

SMOKING PROHIBITION (CHILDREN IN MOTOR VEHICLES) (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

As required under Rule 9.3 of the Parliament's Standing Orders, the following documents are published to accompany the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill introduced in the Scottish Parliament on 15 December 2014:

- Explanatory Notes;
- a Financial Memorandum;
- Jim Hume's statement on legislative competence; and
- the Presiding Officer's statement on legislative competence.

A Policy Memorandum is published separately as SP Bill 58-PM.

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Non-Government Bills Unit on behalf of Jim Hume MSP, the member who introduced the Bill. They have been prepared in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

2. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

OVERVIEW OF THE BILL

3. The Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill prohibits smoking by an adult in any private motor vehicle in the presence of a child, while that vehicle is in a public place. There are exceptions to the prohibition which take account of members of the Travelling community and holiday-makers who use their vehicles as permanent or temporary homes. Breach of the prohibition is made a criminal offence. A fixed penalty notice regime is provided as an alternative means of enforcement.

COMMENTARY ON SECTIONS

The structure of the Bill

4. The Bill has six sections and a schedule. Sections 1 and 2 comprise the main provisions of the Bill. Section 3 deals with interpretation, section 4 with regulations, section 5 with commencement and section 6 sets out the Bill's short title.

5. The schedule sets out the details of the fixed penalty notice (FPN) regime.

Section 1 – Offence of smoking in a motor vehicle with children

6. Section 1 sets out the offence created by the Bill. With one exception (and subject to the defence contained in subsection (4)), the offence is committed in any situation where an adult (i.e. person aged 18 or over) smokes in a private motor vehicle when a child (i.e. person under the age of 18) is also present in the vehicle and the vehicle is in a public place.

7. The exception is set out in subsection (2). Read together with subsection (3), this provides that the offence is not committed if the vehicle is designed or adapted for human habitation – a motorhome for example – and is parked, and is being used, for the purpose of providing human habitation for at least one night (for example, by a member of a Travelling community, or by a holiday-maker).

