

EXECUTIVE NOTE

DRAFT :The Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006

The above instrument is being made in exercise of the powers conferred by sections 3(3), 4(2), 4(3), 4(6), 4(7), 40(1)(b) of, and paragraphs 2, 4(1), 5(2) and 12 of schedule 1 to, the Smoking, Health and Social Care (Scotland) Act 2005 (“the 2005 Act”). The instrument is subject to affirmative resolution procedure.

Policy Objectives

Scotland’s tobacco control policy *A breath of fresh air for Scotland* was published in January 2004. It highlighted the health risks posed to non-smokers of exposure to second-hand smoke, also known as environmental tobacco smoke (ETS) or passive smoking. Tobacco use is the leading cause of preventable ill health in Scotland, causing 13,000 deaths each year, around 1,000 of which are from the effects of passive smoking. The Scientific Committee on Tobacco and Health reviewed the evidence on the health effects of passive smoking in 2004 and concluded that it increased risk to non-smokers of lung cancer of 24%, increased risk of ischaemic heart disease of 25% and there was a strong link to a number of adverse health effects in children.

International evidence, accumulated over a number of years, advises that the regulation of smoking in public places reduces exposure to second hand smoke and reduces smoking-related diseases and deaths. In addition to the health benefits for non-smokers, research also shows that regulation of smoking in enclosed public places helps to reduce the consumption of tobacco products.

Part 1 of, and schedule 1 to, the 2005 Act make provision to prohibit smoking in “no-smoking premises”, which are premises that are prescribed as such under the Act and are wholly or substantially enclosed. These regulations make further provision under Part 1 and schedule 1 to prescribe those premises which are “no-smoking premises” for the purpose of Part 1 of the 2005 Act and those premises (or parts of premises) which are exempt. These include exemptions for HM submarines and refuelling vessels. Ministers intend to revoke exemptions for submarines and refuelling vessels on 31 December 2009. The regulations also make further provision under the 2005 Act in relation to the display of no-smoking notices and fixed penalty arrangements, including what councils can use fixed penalty receipts for and how they should account for them.

Financial Effects

The instrument sets out the levels of fixed penalty notices that local enforcement officers can impose, but the Scottish Executive does not expect any revenue collected from fixed penalties to be high. The Executive has made funding for enforcement available to local government.

Regulatory Impact Assessment

A Regulatory Impact Assessment (RIA) has been undertaken in respect of the smoking legislation. A copy of the RIA has been placed in SPICE. The RIA indicates that the legislation will provide a significant positive net benefit to Scotland over 30 years.

Health Department: Tobacco Control Division
December 2005