



Department of
**Health, Social Services
and Public Safety**

An Roinn

**Sláinte, Seirbhísí Sóisialta
agus Sábháilteachta Poiblí**

www.dhsspsni.gov.uk

CONSULTATION QUESTIONNAIRE ON

MINIMUM AGE OF SALE OF TOBACCO PRODUCTS

October 2007

INTRODUCTION

Purpose

1. This Questionnaire seeks views on whether the Department of Health, Social Services and Public Safety should use the power contained in the Smoking (Northern Ireland) Order 2006, to amend, by regulations, the age of sale of tobacco products.
2. The Department carried out an Integrated Impact Assessment (IIA) screening exercise on the proposed legislation. The results, which include equality considerations and a Partial Regulatory Impact Assessment, are set out in Annexes 1 and 2 of the consultation package.

Background

3. In March 2006, the Department undertook a public consultation exercise on the content of the then draft Smoking (Northern Ireland) Order 2006. Article 14 of the draft Order included a power for the Department to amend, by regulations, the age limit for the sale of tobacco products – currently 16 years - and respondents were invited to comment on whether the Department should take this power. It was made clear that any proposal to raise the age of sale would be the subject of further consultation.
4. There was strong support for the Department taking the power, with 78% in favour of this action. The majority of those in favour felt that the Department should go further and raise the age limit immediately. The main reasons offered were that such action would enable the age of sale to be brought into line with that for alcohol sales (18 years); that it would also bring Northern Ireland into line with the Republic of Ireland; and that it might make enforcement easier, particularly in border areas.
5. The age of sale has been raised to 18 in England, Wales and Scotland with effect from 1 October 2007. The Smoking (Northern Ireland) Order 2006, the main provisions of which came into operation on 30 April 2007, contains the power for the Department to amend the age of sale of tobacco products.

Consultation - How to Respond

6. **The consultation will run from 29 October 2007 to 18 January 2008.** The Questionnaire sets out three options on the minimum age of sale of tobacco products about which the Department would welcome views. It also seeks views on the Integrated Impact Assessment Overview and Partial Regulatory Impact Assessment.

7. In order to facilitate analysis it is important that respondents use the Questionnaire. Completed Questionnaires **must be received by the Department by 5.00pm on Friday 18 January 2008**. Responses should be posted to:

**DHSSPS
Investing for Health Unit
Health Improvement Policy Branch (Tobacco Control)
Room C4.22
Castle Buildings
Belfast
BT4 3SQ
Tel: 028 90520534**

Alternatively responses can be submitted via the online response form using the following web link:

<http://www.dhsspsni.gov.uk/tobacco-age-of-sale.htm>

Alternative formats

8. If you require the consultation documents in an alternative format (such as in large print, in braille, on audio cassette, easy read or computer disc) and/or in another language please contact Heather Rainey on 028 90520525 or text phone 02890527668 to discuss your requirements.

QUESTIONNAIRE

Q1. Article 14 of the Smoking (Northern Ireland) Order 2006 provides the power for the Department to amend the age of sale of tobacco products, but this must not be lower than the present age of 16 years. Do you think the Department should:

continue with the present age limit of 16;

increase the age limit to 17; or

increase the age limit to 18?

Please tick the appropriate box to indicate which of the options you favour.

No Change

Increase to 17

Increase to 18

If you wish to comment on your preferred option, please do so here.

We believe that smoking should be a matter of informed adult choice and it is up to the Northern Ireland Assembly to determine at what age an individual is an adult. Responsible Retailers do not sell tobacco to children and enforce the legal minimum age in their shops.

In the long-term, raising the minimum age to 18 will benefit retailers as there will be a single standard for alcohol and tobacco, and it will create uniformity across the UK and with the Republic of Ireland. However, we would urge the Assembly to ensure retailers have sufficient support to implement any change and to ensure the general public are well informed of any new law.

General

Q2. Do you have any views on the conclusions reached by the Department to screen out from further assessment the implications of the proposals in respect of:

- (a) **Social Impact Assessment (New TSN, Homelessness etc);**
- (b) **Rural ;**
- (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?

Many retailers in England, Wales and Scotland have been victims of abuse, intimidation and violence following the increase of the minimum age to 18 in those countries on 1 October 2007. We believe that the respective governments in Great Britain did not sufficiently communicate the new law to the public, in particular those 17 and 18 year olds who were directly affected by it, and would hope that the Northern Ireland Assembly learns from mistakes made in England, Wales and Scotland.

The Department would particularly welcome comments on the following:

Q3. Do you agree with the decision that the proposals do not require a full equality impact assessment? (see Annex 1 of consultation package). If not, please explain why?

We disagree.
Independent retailers are the front-line enforcers of any minimum age and they will face increased incidents involving hostile customers following any change to the law. It is essential that given sufficient support is given to retailers to implement any change to the minimum age. As many retailers are originally from the Indian Subcontinent and do not speak English as their first language, it may have been helpful to look at what extra steps the NI Assembly can take to reach this particular ethnic group and ensure their businesses are fully supported and prepared to enforce a changed minimum age.

Q4. Is there any other qualitative or quantitative information which you consider should have been taken into account in performing this exercise?

Qualitative evidence on the number independent retailers there are in Northern Ireland, and what proportion of these retailers speak English as their first language, should be taken into account.

Q5. Are you aware of any evidence - qualitative or quantitative - that the proposals 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?

Experience from England, Scotland and Wales has taught us that the tobacco customers in the 16 and 17 year old group who find they are refused a sale of tobacco often vent their frustration towards the retailer who asks them to prove their age, and in some cases this also includes the parents of young people verbally abusing retailers who refuse sales to their 16 and 17 year olds. This puts a strain on relations between retailers and their customers. To minimise the impact of this strain, we would suggest a comprehensive publicity campaign and the criminalization of attempted underage or proxy purchases to create a deterrent for young people attempting to buy tobacco before they are old enough.

Q6. Are you aware of any other equality implications likely to arise from the proposals?

Retailers will face increased incidents of intimidation, violence and abuse when asking customers for ID and when refusing sales to people younger than the legal minimum age. The Northern Ireland Assembly should consider how women and retailers of ethnic minorities might be more vulnerable to such incidents.

Partial Regulatory Impact Assessment (RIA)
(see Annex 2 of consultation package)

Health

Q7. Do you have any views on the assessment of health impacts?

Q8. Are there any other potential health impacts that you consider should have been addressed?

Q9. Is there any other material evidence which you consider should have been taken into account in this assessment of health impacts?

Economic

Q10. Do you have any general comments on the overall approach that was taken in completing the RIA?

Q11. Do you consider that there are other issues which need to be taken into account in the assessment of the impact on business?

We would urge the Northern Ireland Assembly to consider the economic impact on small businesses of improving security, increasing staffing levels and carrying out staff training to prepare shop workers for a change to retail law.

We would also urge the Assembly to bear in mind the significant black market in bootlegged and counterfeit cigarettes in Northern Ireland, and the potential unintended consequence of boosting that market as a result of the increasing the age to 18, with 16 and 17 year old smokers seeking an alternative source of tobacco.

Q12. Do you agree with the analysis of the sectors and business/organisations which might be particularly affected by the proposals?

Q13. What are your views on the identification and assessment of the costs and benefits?

Public Expenditure and Public Service

Q14. Do you agree with the Department's view that a separate Economic Appraisal is not required?

Impact on Small Businesses

Q15. Do you agree that the proposals will not have a disproportionate impact on small businesses?

We disagree.

Smaller shops are targeted by young people wishing to buy age-restricted products before they are old enough as they are perceived as being more easily intimidated into making a sale. Compared to the larger supermarkets that have dedicated security staff and CCTV systems, smaller shops suffer from more frequent instances of intimidation, abuse and violence towards staff. Asking for proof of age is one of the main triggers of hostility and aggression towards retailers. Raising the age will increase the number of customers being asked to prove their age and will potentially lead to an increase in these incidents.

Q16. Are there any impacts on small businesses that you consider should have been addressed?

Apart from the potential increase in problematic customers that small retailers will encounter, we would ask the Assembly to consider the issues of staff training, staffing rosters and preparation of the shop premises. The latter will involve the acquisition of support materials, for example the revised statutory notice and posters informing customers of the new law. Staff will also need sufficient training to prepare them and ensure they are compliant with the new law. Retailers may also wish to reschedule staffing rosters to ensure that staff under 18 are not left unsupervised, as it can be very difficult to ask for proof of age or to refuse a sale to peers of the same age group.

Q17. Is there any other material evidence which you consider should have been taken into account in assessing the impact on small businesses?

We would ask the Northern Ireland Assembly to consider looking at the experience of England, Wales and Scotland; speaking to retailers, the British Retail Consortium, the trade union Usdaw, the Association of Convenience Stores, the National Federation of Retail Newsagents and the police to gauge the level to which crime against independent retailers as a direct result of the age increase in those countries has increased.

Rural Proofing

Q18. Do you agree that the proposals will not have a disproportionate adverse impact on rural business?

Rural shop keepers will be affected in the same way as retailer in urban areas and are likely to suffer a backlash from 16 – 17 year olds. The strain on relations between retailers and their customers could be more profound in rural areas, where there are perhaps fewer shops in the area and the retailer is more likely to know his/her customers and their families on a personal level.

Q19. Are there any rural impacts that you consider should have been addressed?

Q20. Is there any other material evidence which you consider should have been taken into account in this assessment of rural impacts?

Additional Comments

Q21. Do you have any other comments or suggestions on the Integrated Impact Assessment Overview? (Annex 1 of consultation package)

As part of the Community Safety Impact Assessment we would ask the Northern Ireland Assembly to consider the potential increase in crime towards retailers. We would also urge them to consider the potential boost to the tobacco black market which increasing the minimum age might cause, and the fact that profits from the illegal tobacco market often fund serious organised crime.

Thank you for taking time to complete this Questionnaire.