects in the form of tobacco or related products and e-cigarettes and related products for sale or distribution.

Advertising, Sponsorship and Promotion

- To prohibit advertising, promotion or sponsorship of tobacco or related products or tobacco company brands.
- To prohibit advertising, promotion or sponsorship of e-cigarettes or related products or e-cigarette company brands.
- To prohibit offer of free tobacco products or incentives for the purchase of tobacco products.
- To prohibit offer of free e-cigarettes and related products or incentives for the purchase of e-cigarette products.

Packaging, Labelling and Product Requirements

- To ensure conformity with packaging and labelling requirements of the UK 'Standardised Packaging of Tobacco Products Regulations 2015' and UK 'Tobacco and other related products Regulations 2016' **or** the South African legislation - 'Tobacco Products Control Amendment Act 2008' and as amended from time to time.

-To prohibit import or sale of any tobacco product, including Duty Free, that does not comply with the UK 'Standardised Packaging of Tobacco Products Regulations 2015' and UK 'Tobacco and other related products Regulations 2016' or the South African legislation - 'Tobacco Products Control Amendment Act 2008' and as amended from time to time.

-To prohibit sales of tobacco or related products that are not in their complete and intact packaging meeting labelling, packaging and minimum weight requirements.

-To prohibit sale of e-cigarettes and related products that are not in their complete and intact packaging, and which are unable to confirm nicotine content less than 19mg/ml.

Seizure and Forfeiture

-To enable enforcement officers to 'seize and detain' tobacco or related products, and e-cigarettes and related products, where the provisions of the updated legislative ordinance are not met.

Penalties

-Penalties will apply for non-compliance with the terms of the legislation. A fixed penalty notice system will be used. Penalties relating to individual offenders (that are not businesses selling tobacco or owners of premises / public vehicles that contravene the regulations) will be lower than those relating to owners of businesses or premises who breach or fail to prevent breaches of the regulations.

Specific penalties:

-A person who smokes in a smoke-free place or vehicle commits an offence. Maximum penalty: A fine of £200.

-A person who smokes in a vehicle in contravention of section 8(1) commits an offence. Maximum penalty: A fine of £200.

-A person who fails to comply with the duty in section 10 to display no-smoking signs commits an offence. Maximum penalty: A fine of £800.

-A person who controls or is concerned in the management of any smoke-free place (and, in the case of a smoke-free vehicle, also the driver) must cause any person smoking in that place or vehicle to stop smoking. A person who fails to comply with the duty in subsection (1) commits an offence. Maximum penalty: A fine of £800.

-A person who sells or supplies a tobacco or related product to a child or who uses a child to sell a tobacco or related product in contravention of section 14, commits an offence. Maximum penalty: A fine of £800.

-A person supervising a child or who has responsibility for the welfare of a child who causes or permits that child to smoke or have in his or her possession any tobacco or related product, commits an offence. Maximum penalty: A fine of £200.

-A person who imports, sells, offers for sale or displays any tobacco or related product in contravention of section 11, 12, 13, 15, 16 or 17 commits an offence. Maximum penalty: A fine of £800.

-A person who contravenes the provisions of section 18 commits an offence. Maximum penalty: A fine of £200.

-A person who contravenes the provision of section 19 commits an offence. Maximum penalty: A fine of £800.

-A person who fails to comply with the provision of sections 20 or 21 with respect to packaging, labelling or product requirements, commits an offence. Maximum penalty: A fine of £800.

-A person who intentionally obstructs an enforcement officer acting in the performance of the officer's functions under this Ordinance commits an offence. Maximum penalty: A fine of £500.

-A person who without reasonable excuse or lawful authority fails to give to an enforcement officer acting in the performance of the officer's functions under this Ordinance, any facilities, assistance or information which the enforcement officer reasonably requires of the person for the performance of those functions, commits an offence. Maximum penalty: A fine of £500.

-A person who, in purported compliance with any requirement of an enforcement officer makes a statement which is false or misleading in a material particular and either knows that it is false or misleading or is reckless as to whether it is false or misleading, commits an offence. Maximum penalty: A fine of £500.

Monitoring and Evaluation

It is proposed that the implementation of the policy shall be reviewed at a meeting of the Public Health Committee once annually following the passage of the legislation with data and input from representatives from all implementing Directorates.

The following measures are proposed to monitor the implementation, effectiveness and impacts of the policy:

-Number of penalties issued under the various provisions over a 3 year period from passage of legislation.

-Customs data to indicate the volume of tobacco and related products imported to the island over a 3 year period from passage of the legislation.

-Customs data to indicate the volume of e-cigarettes and related products imported to the island over a 3 year period from passage of the legislation.-Data on prevalence of tobacco use and cessation of tobacco use over a 3 year period from passage of legislation.