

## **Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015**

**Department of Health and Social Care**

**RPC Rating: fit for purpose**

### **Description of proposal**

This post-implementation review (PIR) covers regulations introduced to ban – except in specific circumstances – the sale of Nicotine Inhaling Products (NIPs) to under-18s ('this Regulation').

The Department has produced a comprehensive 68-page review covering five pieces of tobacco-related legislation:

- Tobacco Advertising and Promotion (Display) (England) Regulations 2010;
- Tobacco Advertising and Promotion (Specialist Tobacconists) (England) Regulations 2010;
- Tobacco Advertising and Promotion (Display of Prices) (England) Regulations 2010;
- Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015; and
- Smoke-free (Private Vehicles) Regulations 2015.

The primary aim of this Regulation is to limit the availability of NIPs to adults only, with the intention of reducing the availability of nicotine to under-18s, and – in conjunction with related tobacco legislation produced by the Department – reduce the number of under-18s who go on to consume tobacco products as adults.

This Regulation does not cover tobacco products already covered under existing age-of-sale regulations.

### **Impacts of proposal**

This Regulation aims to limit the sales of NIPs to adults only, with limited exceptions for medicinal products. In doing so, the Department aims to reduce the number of under-18s in the UK who take up smoking after the use of a NIP acted as a 'gateway' to smoking.

The expected impacts of this Regulation were:

- An annual transfer of £170,000 away from NIPs to other goods and services in the economy; and
- Positive health benefits, equal to 1 Quality-Adjusted Life Year (QALY) per child.

The Department's analysis suggests that, to achieve a positive Net Present Value, this Regulation would have to deter four children per year from taking up smoking.

Based on the evidence provided, it appears that the Department has introduced a ban which has formalised existing practice in terms of sales to under-18s. As such the impacts on business are proportionately considered to be low. Therefore the RPC commends the Department for this submission as part of its wider review into tobacco products regulations, as formal submission was not required under the Better Regulation Framework.

### **Quality of submission**

The review provides considerable detail on the Department's approach, clearly spelling out the approach taken to reviewing the effectiveness of this set of regulations, and to support its recommendation to retain the regulations unchanged.

In carrying out its review, the Department has demonstrated the use of multiple sources of evidence, including a public consultation, key data indicators from sources including the ONS and NHS England, findings of commissioned research, and evidence from stakeholder interviews conducted by the Kings Fund.

These sources of evidence have been used to provide considerable qualitative data on the effectiveness of this Regulation, with quantitative data on costs to business also provided.

The Department has been transparent about the limitations in some of its evidence. The Department notes that this is due in part to the longer-term nature of health impacts exceeding the review period, which makes quantification of health benefits difficult to evaluate over a five-year period.

The RPC considers that the evidence provided is sufficient to support the Department's recommendation to retain this Regulation in its current form. However, we would recommend the Department should consider, for future reviews of this and other legislation:

- **Impacts on business:** While the Department has examined in detail the public health benefits of this suite of regulations, and has quantified these in QALY terms, this PIR would benefit from a deeper examination of the costs to businesses of this Regulation, drawing more evidential support from stakeholders. While the evidence provided is sufficient for the Department's recommendation to retain the Regulation, and it is proportionate to the expected impacts of the Regulation, evidence is weaker in this area than for impacts on public health; and
- **Freestanding document:** As noted, the Department has produced a comprehensive 68-page review covering all aspects of the five regulations. The RPC understands why the Department has adopted this holistic approach to the review, given the interconnected nature of these five regulations. However, for future reviews of these regulations and other legislation the Department could improve the readability of the individual PIRs by annexing the relevant content as the 'evidence base', so that each PIR becomes a freestanding, standalone document.

Departmental recommendation	Retain
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### RPC assessment

Is the evidence in the PIR sufficiently robust to support the departmental recommendation?	Yes
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### Regulatory Policy Committee