



HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 17 June 1997

SMOKE-FREE ENVIRONMENTS AMENDMENT BILL (NO. 2)

Proposed Amendments

Hon NEIL KIRTON, in Committee, to move the following amendments:

Clause 2 (1): To omit the proposed new definitions of the terms “infringement fee” and “infringement offence” (all the words in lines 2 to 6 on page 3).

Clause 4B (2): proposed new section 23: To omit subsection (3) (all the words in lines 4 to 9 on page 6), and substitute the following subsection:

“(3) Every notice to which **subsection (1) (b) or subsection (2)** applies must comply with the following requirements:

“(a) The notice must be no larger than 90mm by 55mm:

“(b) The background of the notice must be white, and all words, figures, or other material appearing on the notice must be black:

“(c) No material other than the following may appear on the notice:

“(i) The name of the tobacco product (which may consist of or include a brand or brand variant):

“(ii) Any logo, design, or similar device that is usually associated with that tobacco product:

“(iii) A depiction of the package in which the tobacco product is customarily sold:

“(iv) The quantity in which the tobacco product is sold (whether by weight or number):

“(v) The price of the tobacco product.

Clause 4c: To omit the clause (which appears on pages 6 and 7), and substitute the following clause:

4C. Free distribution and rewards prohibited—The principal Act is amended by repealing section 28, and substituting the following section:

“28. (1) No manufacturer, distributor, importer, or retailer of tobacco products may,—

“(a) Distribute any tobacco product; or

“(b) Supply any tobacco product to any person for subsequent distribution; or

“(c) In the case of a retailer, supply any tobacco product to any person for the purpose of that retailer’s business—

free of charge, or at a reduced charge.

“(2) No person may—

“(a) Offer any gift or cash rebate, or the right to participate in any contest, lottery, or game, to the purchaser of a tobacco product in consideration for the purchase of that product, or to any person in consideration for the provision of evidence of such a purchase; or

“(b) Offer, to any retailer, any gift or cash rebate, or the right to participate in any contest, lottery, or game, as an inducement or reward in relation to—

“(i) The purchase or sale of tobacco products by that retailer; or

“(ii) The advertising of tobacco products inside that retailer’s place of business; or

“(iii) The location of tobacco products in a particular part of that retailer’s place of business.

“(3) Nothing in **subsection (1) or subsection (2)** prohibits the giving of any normal trade discount or normal trade rebate.

“(4) Nothing in **subsection (2)** applies in respect of any payment or reward to any person who,—

“(a) With the authority of the Director-General or of some other person authorised for that purpose by the Director-General; and

“(b) For the purpose of monitoring compliance with the provisions of this Part,—

purchases or attempts to purchase any tobacco product.”

Clause 5: proposed new section 30: To omit subsection (6) (all the words in lines 11 to 17 on page 9), and substitute the following subsection:

“(6) Every person who sells by retail any tobacco product must display clearly for the public a notice to the effect that the sale of any tobacco product to persons who are younger than 18 is prohibited.

Clause 5: proposed new section 30AA: To omit the proposed new section (which appears on page 9).

Clause 7A: To omit the clause (which appears on pages 16 to 18).

Clause 8: To omit from line 38 on page 18 the words “advertise a tobacco product”, and substitute the words “publish a tobacco product advertisement”.

To omit from line 1 on page 19 the words “Subject to **subsection (4)** of this section,”.

To omit the proposed new subsection (4) (all the words in lines 15 to 22 on page 19).

Clause 8A (1): To omit from lines 27 and 28 on page 19 the words “(including infringement notices)”.

Clause 9: To omit the clause (which appears on page 20), and substitute the following clause:

9. Transitional provision—(1) This section applies to—

(a) Packages of cigarettes (as defined in **section 30A (1)** of the principal Act); and

(b) Packages of tobacco—

that are, at the date on which this section comes into force,—

(c) In New Zealand; or

- (d) In transit to New Zealand; or
- (c) The subject of an irrevocable purchasing order by a person in New Zealand.

(2) Nothing in **section 30A (3)** of the principal Act (as inserted by **section 5** of this Act) applies in respect of the sale or offering for sale, before **1 February 1998**, of any package of cigarettes, or any package of tobacco, to which this section applies.

Clauses 10 and 11: To omit these clauses (which appear on pages 21 and 22).

EXPLANATORY NOTE

This Supplementary Order Paper proposes to amend the Smoke-free Environments Amendment Bill (No. 2). It incorporates (with 1 change) the amendments in SOP No. 2, and therefore supersedes that SOP. It also contains an additional amendment, to *clause 4B (2)*.

Clause 4B (2): This provision repeals section 23 of the principal Act, and substitutes a new section 23. The new section (as does the existing section) provides an exemption for retailers from the prohibition on tobacco advertising in section 22 of the principal Act. The new section (as does the existing section) would, among other things, permit a retailer of tobacco products to display a price list relating to the tobacco products available for purchase in the premises. However, the new section 23 (3) imposes new requirements that price lists must meet. Price lists will have to comply with certain size restrictions, must be white with black lettering, and may contain only the name of the tobacco product and its price.

This Supplementary Order Paper proposes to amend the requirements contained in the new section 23 (3) (as substituted by *clause 4B (2)*), as follows:

- (a) It is made clear that the price list may refer to a tobacco product by brand name or brand variant, and may also refer to the quantity in which the tobacco product is sold:
- (b) The restrictions are relaxed to permit the price notice to include—
 - (i) Any logo, design, or similar device that is usually associated with the tobacco product:
 - (ii) A depiction of the package in which the tobacco product is customarily sold.

Clause 4c, which amends section 28 of the principal Act, is omitted and a new clause substituted. The new clause repeals section 28 completely, and substitutes a new section 28. The effect of the amendment is to make it clear that section 28 does not prohibit the giving of normal trade discounts or rebates.

Clause 5 is amended by omitting the proposed *new section 30AA*, which would make it an offence for a person aged under 18 to purchase tobacco products. The amendments in this Supplementary Order Paper to *clause 2 (1)*, *clause 5 (proposed new section 30)*, and *clause 8A (1)*, and the omission of *clauses 7A, 10, and 11*, are consequential on the omission of the proposed *new section 30AA*.

Clause 8 is amended—

- (a) By making a minor alteration to the wording of the proposed *new section 38 (1)* of the principal Act. That subsection relates to section 36 (1) of the principal Act, and the amendment aligns the wording of the 2 provisions:
- (b) By omitting *subsection (4)* of the proposed *new section 38*. *Subsection (4)* provides a defence to employers prosecuted for the offence of selling tobacco products to persons aged under 18 on the basis of acts done by their employees. The provision is omitted because it duplicates the defence provided by section 30 (2) (as substituted by *clause 5*).

Clause 9 is omitted, and a new *clause 9* substituted.

The existing *clause 9* is a transitional provision relating to the restrictions on the sale of packages of cigarettes and loose tobacco to be imposed by the proposed *new section 30A (3)* (as inserted by *clause 5*). *Clause 9* allows existing stocks of packages of cigarettes or loose tobacco that do not comply with the new requirements to be sold within a certain specified period after the enactment of the Bill.

In the case of both packages of cigarettes and packages of tobacco, the transitional provision applies only if the packages were in New Zealand, in transit to New Zealand, or the subject of an irrevocable purchasing order by a person in New Zealand, at a specified date. In the case of packages of cigarettes, this date is 11 October 1995 (the date of the introduction of the Bill). In the case of packages of tobacco, the date is 1 August 1996 (the date on which the Bill was reported back from the select committee).

The new *clause 9* standardises the transitional provision as it relates to packages of cigarettes and packages of tobacco. Packages that do not comply with the restrictions imposed by the *new section 30A (3)* will be able to be sold or offered for sale until 1 February 1998, if they were in New Zealand, in transit to New Zealand, or the subject of an irrevocable purchasing order by a person in New Zealand, at the date on which the Bill comes into force.