



Cabinet Social Wellbeing Committee

Minute of Decision

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Smokefree Aotearoa Action Plan 2025

Portfolio Associate Health (Hon Dr Ayesha Verrall)

On 24 November 2021, the Cabinet Social Wellbeing Committee (SWC):

- 1 **noted** that delivering the *Smokefree Aotearoa 2025 Action Plan* is a government priority;
- 2 **noted** that in April 2021, Cabinet agreed to release the discussion document *Proposals for a Smokefree Aotearoa 2025 Action Plan* [CAB-21-MIN-0104];
- 3 **noted** that the Ministry of Health has publicly consulted on the above discussion document and feedback has informed the updated focus areas and priority actions outlined in the *Smokefree Aotearoa 2025 Action Plan* attached under SWC-21-SUB-0192;
- 4 **noted** that to meet the obligations of Te Tiriti o Waitangi / The Treaty of Waitangi the *Smokefree Aotearoa 2025 Action Plan* will ensure Māori leadership and decision-making at all levels;
- 5 **approved** the *Smokefree Aotearoa 2025 Action Plan* attached under SWC-21-SUB-0192;
- 6 **agreed** to publicly release the *Smokefree Aotearoa 2025 Action Plan*, subject to minor necessary amendments approved by the Associate Minister of Health (Hon Dr Ayesha Verrall) prior to release;
- 7 **agreed** to amend the Smokefree Environments and Regulated Products Act 1990 (the Act), and the Customs and Excise Act 2018 to:
 - 7.1 provide for a regulatory regime to oversee and monitor the import, manufacture, sale and supply of smoked tobacco products in New Zealand;

Reduce the appeal and addictiveness of smoked tobacco products

- 7.2 amend the existing regulation of constituents of smoked tobacco products to require that only smoked tobacco products that meet requirements for constituents shall be able to be manufactured, imported, supplied or offered for sale in New Zealand;
- 7.3 provide that it becomes an offence for any smoked tobacco product to contain constituents exceeding any limits prescribed by, or any features or constituents prohibited by, the Act or regulations;
- 7.4 provide a definition of the smoked tobacco products to which the offence applies;

- 7.5 provide regulation-making powers to allow for the setting of limits and prohibitions in relation to the constituents of smoked tobacco products, including significant reductions of nicotine levels;
- 7.6 provide for an application process requiring manufacturers or importers to seek approval for smoked tobacco products, prior to sale or import;
- 7.7 require manufacturers or importers of smoked tobacco products to regularly test the constituents of their smoked tobacco products;
- 7.8 provide for an assurance process to independently test the constituents of smoked tobacco products;

Restrict access to smoked tobacco products

- 7.9 amend the age limit by setting a birthdate for sale, delivery, or supply of smoked tobacco products to effect a Smokefree Generation;
- 7.10 provide limited defences to the offence of sale, delivery, or supply of smoked tobacco products to people under the age limit;

Restrict the availability of smoked tobacco products

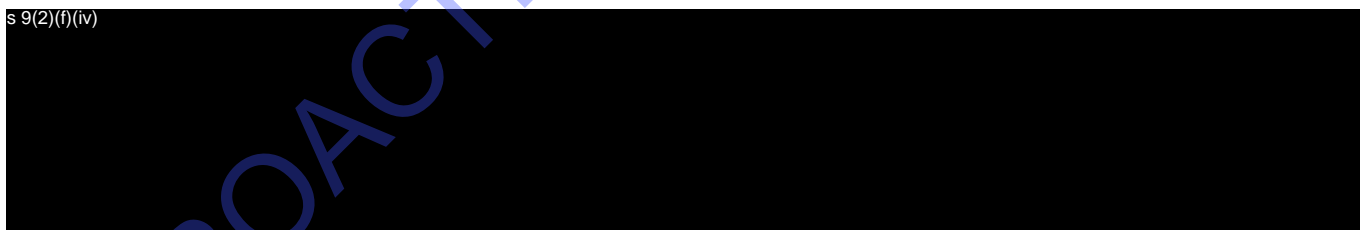
- 7.11 provide for a general prohibition on the sale or supply of smoked tobacco products without approval;
- 7.12 provide for the Director-General of Health to approve a limited number of retailers (including online retailers if appropriate) to sell or supply smoked tobacco products for a specified period, for the purpose of significantly limiting the number of retailers and further reducing the number of approved retailers over time;
- 7.13 provide for the detailed criteria for obtaining approval to be set out in regulations or notified by the Director-General of Health, subject to guiding requirements in the Act (which may include the number and location of outlets, the suitability of an outlet, and whether the retailers are fit and proper persons);
- 7.14 provide for the process for obtaining approval to be set out in regulations;
- 7.15 provide for the Director-General of Health to place conditions on an approval to sell or supply smoked tobacco products;
- 7.16 provide that the Director-General of Health can suspend or revoke an approval in appropriate cases, such as if the retailer does not comply with a condition of their approval;
- 7.17 provide that it becomes an offence to sell or supply smoked tobacco products at retail without the approval of the Director-General of Health;
- 7.18 provide that it becomes an offence for approved retailers to sell, supply, or deliver smoked tobacco products in a way that does not comply with a condition of their approval;

Require notification of sales for general retailers of vaping products

- 7.19 provide that general retailers of vaping products must advise the Director-General of Health that they are selling vaping products;

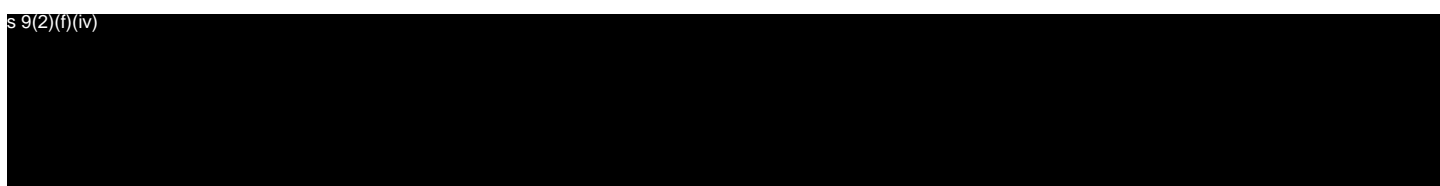
- 8 **agreed** to any consequential amendments needed to give effect to the decisions in paragraph 7 above;
- 9 **agreed** to update the purposes of the Act to align with the legislative changes proposed and to reflect the *Smokefree Aotearoa 2025 Action Plan*;
- 10 **noted** that the Ministry of Health will work with Te Arawhiti and the Crown Law Office to determine how best to reflect and recognise Te Tiriti of Waitangi / The Treaty of Waitangi in the Act;
- 11 **noted** that the Act has been amended many times since 1990, most recently to incorporate the regulation of vaping products, and is hard to navigate and understand in places;
- 12 **agreed** to amendments that improve the functioning of the Act or resolve inconsistencies that may arise between different classes of regulated product;
- 13 **agreed** to additional regulation-making powers, as necessary, to implement the proposals in the paper under SWC-21-SUB-0192;
- 14 **invited** the Associate Minister of Health (Hon Dr Ayesha Verrall) to issue drafting instructions to the Parliamentary Counsel Office to give effect to paragraphs 7 to 13 above;
- 15 **agreed** that further work be undertaken to consider the role of personal imports, manufacture and homegrown tobacco, possible exemptions to low nicotine levels for some smoked tobacco products, as well as the design of an up-to-date offences and penalties regime, fees and levies, and transitional provisions;
- 16 **agreed** that the regulatory regime established by the above policy be cost-recovered from industry through fees and levies, consistent with Treasury's Guidelines for Setting Charges in the Public Sector;
- 17 **noted** that further advice will be sought on possible support and advice for businesses that are transitioning away from the sale of smoked tobacco products and that this may be referenced as part of any public announcement;

s 9(2)(f)(iv)



- 20 **authorised** the Associate Minister of Health (Hon Dr Ayesha Verrall) to approve, if necessary, matters of detail consistent with the above decisions that arise during drafting;
- 21 **noted** that the Smokefree Environments and Regulated Products Amendment Bill has a category 4 priority on the 2021 Legislation Programme (to be referred to select committee in 2021);

s 9(2)(f)(iv)



Rachel Clarke
Committee Secretary

Attendees (see over)

Present:

Rt Hon Jacinda Ardern
Hon Grant Robertson
Hon Kelvin Davis
Hon Carmel Sepuloni (Chair)
Hon Andrew Little
Hon Poto Williams
Hon Kris Faafoi
Hon Peeni Henare
Hon Willie Jackson
Hon Michael Wood
Hon Dr Ayesha Verrall
Hon Aupito William Sio
Hon Meka Whaitiri
Hon Priyanca Radhakrishnan

Officials present from:

Office of the Prime Minister
Office of the Chair
Officials Committee for SWC

PROACTIVELY RELEASED