

Aide-Mémoire

Options to Repeal Amendments to the Smokefree Environments and Regulated Products Act 1990 and Regulations Cabinet paper - talking points for Minister of Health

Date due to MO:	12 December 2023	Action required by:	N/A
Security level:	IN CONFIDENCE	Health Report number:	H2023033915
To:	Hon Dr Shane Reti, Minister of Health		
Copy to:	Hon Casey Costello, Associate Minister of Health		
Consulted:	Health New Zealand: <input type="checkbox"/> Māori Health Authority: <input type="checkbox"/>		

Contact for telephone discussion

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Options to repeal amendments to the Smokefree Environments and Regulated Products Act 1990 and Regulations Cabinet paper - talking points for Minister of Health

Date due: 12 December 2023

To: Hon Dr Shane Reti, Minister of Health

Security level: IN CONFIDENCE **Health Report number:** H2023033915

Details of meeting: 13 December 2023

Cabinet Committee: 100-Day Cabinet Committee (Health)

Purpose of meeting/proposal: You are updating Cabinet on the progress of the Cabinet paper *Options to Repeal Amendments to the Smokefree Environments and Regulated Products Act 1990 and Regulations*.

Comment: **Options to Repeal Amendments to the Smokefree Environments and Regulated Products Act 1990 and Regulations**

- This aide-mémoire provides talking points to support you taking an oral item to the 100-Day Cabinet Committee (Health) on the *Options to Repeal Amendments to the Smokefree Environments and Regulated Products Act 1990 and Regulations* Cabinet Paper.
- This aide-mémoire discloses all relevant information.



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Options to Repeal Amendments to the Smokefree Environments and Regulated Products Act 1990 and Regulations

Cabinet paper

Background

- On 6 December 2023, the briefing *Reversal of legislative changes to the smoked tobacco regulatory regime* (H2023033250 refers) was provided to Hon Casey Costello, Associate Minister of Health and was copied to you.
- The briefing provided options for Associate Minister Costello to meet the 100-day plan commitments to repeal amendments to the Smokefree Environments and Regulated Products Act 1990 (the Smokefree Act) and regulations and sought direction to inform the upcoming Cabinet paper.
- Associate Minister Costello provided the Ministry of Health with feedback and this informed the development of the draft Cabinet paper *Options to repeal amendments to the Smokefree Environments and Regulated Products Act 1990 and associated regulations*. The Ministry of Health provided the draft Cabinet paper to Hons Casey Costello and Dr Shane Reti on 8 December 2023.
- The draft Cabinet paper was also sent out for agency consultation on 8 December.
- Following Ministerial consultation, the paper will be taken to Cabinet on 18 December 2023 unless notified otherwise by the Associate Minister's office.

Talking points

Overview

- The draft paper seeks Cabinet's agreement to amend the Smokefree Act (and related regulations) to remove the changes provided for in the Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Act 2022 (the Amendment Act) that relate to:
 - reducing the number of retailers that can sell smoked tobacco
 - limiting nicotine levels in smoked tobacco products
 - introducing a Smokefree Generation policy.
- These elements reflect both coalition party agreements which explicitly refer to removing requirements for denicotisation and the reduction in retail outlets (ACT/NZ First and National) and the generation ban (NZ First and National), and further reflect the 100-day plan Cabinet directive [CAB-23-MIN-0468 refers].
- The draft Cabinet paper focuses on the 3 key changes as there are significant timing implications of drafting and passing an Amendment Bill within 100-days of taking office.
- The draft Cabinet paper notes that the 3 key changes made to the Smokefree Act to the regulation of smoked tobacco puts physical barriers in place to make it harder for people to access these products.
- The draft Cabinet paper recommends that we continue to encourage people to make this choice themselves and notes that the role of government is to provide practical supports for people to do this – such as education, smoking cessation services and access to vaping products.
- Officials have been asked to provide advice on additional initiatives to support people to quit smoking and prevent any increases in smoking uptake. No funding is sought in the draft Cabinet paper for any new initiatives.
- Engagement with Māori on next or alternative steps to address smoking and the impact it has on Māori, Pacific peoples and other population groups with higher rates of smoking is required.
- The paper also seeks Cabinet's agreement to amend the Smokefree Act to enable reimbursement of applicants who have applied to be an approved smoked tobacco retailer and paid the \$1475 (including GST) application fee.

Further advice on vaping and other matters will be coming

- I note that both coalition agreements and the 100-Day plan also indicate potential further amendments may be needed to the Smokefree Act. Officials will provide Associate Minister Costello with advice in January 2024 on increasing penalties for illegal sales of vaping products to those under 18, as well as increasing oversight of the sale of vapes [CAB-23-MIN-0468 refers].

- Hon Costello has also asked that all other coalition agreement commitments relating to tobacco, vaping and other products are considered as part of the January 2024 advice.
- This includes amending vaping product requirements, taxing smoked tobacco products only, reforming regulation of other less harmful nicotine products, banning disposable vapes and increasing penalties for selling vapes to under 18s.
- This will allow the range of issues to be considered together, including working through legal implications, including human rights and Treaty of Waitangi considerations.
- Following this advice, Hon Costello will come back to Cabinet seeking agreement to progress any further legislative changes needed to further strengthen the regulation of vaping and other nicotine products to better protect children and young people, as well as supporting people to become smokefree.
- Other changes that were made to the Smokefree Act and regulations will remain for the time being. This includes the new vaping product requirements.

PROACTIVELY RELEASED