

Minutes:

SELECT COMMITTEE ON SOCIAL SERVICES

## **SOCIAL SERVICES SELECT COMMITTEE**

**30 May 2007**

### **TOBACCO PRODUCTS CONTROL A/B [B24B-2006] DEPARTMENT OF HEALTH BRIEFING**

**Chairperson:** Ms J Masilo (ANC)

#### **Documents handed out:**

[Tobacco Products Control Amendment Bill \[B24B-2006\]](#)

[Presentation Briefing on the Tobacco Products Control Amendment Bill 2006](#)

#### **SUMMARY**

The Department of Health gave an overview of the process and provisions of the Tobacco Products Control Amendment Bill, explaining that South Africa was a signatory to the Framework Convention on Tobacco Control, and that the new provisions in the Bill related to smoking in Public Places, product regulation and offences and penalties. The primary objective was to discourage smoking in young people and to encourage any existing smokers to stop smoking. The Bill was divided into two. The Section 75 portion, dealing with the health promotion aspects, reduction of smoking and the harmful effects of smoking, including trying to prevent people from starting to smoke. The Section 76 portion of the Bill dealt with provisions relating to the tobacco industry, advertising and sponsorship, as well as the monitoring of cigarettes being sold to minors. The changes to the Act, as set out in the Bill, were outlined. These included amendments to definitions, restricting smoking in certain outdoor places and public places, setting standards for the manufacturing and export of tobacco products, and amending the regulations allowing the Minister to prescribe minimum standards for products, and regulations regarding information to be submitted to the Minister. It increased fines for contravention of the Act. This Bill complied with International Best Practice, furthered the aims of the FCTC, and noted the leadership of the Minister of Health in this issue. Questions by Members included the ambit of the Bill to all tobacco products, whether self-regulation of the Bill would work, and whether a multi-pronged strategy was not needed, differential use of cigarettes between wealthy and poor people, the effect on tobacco companies' sponsorship and profit margins, the harmful substances in cigarettes, the number of African countries signing the Framework Convention, and the restriction on smoking in a car where children under 12 were being conveyed. The Committee requested that copies of the submissions to the public hearings be sent to this Committee.

#### **MINUTES**

**Tobacco Product Control Amendment Bill (the Bill): Briefing by Department of**

## **Health (NDOH)**

Mr Bennett Asia, Cluster Manager, Primary Health Care, NDOH, gave an overview of the process leading to the Bill, which was intended to amend the Tobacco Products Control Act 1993, and to deal with the economics of tobacco use and tobacco control in SA.

Mr Asia said that The Framework Convention on Tobacco Control (FCTC), to which South Africa was a signatory, was an international treaty for controlling tobacco use and marketing. He indicated that main provisions in the new legislation related to smoking in Public Places,) Product Regulation and Offences and Penalties. The primary objective was to discourage smoking in young people and to encourage any smokers to stop smoking.

The Bill was split into two sections; the first being a Section 75 Bill dealing with the health promotion aspect, reduction of smoking and the harmful effects of smoking, including the prevention of starting smoking. This was also regarded as a National Competency.

The Section 76 portion of the Bill dealt primarily with the portions relating to the tobacco industry, advertising and sponsorship, as well as the monitoring of cigarettes being sold to minors. This wider process on the required the other stakeholders' involvement, however the amendments to the Principal Act, which had been dealt with up to the present, were in the Section 75 Bill.

Mr Asia outlined the changes to the principal Act as set out in the Bill. The definitions section had been amended by inserting definitions for "composition" of substances, "emission", "ingredient", "manufacturer" and "public conveyance". It amended other definitions. It also amended the section dealing with control over smoking by restricting or prohibiting smoking in certain outdoor places and public places. It set standards for the manufacturing and export of tobacco products, amended the regulations that allowed the Minister to prescribe the standards that a product must comply with, and information to be submitted to the Minister, and increased fines for contravention of the Act. Finally it would amend the preamble of the Act to include a reference to the FCTC.

Mr Asia concluded that the Principal Act allowed for further necessary reform to Tobacco Control in the country, that the legislation aligned with the present transformation agenda, and the support of International Best Practice signified by signing the FCTC. It ensured that the legislation furthered the aims of the FCTC and noted the leadership of the Minister of Health in this issue.

A brief overview of submissions made during the public hearings was given, as more fully outlined in the presentation.

## ***Discussion***

The Chairperson required the full definition of the FCTC.

Mr B Tolo (ANC, Mpumalanga) enquired if policing of this law would be enough and if “snuff” was included as a tobacco product in the Bill. He believed that there had been ambiguity about including snuff as a tobacco product in the Act.

Mr M Sulliman (ANC, Northern Cape) enquired if the other forms of tobacco were also included in the Bill, including chewing tobacco.

Mr Asia replied that all tobacco products were included in the definition of Tobacco. It had been decided that it would be too confusing to try to detail too many variations of tobacco in the Act and that that was why all tobacco and related products were included. The harmful effects of tobacco products also included effects from snuff, and it was included in the Act as it was also a tobacco product.

Prof Rodney Green-Thompson, Special Advisor to the Minister of Justice, added that all tobacco products were harmful and that snuff could cause cancer of the pancreas and that there was a higher incidence of cervical cancer in women who used tobacco products than those who did not. It was noted that African women had a higher incidence of cervical cancer than other women.

Mr T Setona (ANC, Free State) enquired as to why the example of Groote Schuur Hospital admissions had been given. He noted that 60% of all admissions were for tobacco related illnesses and asked what conclusion could be drawn from this.

Mr Asia responded that the purpose of this Act was not to outlaw tobacco altogether, as this was considered impossible, but to regulate the sale of the legal product and minimise the effects of smoking. The Groote Schuur Hospital examples were used to indicate areas that could be affected. This Act also addressed the risk to youth and attempted to reduce the amount of youth that would begin to smoke. He added that the NDOH promoted a healthy lifestyle through the Healthy Lifestyle Programme that also addressed other risk behaviour in schools and communities.

Mr Setona enquired as to how the self-regulation of the Bill was going to occur as the police force were already incapacitated. In particular he enquired as to how the legislation would deal with the developing illicit cigarette trade that multiplied this problem, and further how the illegal traders would be taxed. He suggested a multi-pronged strategy was needed.

Mr Asia replied that the principle of the legislation was that it should become self-regulatory because the community would assist in the regulation. Therefore the

policing of the Act would occur by self-regulation (by educating the public) and in the formalisation of the Act's provisions.

All the Provinces would need to inspect premises and measure the compliance. The illicit trade of cigarettes would be dealt with under the Section 76 provisions, concerning trade issues, and the importing and exporting of tobacco products.

Ms N Madlala-Magubane (ANC, Gauteng) enquired as to why it was mentioned in the presentation that the use of cigarettes differed between the wealthy and poor people. She also queried how the regulation of certain products would affect the manufacturing and planting jobs in the industry, and the possible labour implications of a reduction in tobacco production.

Mr Asia responded that in regard to tobacco been a divide between the rich and the poor, it had been found that as people became progressively more educated they would tend to refrain from smoking, and the USA was an example of this. In poorer countries the smoking levels had increased, as the people were less aware or less worried about the harmful effects of smoking.

Ms H Lamoela (DA, Western Cape) enquired as to the wider impact of the legislation on the country, as well as the effect on the Tobacco Companies sponsorship and the effect on their profit margins. She also enquired as to the impact that this would have on Labour.

Mr Asia replied that the negative economic impact of smoking and tobacco would be far outweighed by the improvement to health implications and less money required for treatment of tobacco-related illnesses. Sponsorship by tobacco companies would still be done, but they were not allowed to display their trademarks and there were other provisions made in relation to promotions.

Mr M Thetjeng (DA, Limpopo) enquired as to what the harmful substance was in the cigarettes were, and if it was limited to the nicotine.

Mr Asia responded that the ingredients in the cigarettes would be made available to the Minister, as this was a sensitive issue, with regard to trade secrets of the tobacco companies. However, in the main the harmful substance in the cigarettes was the tar that was converted to nicotine when a person was smoking. Tar also produced the smoke that was more harmful to those around the smoker and could lead to secondary ill effects

Mr Thetjeng enquired as to how many African countries had signed the WHO FCTC treaty.

Mr Asia stated that there were presently no other African countries that had signed the

Framework Convention on Tobacco Control (FCTC) treaty, although it was possible that they could still do so.

Mr Tolo queried why there was no smoking allowed in a car where children under the age of 12 years were being conveyed.

Mr Asia responded that the 12 year old age limit had been imposed as children of that age were considered not able to make their own decisions, nor be able to stop adults smoking in vehicles.

Mr Thetjeng pointed out that all those travelling in a vehicle would be affected by the smoke if an individual were to smoke in a vehicle, and that people were not allowed to smoke on public transport at all. He suggested that there should be no age limit.

Mr Setona stated that it was a policy issue to define children differently in the Act and that children of age 12 could not make their own choices, so this was to protect them.

Mr Asia agreed that the 12 year age limit had been fixed as a policy issue and that the intention was to lessen exposure of young children to tobacco and smoking.

Prof Rodney Green-Thompson, Special advisor to the Minister of Health, stated that young children were still developing their lungs up to that age and that they were especially vulnerable. He suggested that it would be more appropriate to raise the age.

Ms Lamoela queried the legal age of smoking and requested that copies of the documents submitted to the public hearings be sent to the Committee.

The Chairperson agreed and requested that copies of the hearing documents be sent on.

The Chairperson requested the representative from the State Law Advisor to confirm whether this was a Section 75 Bill and if there needed to be further hearings on the issue of age limits of smoking and related areas.

Ms F Omar, State Law Advisor, stated that it was a Section 75 Bill, however she could not advise whether public hearings were necessary on the change of age limit and would need the information on the policy that informed the Bill.

The Chairperson asked Mr Asia to give a summary of the submissions made during the hearings.

Mr Asia stated that the tobacco companies supported the amendment to the Bill, but

were concerned about their trade secrets becoming public knowledge, as this would affect their intellectual property rights. There had been some concern over whether chewable tobacco, or snus, should be included, but it was eventually decided to include it as it was a tobacco-related product. Concern was raised over the possible over regulation of the industry. The Tobacco Institute also raised concern that the Department of Health continually rescheduled meetings. It was noted that the promotion of healthy lifestyles would be supported in the new policy.

The Chairperson again requested copies of the submissions.

The meeting was adjourned.