

# House of Representatives

# Supplementary Order Paper

Tuesday, 6 December 2022

## Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Bill

### *Proposed amendments*

Dr Shane Reti, in Committee, to move the following amendments:

#### *Schedule*

In the *Schedule*, in new Part 3 of Schedule 1, delete clause 17 (page 42, lines 21 to 25).

In the *Schedule*, in new Part 3 of Schedule 1, clause 18,—

- (a) replace “27 months” (page 42, line 27) with “18 months”;
- (b) in paragraph (b), replace “:” (page 42, line 33) with “.”;
- (c) delete paragraph (c) (page 42, lines 34 and 35).

In the *Schedule*, in new Part 3 of Schedule 1, after clause 18 (page 42, after line 35), insert:

**19 Limit and prohibition on nicotine content for smoked tobacco products**

**Section 57H** (which sets a limit and a prohibition in respect of the nicotine content in an individual smoked tobacco product) does not apply until—

- (a) the date that is 18 months after the commencement date; or
- (b) any earlier date stated in regulations made under **clause 23(1)(c)**.

**20 Review of effectiveness of limitation and prohibition of nicotine content**

- (1) The Director-General must, no earlier than 30 months after the commencement date, undertake a review of the effectiveness of the limits and prohibition in respect of the nicotine content in an individual smoked tobacco product under **section 57H**.
- (2) The review must consider whether—
  - (a) the measures in the amendment Act that already apply, including the limits and prohibition in respect of the nicotine content in an individual smoked tobacco product under **section 57H**, have been effective in achieving the smokefree goal; and
  - (b) any measures in the amendment Act that do not yet apply would have any significant additional impact in achieving the smokefree goal.
- (3) The review must make a recommendation on whether any or all of **sections 20G or 40A and 40B**—
  - (a) should—
    - (i) apply; and
    - (ii) apply on a stated date that is earlier than the date that is 48 months after the commencement date; or
  - (b) should be repealed.
- (4) The Director-General must, within 36 months of the commencement date, provide the review to the Minister.
- (5) The Minister must, within 60 working days of the day the review is provided to the Minister under **subclause (4)**, present to the House of Representatives—
  - (a) the review; and
  - (b) a response to the review.
- (6) In this clause, **smokefree goal** means a reduction in the daily smoking rates to less than 5% across all population groups.

**21 Sale of smoked tobacco products other than by approved smoked tobacco retailer prohibited**

**Section 20G** (which prohibits the sale of smoked tobacco products other than by an approved smoked tobacco retailer) does not apply until—

- (a) the date that is 48 months after the commencement date; or
- (b) any earlier date stated in regulations made under **clause 23(1)(a)**.

**22 Creation of smokefree generation**

**Sections 40A and 40B** (which relate to the creation of a smoke-free generation of people born on or after 1 January 2009) do not apply until—

- (a) the date that is 48 months after the commencement date; or
- (b) any earlier date stated in regulations made under **clause 23(1)(b)**.

**23 Regulations ensuring sections apply from stated date**

- (1) The Governor-General may, by Order in Council on the recommendation of the Minister, make regulations for the purpose of ensuring that the following sections apply from a stated date:
  - (a) **section 20G**;
  - (b) **sections 40A and 40B**;
  - (c) **section 57H**.
- (2) Before making regulations under **subclause (1)(a) or (b)**, the Director-General must have recommended under **clause 20(3)(a)(ii)** that the provisions should apply from the date stated in the regulations.
- (3) Regulations made under this clause are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements)

**Explanatory note**

This Supplementary Order Paper (SOP) amends the Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Bill. It supports New Zealand’s smokefree goals by proposing a schedule for implementation of the three main elements crucial to nicotine reduction—denicotinisation, retail reduction, and the smoke-free generation—while also reducing collateral damage to small community retailers and the communities they serve from the less-known and less-tried proposals in this Bill.

This takes into account the heavy lifting that denicotinisation does, which is modelled to almost meet smokefree goals just by itself. At the same time, caution needs to be exercised before commencing the relatively untried initiatives of retail reduction and the creation of a smokefree generation.

This SOP remedies the grave concerns that small retailers and others have around the impact of the proposed retail reduction from 6,000 to 600 retailers, and the effect this could have on small businesses and the communities they serve. This remedy is achieved by commencing denicotinisation first, then requiring a 30-month transition and observation period before any potential retail reductions could occur. Small retailers have indicated that, if retail reduction is eventually required, they would need a min-

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imum 2-year time frame to change their business model. This SOP provides for that transition.

This SOP requires a review 30 months after commencement of the Bill to assess what will be a minimum of 12 months of denicotinisation, and determine whether denicotinisation has been effective alone or whether retail reduction and the creation of a smokefree generation need to be considered. If these further activities are required, they can commence soon after the review is presented.

The end-to-end timing schedule starts with denicotinisation within 18 months of commencement. Discussions with manufacturers confirm this is achievable. A period of 12 months of observation and monitoring follows, with the next timestamp being a review starting 30 months after commencement of the Bill. The review will assess the success or otherwise of denicotinisation alone and determine whether retail reduction and the creation of a smokefree generation still need to be considered. The review will take up to 6 months and will be completed within 36 months of the Bill's commencement. If retail reduction and the creation of a smokefree generation are required, they can apply soon after the review; if not, these provisions have a 12-month period before they apply, during which they can be repealed.