



IRISH MEDICAL
ORGANISATION
Ceardchumann Dochtúirí na hÉireann

IMO Submission to the Oireachtas Committee on Health on Pre-legislative Scrutiny of the General Scheme of the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019

25th June 2021

The IMO welcomes the opportunity to comment on the General Scheme of the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019, which will introduce a licensing system for the sale of tobacco products and nicotine inhaling products and place restrictions on the sale of these products particularly to young people.

While it is recognised that non-combustible tobacco products and nicotine inhaling products are less harmful than traditional tobacco products, they are not without risk. While on average the amount and concentration of toxic substances inhaled is lower than in traditional cigarettes, the levels of toxicants can vary enormously depending on the brand and model, and can sometimes reach higher levels than in tobacco smoke.¹ These products are often promoted as smoking cessation aids, however, there is limited evidence to support their use as a smoking cessation device and they should not be marketed as such.²

Of particular concern is the upsurge in use of “ecigarettes” by young people with evidence demonstrating that novel tobacco and nicotine products serve as a gateway for young people to conventional cigarette smoking³ and that the product design, flavours, marketing, and perception of safety and acceptability have increased the appeal, particularly to young people.⁴

The draft legislation contains a number of welcome provisions that will restrict the sale of tobacco products and nicotine inhaling products to young people including:

- Prohibition on the sale of products from a temporary or movable premises and the requirement to sell tobacco and nicotine inhaling products from a point of sale only;
- Prohibition of the sale of nicotine inhaling products by and to under persons under 18 years;
- Prescribed signage;
- Prohibition on the sale of products at events or places intended for children;
- Test-purchasing;
- Publication of non-compliance lists

¹ Visser W, et al. The health risks of using e-cigarettes. National Institute for Public Health and the Environment, 2015.

Hayek, P. et al., 'Electronic cigarettes: review of use, content, safety, effects on smokers and potential for harm and benefit' in *Addiction*, 109(11), November 2014

² Wallace, AM, Foronjy RE, Electronic cigarettes: not evidence-based cessation *Transl Lung Cancer Res*. 2019 May; 8(Suppl 1): S7–S10. doi: 10.21037/tlcr.2019.03.08

³ WHO Report on the Global Tobacco Epidemic 2019. World Health Organization (WHO), 2019.

⁴ Electronic cigarette use in youths. Forum of International Respiratory Societies, 2018.

However the IMO considers that a number of further provisions are required to strengthen the legislation as follows:

Head 3 - Application of the Bill

Subhead (1) sets out that the Bill applies to the retail sale of tobacco products and nicotine inhaling products including online sales, however throughout the draft legislation the term “Tobacco and Nicotine Inhaling Products” is used. It must be clear that the licensing regime applies to all tobacco products (including non-combustible tobacco products) and nicotine inhaling products and there can be no weakening of existing Tobacco Control legislation.

Head 9 - Licence, licensee and fees

Evidence shows that a substantial increase in the cost of obtaining a tobacco licence is likely to have a dissuasive effect for retailers who wish to trade in tobacco products. Recent research published in Tobacco Control showed that, two years following an increase in the cost of obtaining a tobacco licence in South Australia from \$12.90 per annum to \$200.00 per annum, the number of licences issued had decreased by 23.7% from their pre-increase levels⁵. The IMO recommends an increase to the licensing fee for the sale of tobacco products and nicotine inhaling products. The licensing fee should be proportional, and based on the volume of sales, to ensure that small retailers are unduly penalised, and to discourage attempts to increase tobacco sales to cover the heightened cost of a licence.

Head 11 - Granting, refusal or renewal of a licence

There is a growing body of evidence that the density of retail outlets selling cigarettes in residential areas, as well as the proximity of retail outlets to schools is linked to increased consumption among adolescents.⁶ The IMO would therefore recommend that under Head 11 Granting, refusal or renewal of a licence, the density of retail outlets and the proximity to schools and youth recreational facilities (including primary schools, secondary schools, and pre-school and Montessori schools, playgrounds, youth clubs, sports clubs) is also taken into account when granting a licence for the sale of tobacco products and nicotine inhaling products.

Head 26 - Fixed payment notices for offences

Moderate financial penalties, such as on-the-spot fines, have been recommended by researchers as useful means of encouraging compliance by retailers with tobacco control measures.⁷ However, if fines are too low, retailers may become inured against the threat posed by them, thus reducing their effectiveness as a compliance-enforcement measure.⁸ The amount fined must therefore be sufficient to noticeably impact the retailer. For this reason, on-the-spot fines may not be suitable for larger retailers, as the amount fined is likely to be regarded as superficial by a body corporate above a certain size

⁵ Bowden, J. A. et al., ‘What happens when the price of a tobacco retailer licence increases?’ in Tobacco Control, 23(2), March 2014

⁶ Shortt NK, Tisch C, Pearce J, et al. The density of tobacco retailers in home and school environments and relationship with adolescent smoking behaviours in Scotland, Tob Control 2016;25:75–82.

⁷ Lantz, P. M. et al., ‘Investing in youth tobacco control: a review of smoking prevention and control strategies’ in Tobacco Control, 9(1), 2000

⁸ Stead, L. F., and Lancaster, T., ‘Interventions for preventing tobacco sales to minors (Review)’ in The Cochrane Library, Issue 3, 2008

Head 29 - Minimum suspension periods

Under Head 11 the IMO welcomes the provision that Executive will have regard to existing convictions in relation to contraventions of tobacco control legislation, including repeat offences and the applicant's compliance history with tobacco control legislation. Under Head 29 - Minimum suspension periods - it should also be indicated that an applicant may be refused renewal of a licence for repeated offences.