

Our reference: **Consultation 613**

Investing in Health Team (Tobacco Control)
Room C4.22
Castle Buildings
Belfast
BT4 3SQ

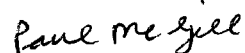
3 May 2006

Dear Colleagues

The Smoking (Northern Ireland) Order 2006

I am pleased to enclose a response from NICVA to the consultation on the proposed order. As you will see from our comments, we strongly support the proposed ban in enclosed and substantially enclosed premises.

Yours sincerely



Paul Mc Gill
NICVA

**Northern Ireland Council
for Voluntary Action**

61 Duncairn Gardens, Belfast BT15 2GB, Northern Ireland
Tel: (028) 9087 7777 Fax: (028) 9087 7799
Minicom: (028) 9087 7776 International Code: +44
e mail: nicva@nicva.org
Website: <http://www.nicva.org>

QUESTIONNAIRE

Q1. Article 2 (a) and (b) of the draft Order defines "smoking" as covering all lit tobacco or any other lit substance in a form which could be smoked, for example, herbal cigarettes. This is to avoid enforcement difficulties in cases where smokers claim their cigarettes do not contain tobacco.

Do you agree with the definition of smoking as set out in the draft Order?

Yes



No



If you wish to comment, please do so here.

Q2. Article 3 of the draft Order defines "smoke-free premises".

Do you agree with the definition of smoke-free premises as set out in the draft Order?

Yes



No



If you wish to comment, please do so here.

Consideration should be given to extending the ban to all public places, including those that are not enclosed or substantially enclosed.

It is important that regulations should prohibit congregations outside buildings, which require people to pass through a gauntlet of smokers.

Q3. Article 4 of the draft Order provides for the Department to make regulations to specify premises or parts of premises not to be smoke-free. In accordance with the Minister's announcement, the intention is that these exemptions will be limited and Article 4(3) specifically precludes exemptions in respect of licensed premises. **The regulations will be the subject of a separate consultation later in the year.** However, the Department is taking this opportunity to seek views. There are premises which act as a person's home, either on a permanent or temporary basis, but which are also another person's workplace, for example, residential accommodation, hotel bedrooms, prisons and psychiatric facilities. Different approaches to this issue have been adopted by other jurisdictions. In the Republic of Ireland psychiatric hospitals are exempt. In Scotland designated rooms in psychiatric hospitals are exempt while in New York it is necessary to apply for a waiver.

Set out below are examples of premises that serve as a person's home, either on a temporary or permanent basis.

Do you think that hotel bedrooms, designated rooms, or areas within the following premises should be exempt?

Hotel Bedrooms	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Don't know <input type="checkbox"/>
Care Homes	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Don't know <input type="checkbox"/>
Psychiatric Units	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Don't know <input type="checkbox"/>
Prisons	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Don't Know <input type="checkbox"/>

Do you wish to suggest any other exemptions? If yes, please specify below.

In the latter 3 cases, smoking areas should be strictly defined and severely restricted. Where prisoners and patients may have to wait to smoke, staff are entitled to protection from passive smoking.

Q4. Articles 7, 8, 9 and 12 of the draft Order sets out the following four offences and penalties:

- (i) a person failing to display the prescribed no-smoking signs in smoke-free premises commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000);
- (ii) a person who knowingly smokes in smoke-free premises commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000);
- (iii) a person who controls or is concerned in the management of smoke-free premises and fails to prevent a person smoking in a smoke-free place commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale (£2,500); and
- (iv) a person who intentionally obstructs an authorised officer of a district council acting in exercise of his duties under the Order commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000).

Do you agree with the offences and level of penalties set out in the draft Order?

Yes

No

If you wish to comment, please do so here.

Just 3 are acceptable. no (iv) should be level 4 (£2,500) rather than level 3.

Q5. *Article 10* of the draft Order provides for an authorised officer of a district council to issue a fixed penalty notice where he believes an offence has been committed under Articles 7, 8 or 9. Schedule 1 makes further provision about fixed penalties. The levels of fixed penalties will be specified in regulations which will be the subject of consultation this year.

Do you agree with the fixed penalty notice procedures as set out in the draft Order?

Yes

No

Don't know

If you wish to comment, please do so here.

Q6. Tobacco control measures are currently enforced by Environmental Health Officers of district councils.

Do you agree that smoke-free legislation should also be enforced by district councils?

Yes

No

Don't know

If not, please state your reasons below.

Q7. At present *Articles 3 and 4* of the Health & Personal Social Services (Northern Ireland) Order 1978 make it an offence to sell tobacco products to young people under 16. In the Republic of Ireland, the Health (Miscellaneous Provisions) Act 2001 increased the age limit from 16 to 18 and in Scotland the Smoking, Health & Social Care (Scotland) Act 2005 provides the power to raise the age limit there. The draft Order provides the power (*Article 14*) for the Department to raise the age limit from 16. Any proposal to raise the age limit would be the subject of further consultation.

Do you agree that the Department should take this power?

Yes

No

Don't know

If you wish to comment, please do so here.

Raising the age limit is much less important than enforcing the limit that exists. It is far too easy for young people under 16 to obtain tobacco. Enforcement is very feeble and needs to be strengthened enormously.

INTEGRATED IMPACT ASSESSMENT OVERVIEW

General

Q8. Do you have any views on the conclusions reached by the Department to screen out from further assessment the implications of the draft Order in respect of:

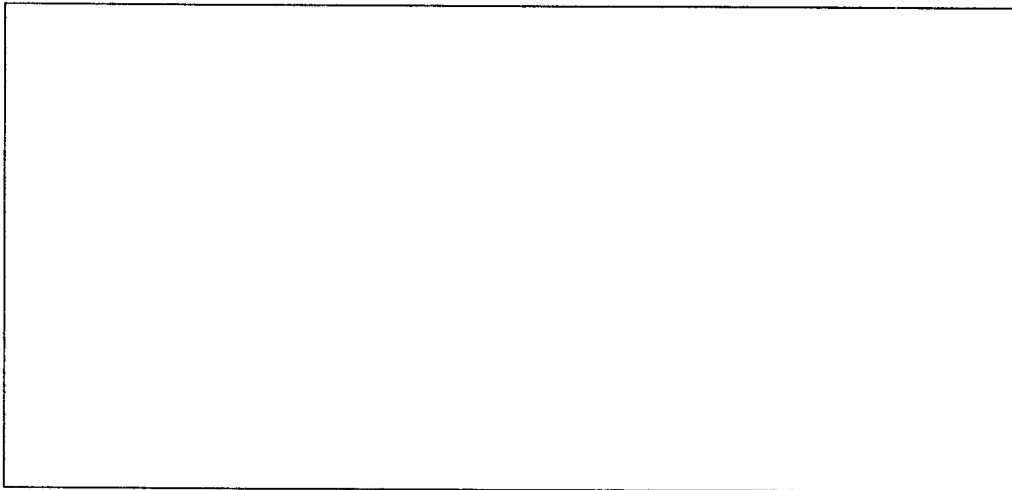
- (a) Social Impact Assessment (New TSN, Homelessness etc);**
- (b) Rural (see Q21 –Q23);**
- (c) Environmental;**
- (d) Human Rights;**
- (e) Victims;**
- (f) Community Safety & Other Areas?**

Is there any other evidence which you consider should have been taken into account in these assessments?

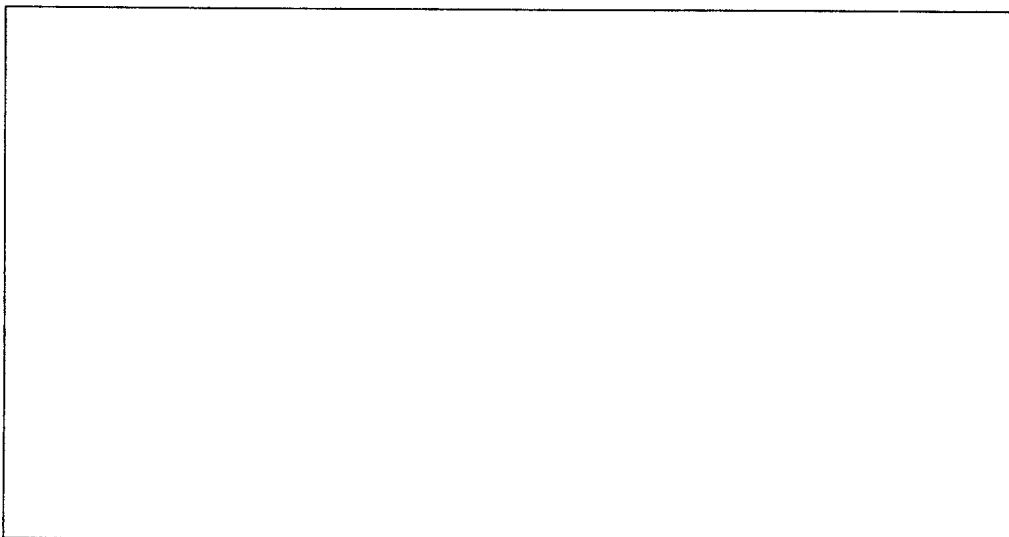
Equality

Comments are welcome on any aspect of the draft equality conclusions contained in Annex 2 of the Integrated Impact Assessment Overview (IIA). The Department would particularly welcome comments on the following:

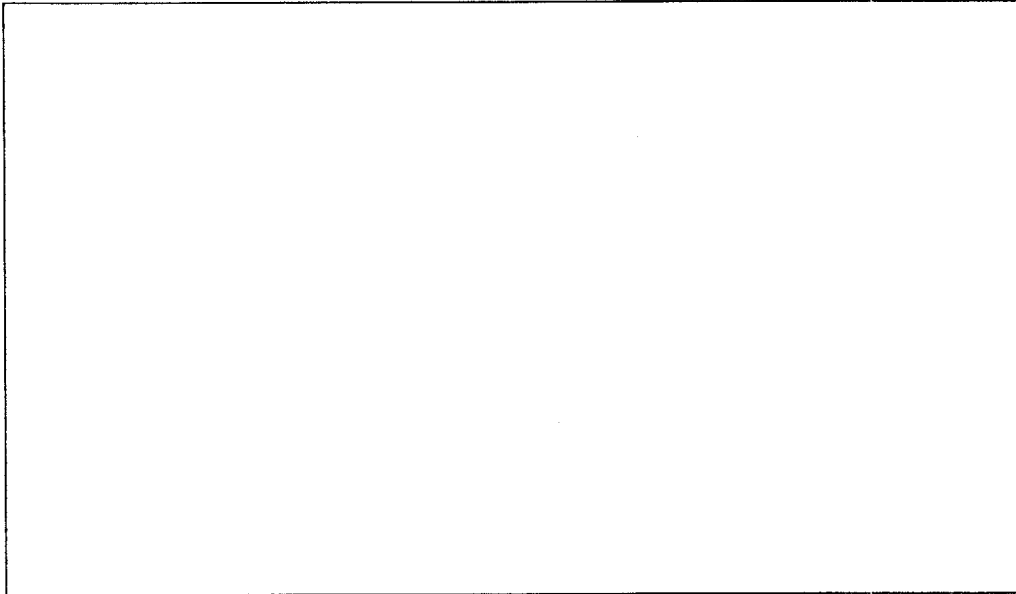
Q9. Do you agree with the decision that the draft Order does not require a full equality assessment? (see Annex 1 and Annex 2 of the IIA Overview). If not, please explain why?



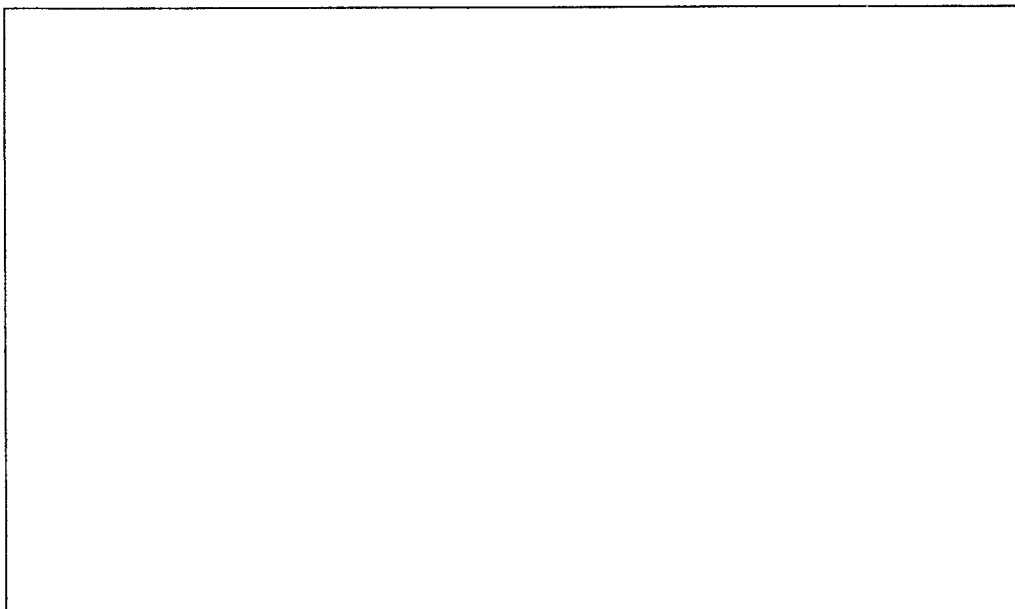
Q10. Is there any other qualitative or quantitative information which you consider should have been taken into account in performing this exercise?



Q11. Are you aware of any evidence – qualitative or quantitative that the draft Order may have an adverse impact on equality of opportunity or on good relations? If so, please provide details. Can you suggest any ways of avoiding or minimising such adverse impact?



Q12. Are you aware of any other equality implications likely to arise from the draft Order?



Partial Regulatory Impact Assessment (RIA)

(see Annex 3 of IIA Overview)

Health

Q13. Do you have any views on the assessment of health impacts?

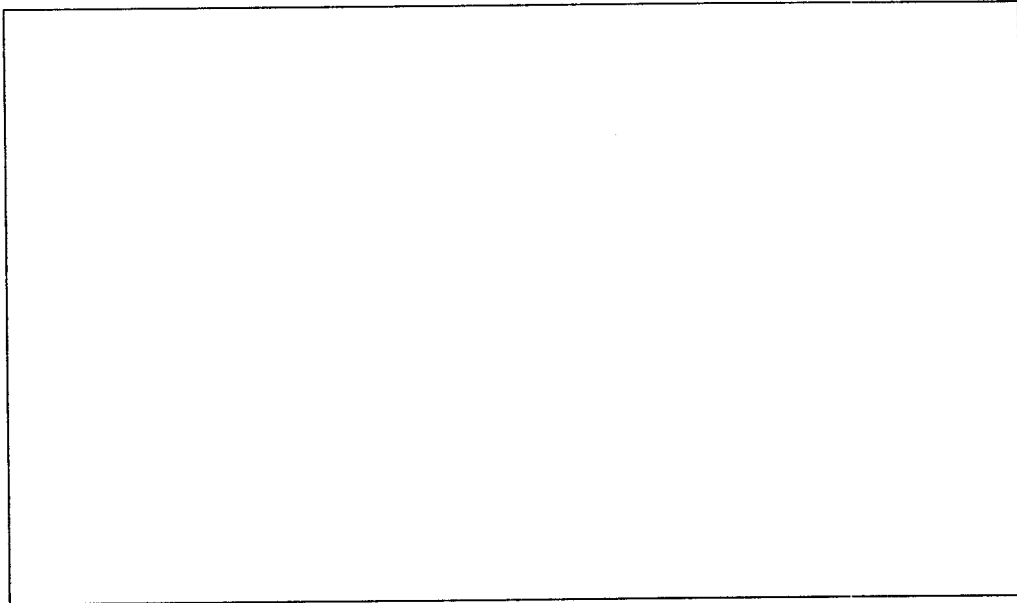
Q14. Are there any other potential health impacts that you consider should have been addressed?

Essential to step up assistance for makers who wish to reuse. Evidence suggest social class bias in making use of developed people make more.

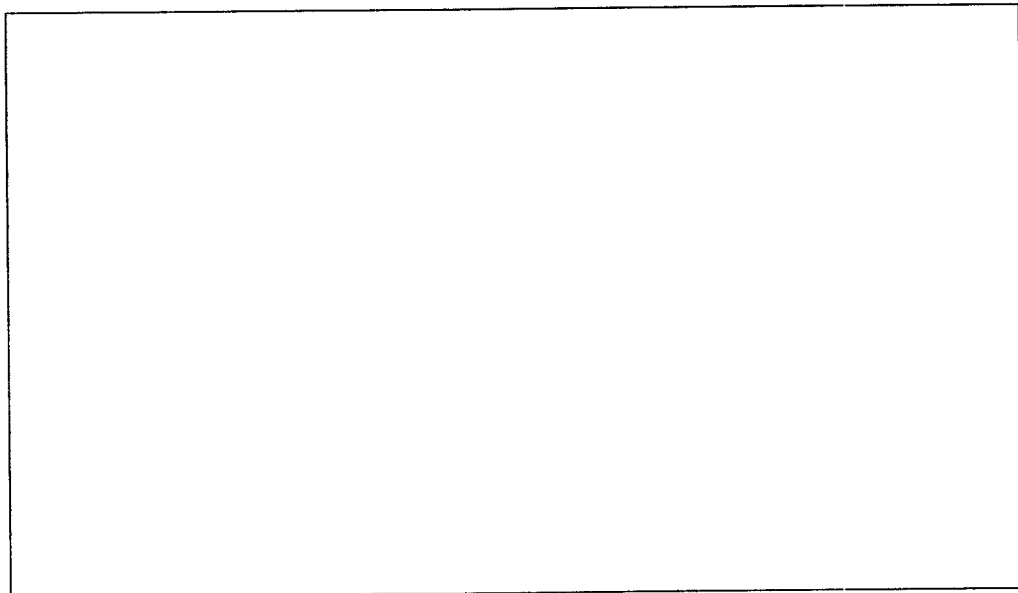
Q15. Is there any other material evidence which you consider should have been taken into account in this assessment of health impacts?

Economic

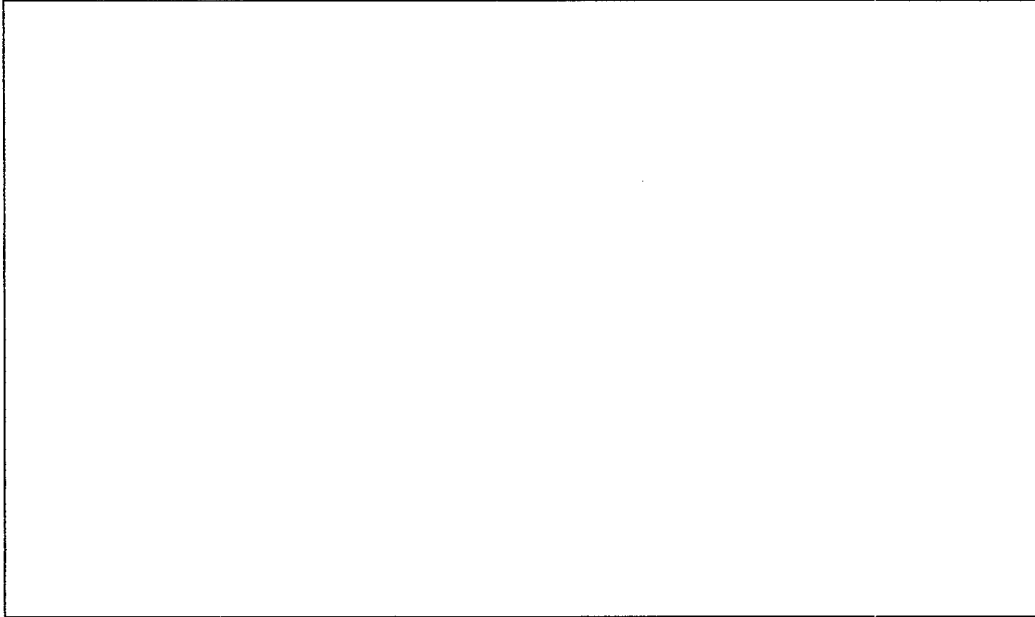
Q16. Do you have any general comments on the overall approach that was taken in completing the RIA?



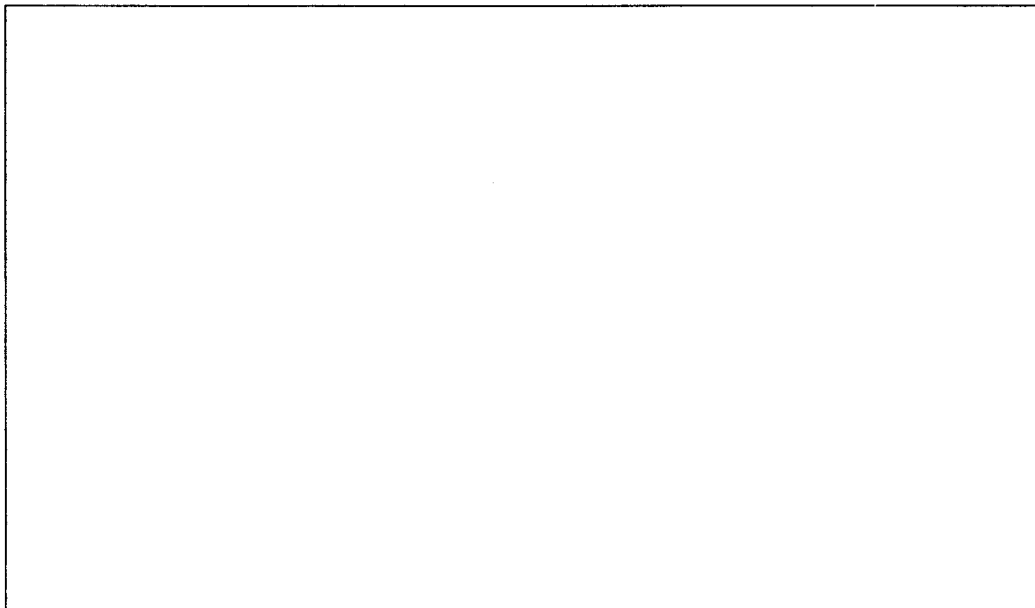
Q17. Do you consider that there are other issues which need to be taken into account in the assessment of the impact on business?



Q18. Do you agree with the analysis of the sectors and business/organisations which might be particularly affected by the introduction of this policy?

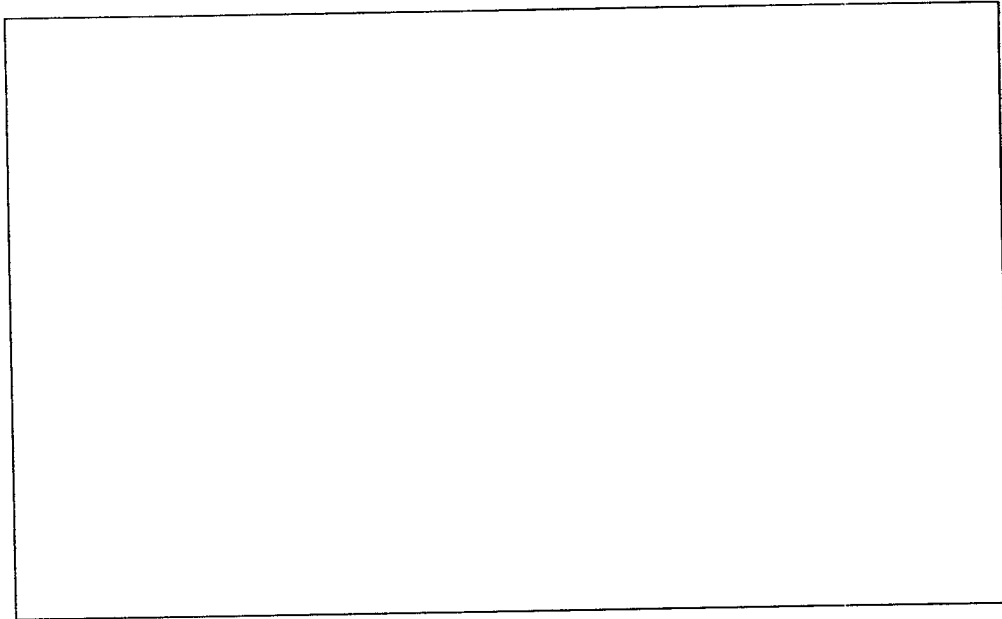


Q19. What are your views on the identification and assessment of the costs and benefits?



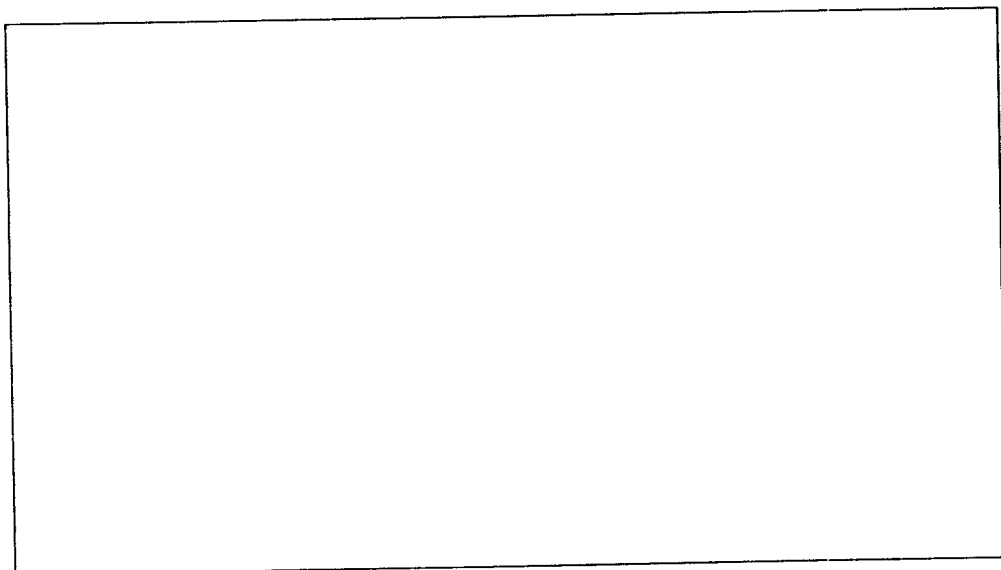
Public Expenditure and Public Service

Q20. Do you agree with the Department's view that a separate Economic Appraisal is not required?

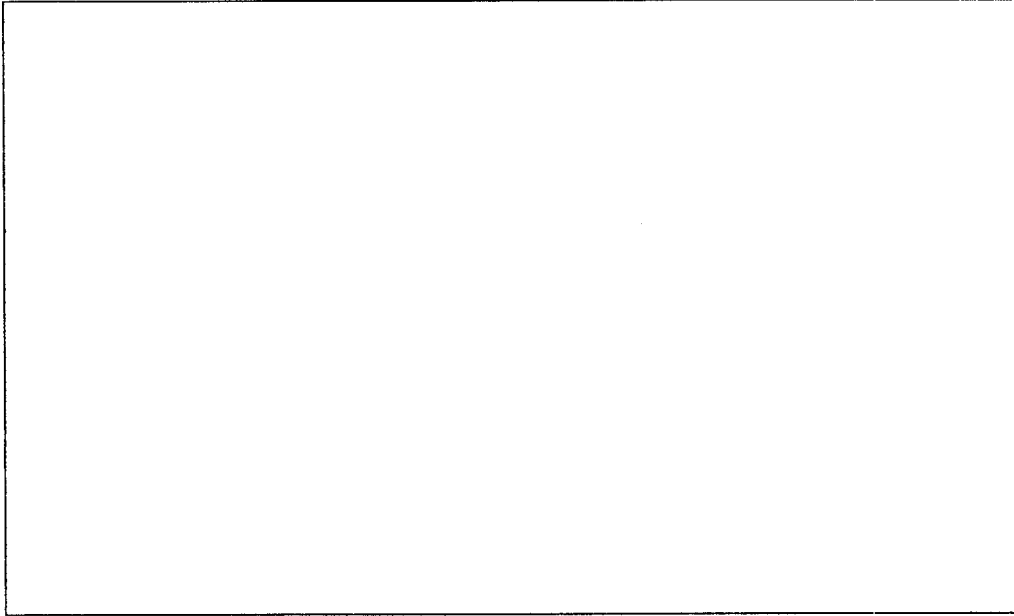


Rural Proofing

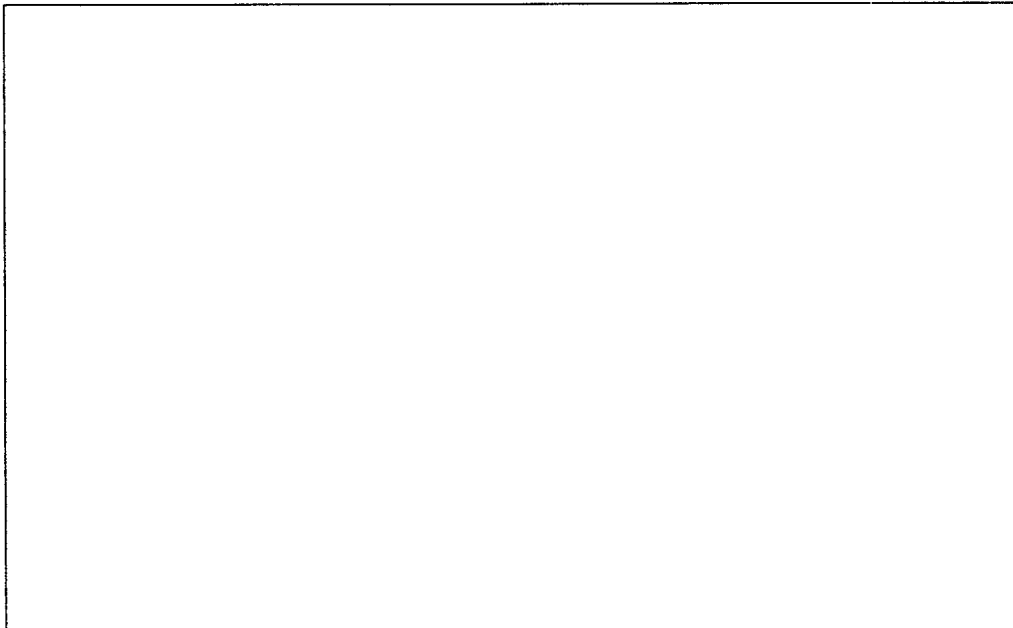
Q21. Do you agree that the draft Order will not have a disproportionate adverse impact on rural business?



Q22. Are there any rural impacts that you consider should have been addressed?



Q23. Is there any other material evidence which you consider should have been taken into account in this assessment of rural impacts?



Additional Comments

Q24. Do you have any other comments or suggestions on the draft Order and/or the Integrated Impact Assessment Overview?

Support for the smoking ban in the voluntary and community sector has always been strong. It has become even firmer since the current debate began. A recent survey by NICVA found that 82% agree strongly that the ban will improve the health of people in NS and 11% agree; by contrast only 2% disagree and a similar number disagree strongly. Overwhelmingly, representatives of the sector see the ban as a positive development.

Paul Mc Gill

NICVA, 2 May 2006

Thank you for taking time to complete this Questionnaire.