

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

POLICY MEMORANDUM

INTRODUCTION

1. This document relates to the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill introduced in the Scottish Parliament on 15 December 2014. It has been prepared by the Non-Government Bills Unit on behalf of Jim Hume MSP, the member who introduced the Bill, in accordance with Rule 9.3.3A of the Parliament's Standing Orders. The contents are entirely the responsibility of the member and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 58-EN.

POLICY OBJECTIVES OF THE BILL

2. The Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill ("the Bill") creates a new criminal offence, committed by any adult (aged 18 or over), where that adult smokes in a private motor vehicle in the presence of a child (under 18 years of age) while that vehicle is in a public place.

3. The aim of the Bill is to protect children from the harmful effects of exposure to second-hand smoke (SHS) in a confined space.

4. The Bill:

- provides that the offence will generally apply to any private motor vehicle (including convertibles with the roof down) while the vehicle is in a public place,
- specifies some vehicles (e.g. motor cycles) and circumstances (when being used for overnight accommodation) that are exempted,
- creates a fixed penalty regime as an alternative to prosecution,
- allows a defence where the adult who was smoking reasonably believed that all the other occupants of the vehicle were aged 18 or over.

BACKGROUND

Health risks

5. Second-hand (or passive) smoking is where a person inhales smoke directly from the burning end of a cigarette (or other device) being smoked by another person, or inhales smoke exhaled by that other person. SHS contains thousands of known chemicals, at least 250 of which are known to be carcinogenic or otherwise toxic.¹

6. Research has demonstrated the dangers of SHS and the negative health impacts that it can have. These include increased risks of heart disease, respiratory diseases and cancer.² Evidence has established that there is no safe level of exposure to SHS.³ Smoke-free environments are the only effective way to protect against the harmful effects of exposure to SHS.

7. Exposure to SHS in vehicles involves higher concentrations of health-threatening chemicals than in larger, open areas. Even if the windows are opened or air conditioning is used, harmful particles can remain in the atmosphere long after the visible smoke has disappeared.⁴ The restriction of a vehicle also means individuals are unable to move away from the smoke.

8. Due to physiological factors, children exposed to SHS are at increased risk of contracting a range of respiratory diseases. Action on Smoking and Health Scotland (ASH Scotland) identified that children “have smaller airways, faster rates of respiration and immature immune systems. Because of differences in respiration, infants inhale increased quantities of particulates, and through greater hand to mouth contact can absorb quantities through ingestion”.⁵ Noted medical risks for children due to passive smoking include sudden infant death, asthma, respiratory infections and conditions including bronchitis and pneumonia, meningitis and middle ear disease.⁶ It is widely understood that children who are exposed to smoking behaviours are more likely to take up the habit themselves.^{7,8}

9. The Bill seeks also to contribute to the wider issue of smoking and work towards a smoke-free Scotland by engendering a culture shift and an awareness of the harm caused by smoking in the presence of children. The Bill aims to complement the Scottish Government’s

¹World Health Organization. (2007) *Protection from exposure to second-hand tobacco smoke. Policy recommendations*. Page 4. Available at: http://whqlibdoc.who.int/publications/2007/9789241563413_eng.pdf?ua=1 [Accessed 29 October 2014].

² *ibid.*, page 5 [Accessed 29 October 2014].

³ *ibid.*, page 2 [Accessed 29 October 2014].

⁴ Scottish Government. (2013) *Creating a Tobacco-free Generation: A Tobacco Control Strategy for Scotland*. Page 25. Available at: <http://www.scotland.gov.uk/Resource/0041/00417331.pdf> [Accessed 29 October 2014].

⁵ ASH Scotland. (2013) *Smoking in vehicles: An evidence review*. Page 9. Available at: http://www.ashscotland.org.uk/media/5637/ASHScotland_smoking_in_vehicles_April2013.pdf [Accessed 29 October 2014].

⁶ NHS choices. (2013) *Is passive smoking harmful?* Available at: <http://www.nhs.uk/chq/pages/2289.aspx?categoryid=53&> [Accessed 29 October 2014].

⁷ Robinson S & Bugler C. *General Lifestyle Survey 2008. Smoking and drinking among adults, 2008*. Office for National Statistics. Available at: <http://ons.gov.uk/ons/rel/ghs/general-lifestyle-survey/2008-report/smoking-and-drinking-among-adults--2008.pdf> [Accessed 29 October 2014].

⁸ NHS choices. (2013) *Is passive smoking harmful? Children and passive smoking*. Available at: <http://www.nhs.uk/chq/pages/2289.aspx?categoryid=53&> [Accessed 29 October 2014].

Tobacco Control Strategy 2013⁹, which sets out a five-year action plan working towards a smoke-free generation.

Legal context

10. Legislation to reduce the dangers of SHS has already been implemented. The Smoking, Health and Social Care (Scotland) Act 2005 (“the 2005 Act”)¹⁰ prohibited smoking in premises which are wholly or substantially enclosed and which are either places to which the public has access, or places used wholly or mainly as a place of work, by and for the purposes of a club or other unincorporated association or wholly or mainly for the provision of education, health or care services.

11. Regulations¹¹ made under the 2005 Act set out the no-smoking premises and exemption in detail. Included as no-smoking premises are public transportation vehicles and vehicles which one or more persons use for work. Private vehicles are specifically exempted.

12. In England and Wales the Children and Families Act 2014 includes a provision for the Secretary of State to make regulations to provide that a private vehicle is to be smoke-free when a person under the age of 18 is present. The UK Department of Health recently conducted a consultation on draft regulations¹² that would – like this Bill – make it an offence to smoke in a private vehicle with someone under 18 present and would also create an offence of failing to prevent smoking in a private vehicle with someone under 18 present.

DETAILS OF THE BILL

Motor vehicles

13. Exclusions have been made for “mechanically propelled vehicles” which are steered “by means of handlebars attached to the front wheel”. This incorporates (as defined in section 3 of the Bill) motor cycles, mopeds, powered bicycles and scooters (including invalid carriages/mobility scooters). These vehicles have been excluded from the prohibition as they are not typically designed for carrying child passengers and are, generally, not enclosed.

14. The Bill only applies to motor vehicles in private use since, under the 2005 Act, smoking is already prohibited in vehicles used for public transportation. While it is likely that exposure to toxins from SHS will be lower in convertible vehicles with the roof down than in other vehicles, individuals must sit in close proximity and it can therefore be assumed that children would be

⁹ Scottish Government. (2013) *Creating a Tobacco-free Generation: A Tobacco Control Strategy for Scotland*. Available at: <http://www.scotland.gov.uk/Resource/0041/00417331.pdf> [Accessed 29 October 2014].

¹⁰ Smoking, Health and Social Care (Scotland) Act 2005 (asp 13). Available at: <http://www.legislation.gov.uk/asp/2005/13/section/4> [Accessed 29 October 2014].

¹¹ The Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006. Available at: <http://www.legislation.gov.uk/ssi/2006/90/schedule/1/made> [Accessed 29 October 2014].

¹² Department of Health. (2014) *Smoking in private vehicles carrying children – consultation on proposed regulations to be made under the Children and Families Act 2014*. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/329885/Smoking_in_cars_carrying_children.pdf [Accessed 29 October 2014].

exposed to undesirable levels of SHS if smoking did take place. For this reason, and for clarity of implementation of the Bill, convertible vehicles are included.

Public place

15. The offence will only apply where the private motor vehicle in question is in a place to which the public (or section thereof) have access (including, in particular, a public road). The offence would not extend to private driveways, for instance.

16. Motor vehicles designed or converted specifically for residential purposes (such as motor-homes and camper-vans) are excluded subject to meeting certain criteria. It is recognised that such vehicles are also used as a home and the member seeks to ensure that those dwelling in such vehicles are not disadvantaged when compared with people who reside in “conventional” dwellings. For these purposes, the exemption is restricted to a vehicle which is designed or converted for the purposes of accommodation and which is parked with the intention of an overnight stay. Children present in such a vehicle are protected whilst the vehicle is in motion but not when it is parked for the purposes of being used as a temporary home, as might be the case for holiday makers, or a more permanent home such as those inhabited by members of Traveller Communities.

Age

17. The offence will apply to a person smoking in a vehicle where children are present. Children are defined as being under the age of 18. This is consistent with the age at which it is legal to purchase tobacco products. It is the member’s view that it is those under 18 who are more susceptible to harm from SHS, and have little or no choice about their mode of transport and limited ability to object to a smoky atmosphere. Furthermore, the member does not wish to see young persons criminalised by this Bill. The age of the offender, therefore, has been set at 18 or over.

Smoking

18. E-cigarettes are not included in the ban as they are not lit by a flame and do not produce smoke and do not therefore fall within the definition of “smoking” in the 2005 Act. While concerns are being expressed about the content of substances emitted from some e-cigarettes, a body of evidence does not yet exist to demonstrate whether or not they are harmful.

19. The offence will apply only to the person smoking, whether that person is driving or not. This is a public health measure, not a road traffic offence, and the member does not wish to make the owner or driver of a vehicle vicariously responsible for the behaviour of others inside it.

Defence

20. There may be circumstances where a smoker has reasonable grounds for believing the occupants of the vehicle are 18 or over and such a defence is therefore available where this belief can be appropriately demonstrated.

Detection and enforcement

21. The Police Service of Scotland will be responsible for enforcing the legislation, using existing powers to stop vehicles. In practice it is envisaged that the police will enforce the prohibition through its routine monitoring of traffic offences. Detection of any smoking offence will be undertaken in the same way as currently conducted for the enforcement of legislation regarding the use of seatbelts and hand-held devices.

22. The consultation raised some concerns surrounding the practicalities of enforcement, such as the ability of police officers to see young children in a vehicle, and the ability to determine the age of a young person. Experiences from other countries that have already implemented such measures do however demonstrate that the offence can be detected. In the first six months after introduction of similar legislation in Australia, for example, 158 and 138 fines were recorded in Queensland and Victoria respectively.¹³

23. That being noted, it should be stressed that the success of this Bill does not depend solely on detection and enforcement, but on generating a cultural shift in the minds of vehicle users, to be considerate of others in the vehicle, akin to the awareness and culture shift brought about by the ban on smoking in public places.

Mode of trial and penalty

24. The offence will be triable under summary procedure only, with a maximum fine of level 3 on the standard scale (currently £1,000, but subject to change).

Fixed penalty scheme

25. A fixed penalty scheme will be available as an alternative to prosecution. As such, if the recipient of a fixed penalty notice (“FPN”) chooses not to pay, he or she will be liable to prosecution for the original offence (and liable on conviction to a fine that could be much larger than the fixed penalty).

26. A police officer will have the power to issue a fixed penalty notice. It is anticipated that the majority of FPNs will be issued “on the spot” but, to allow time to resolve a claim of defence that the suspected offender reasonably believed that all the vehicle occupants were aged 18 or over, this power will subsist until 14 days after the date on which the offence is believed to have been committed.

27. An offender will have 29 days from the day on which the FPN is issued to pay the penalty. (This allows a full four weeks in addition to the day on which the FPN is issued.) No proceedings for the offence may be commenced during this period. Scottish Ministers will have power, through subordinate legislation subject to the affirmative procedure, to revise the length of this period.

¹³ Herald Sun. (2010). *Smoking ban burns parents*. Available at: <http://www.heraldsun.com.au/news/victoria/smoking-ban-burns-parents/story-e6frf7kx-1225912518244?nk=75d784cd36050bffc2f2fdfce4b40679> [Accessed 29 October 2014].

28. Payment of the FPN is to be made to a clerk of court specified on the FPN. Any representations about the FPN are to be made to Police Scotland.

29. The amount of the FPN is set at £100, with Scottish Ministers having the power to vary this amount by subordinate legislation subject to the affirmative procedure. This sanction is considered reasonable and proportionate and it is in line with the current fixed penalty for using a hand-held device whilst driving, or for not wearing a seatbelt.

Method of payment

30. Scottish Ministers will be given the power, by subordinate legislation subject to the affirmative procedure, to make provision about methods of payment.

31. Discretion over whether to accept late payment (beyond the 29-day period) will be granted to the Scottish Court Service. If late payment is made and is accepted, mistakenly or otherwise, this will be a bar to any prosecution which has not yet commenced. Once a prosecution has commenced, the clerk of court is under a duty to reject any subsequent payment. A certificate that payment was or was not made by the end of the 29-day period shall be sufficient evidence of the facts stated in any proceedings for the offence.

Accounting

32. A provision on accounts or application of sums received by the clerk of the court is included. This gives Scottish Ministers the power, if they wish, to direct where the money raised is spent and will ensure proper accounting. Under section 64 of the Scotland Act 1998 and the Scotland Act (Designation of Receipts) Order 2009, these fixed penalties will be classed as designated receipts and the Scottish Ministers will be required to pay a sum equal to the fixed penalties to the UK Government, but this does not affect their ability to regulate what courts are to do with the sums they receive (such as permitting them to retain money to cover administrative expenses).

Withdrawal

33. The Police will be able to withdraw the FPN where it is considered that this was wrongly issued. This is most likely to cover situations where proof of age cannot initially be provided but is subsequently clarified. For example, if proof could be provided that all persons in a vehicle were aged 18 or over at the time of the alleged offence, the police would be able to withdraw the FPN.

Commencement

34. The substantive provisions within the Bill come into force six months after Royal Assent. This builds in time to allow the public to become fully aware of the forthcoming change, by way of publicity of the new legislation.

CONSULTATION

35. The member's draft proposal was lodged on 28 May 2013, supported by a consultation that ran until 30 August 2013. A summary of the responses was prepared by the Non-Government Bills Unit and published (with the member's commentary) on 30 January 2014, alongside the final proposal.¹⁴

36. In total, 161 responses were received, with 88 submitted direct to the member and 73 completed through an online survey conducted by the British Heart Foundation, which linked to the full consultation document and asked identical questions.

37. Of the 88 responses submitted to the member, 34 (39%) were from members of the public. Other respondents included charities, public sector organisations, private sector organisations, academics and campaign or pressure groups. Sixty-six (75%) of these respondents supported the proposal, while 16 (18%) were opposed in principle. The remaining six (7%) did not specifically indicate support or opposition, although three implied support and three implied opposition. Combining the direct consultation responses with the results of the British Heart Foundation's survey gave an overall total of 136 (84%) of 161 respondents being in favour of the proposal, with 18 (11%) opposed and seven (4%) undecided or not expressing a clear opinion.

38. A key theme from supporters of the proposal was the protection of the health of a vulnerable section of society, with responses arguing that the proposal, if enacted, would help to redress health inequalities.

39. Respondents put forward a number of different suggestions regarding the age of the offender and the age of the child. The member considered the arguments put forward and was persuaded to alter his original position. The rationale for the member's final position is considered more fully below.

40. Account has also been taken of the effect of the proposal on Travellers and holiday-makers, who may use motor vehicles as residential accommodation. The proposal did not seek to infringe people's existing rights to smoke in their own homes with children present, and the member considered that it would be appropriate to make exemptions (subject to meeting certain criteria) for people who fall into this category.

ALTERNATIVE APPROACHES

Is legislation necessary?

41. While a majority of respondents to the consultation agreed that protecting children from SHS was a desirable outcome, some were not convinced that legislation was an appropriate way to achieve this, arguing that education or smoking cessation classes would be more appropriate.

¹⁴ The proposal, consultation document and summary are available at:
<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/63843.aspx>

42. NHS Ayrshire and Arran noted in its response to the consultation, “despite campaigns and publicity regarding this issue many smokers and non-smokers do not realise the damage and impact that smoking in cars can have on children’s development and growth, and to what extent their health can be compromised”.¹⁵

43. Legislation reinforces the messages presented in education or awareness-raising campaigns, and this twin approach can produce effective results. One study investigating the effects of the ban on smoking in public places found that smokers increased their support for the ban after implementation and half of the respondents had reported a reduction in their cigarette consumption after its introduction.¹⁶ It is the member’s belief that legislation, supported by publicity throughout Scotland, can play a significant role in changing social norms and behaviours.

44. The member’s proposals on the age of the offender and the age of the child to be protected generated some wide-ranging comments from respondents.

Age of the child

45. The member’s consultation was based on applying an age limit of 16 to the child to be protected. The majority (87%) of respondents agreed in principle with the age of the child to be protected being set at under 16. There were a number of respondents who qualified their support by suggesting that protecting under 16s should be a minimum, and that there were arguments for extending this to under 18s or, in some cases, even removing the upper age limit and having the law apply to all passengers, regardless of age.

46. The member was persuaded by arguments that the age below which protection is given should be extended to 18, which is consistent with the Tobacco and Primary Medical Services (Scotland) Act 2010¹⁷ under which those under 18 may not purchase tobacco. This also takes account of the fact that young people between 16 and 18 are still physically immature and may be more likely to be affected by SHS than older people. Finally, a significant proportion of people in the 16-18 age groups are likely to rely on adults for transport to school and so on compared with over 18s and are also likely to be driven by parents, with whom they might find it difficult to assert their concerns with being exposed to SHS.

47. The member decided not to extend the protection to vulnerable adults over 18 as it could render the Bill unenforceable, since detection of such an offence would be extremely difficult. The idea of extending the ban to all other passengers, regardless of age, was dismissed as it was felt that adults have the ability to make alternative arrangements or to assert their wishes not to be subjected to SHS.

¹⁵ NHS Ayrshire and Arran. Response to the member’s consultation. (2013). Available at: <http://jimhume.org/en/document/consultation-responses#document> [Accessed 29 October 2014].

¹⁶ Musiello, T. 2009. *An investigation into the effects of the Scottish smoking ban*. PhD thesis. Queen Margaret University page i. Available at: <http://etheses.qmu.ac.uk/116/1/116.pdf> [Accessed 29 October 2014].

¹⁷ Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3). Available at: <http://www.legislation.gov.uk/asp/2010/3/contents> [Accessed 6 November 2014].

Who commits the offence?

48. As with the age of the individual to be protected, the member's initial consultation proposed a minimum age of 16 for committing the offence. Again, many respondents argued for consistency with tobacco control legislation and stated that the minimum age of the offender should be 18, since those under 18 cannot legally purchase tobacco products. Others argued that any person, regardless of age, should be capable of committing the offence.

49. The member's primary motivation for the Bill is to protect children and he has no desire to incriminate them. He is also mindful of the uncertainty and confusion that could arise among members of the public if two different age thresholds were adopted in the Bill. Accordingly, he has refined his policy so that the offence is committed by those aged 18 or over.

50. Preliminary consideration was given to penalising the driver of the vehicle in which the offence was being committed or to create an offence of failure to prevent smoking in a vehicle in the presence of a child. These approaches were ruled out however as it was felt that they unhelpfully moved the focus away from health concerns and stray into the realm of a traffic offence. Furthermore, the member wishes to focus on the behaviour of the person responsible for producing harmful SHS since it is hoped that the Bill will effect a culture shift in attitudes to such behaviour.

Which vehicles?

51. The member has focused on vehicles that carry passengers and has therefore exempted motor cycles, scooters and so on. A decision had to be taken about whether to include convertible vehicles being driven with the top down. While it is the case that ventilation (opening all the windows) greatly reduces the level of particulates, levels of SHS which are likely to be harmful still remain. Since there is no safe level of exposure to SHS¹⁸, the member decided to include convertibles and notes that enforcement will be more straightforward as a result.

EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT ETC.

Equal opportunities

52. The Bill seeks to give all children an equal opportunity to have a healthy childhood and go on to lead healthy lives. It protects those children at risk from second-hand smoke and will contribute to redressing the health inequalities currently experienced by a section of young people.

53. Children – and their health – are the focus of this Bill, since they may not have the ability to find other modes of transport or to assert their wish to not be exposed to SHS (as those aged 18 or over should be able). To address these points, and to take account of their increased

¹⁸ The World Health Organization. (2007) *Protection from exposure to second-hand tobacco smoke. Policy recommendations*. Page 2. Available at: http://whqlibdoc.who.int/publications/2007/9789241563413_eng.pdf?ua=1 [Accessed October 2014].

vulnerability due to physiological factors, the member considers that protection needs to be provided to address the disadvantage faced by children and young people who are at risk of exposure to SHS.

54. Some respondents suggested that protection should be extended to adults with learning difficulties or other disabilities that might mean that they are vulnerable in the same way as children. It is considered that to include them in the Bill would risk making it unenforceable in that, while a police officer might reasonably be expected to determine at the roadside whether a passenger is under 18, it would be difficult for an officer to determine whether an adult has a disability that means they may lack the capacity to provide consent to someone smoking around them.

55. Travelling communities who have what would be classified as a vehicle designed or adapted for the purpose of accommodation were given due consideration in the drafting of the Bill. As outlined earlier, it is not the member's intention to legislate on what people do in their own homes. A specific exemption has therefore been included to cover circumstances where a vehicle is both designed or adapted for human habitation and is parked for the purposes of providing human habitation for not less than one night. Through this exception, those who regard their vehicles as their home are placed on an equal footing with people in conventional homes.

56. Respondents to the member's consultation pointed out that there is a socio-economic element to exposure to SHS - disadvantaged non-smokers are twice as likely to be exposed - and specifically in cars, 80% of people in the highest socio-economic groups report that smoking is not permitted in their car compared with just 54% of the lowest group. Given that smoking prevalence is significantly higher among disadvantaged people, the children from disadvantaged areas are disproportionately more likely to be exposed to SHS.¹⁹ This Bill will, therefore, go some way to redressing health inequalities found in people of different socio-economic class.

57. Pregnant women and their unborn children will be protected from a reduction in exposure to SHS during car journeys if children are present or if the mother is, herself, under the age of 18. It is hoped that, in addition to this direct benefit, the Bill will also encourage a shift in attitudes about the potential harm from SHS, particularly to the young and unborn.

58. The Bill's provisions are not discriminatory on the grounds of gender or gender reassignment, marital status, race, religion and belief or sexual orientation.

Human rights

59. Smoking is the choice of an individual; however, it should not impact on the health of others. Article 8 of the European Convention on Human Rights (ECHR) establishes the right to respect for private life. This right is likely to be interfered with by the creation of the new offence through this Bill, as the offence will intrude into the private space of an individual's motor vehicle and will restrict the exercise of personal autonomy involved in the decision to smoke. However, the rights set out in Article 8 are qualified and this Bill represents a justified

¹⁹ ASH Scotland. Response to the member's consultation. (2013). Available at: <http://jimhume.org/en/document/consultation-responses#document> [Accessed 29 October 2014].

interference with them in terms of Article 8, paragraph 2. Article 8(2) permits interference by a public authority when it is “for the protection of health or morals, or for the protection of the rights and freedoms of others”. The restriction of the right of the individual to smoke would be in accordance with the law (as augmented by this Bill) and necessary for the protection of children’s health. The member has sought to ensure that what is proposed is proportionate, by including the exemption for vehicles which are being used as accommodation. Similar laws are in place in jurisdictions in North America and Australia (who each have strong human rights protections) and a similar ban is already in operation in Cyprus, a current ECHR Contracting State.

60. Article 6 of the ECHR establishes the right to a fair trial. Whilst the fixed penalty notice would operate as an alternative to a trial, there is no obligation on an individual to pay that penalty. A fixed penalty notice is not a conviction, and it does not determine a recipient’s civil rights and obligations. An individual may prefer to defend themselves at trial, in which case they would obtain a fair hearing before an independent and impartial court. If the fixed penalty is paid then the individual has waived this right. In such context, this Bill does not interfere with a person’s right to a fair trial.

Island communities

61. The Bill has no specific implications for those living in island communities since it will apply in the same way throughout Scotland.

62. Enforcing the law may, in practice, be more difficult in smaller, more remote communities, including island communities, as police officers have larger areas to patrol. The member acknowledges these difficulties but considers them unavoidable. It would be impractical and unrealistic to differentiate in the way the process operates by reference to geography.

Local government

63. The Bill confers no powers or obligations on local authorities, and has no direct impact on local government. There are implications for the Police Service of Scotland through the role conferred on police officers to enforce the provisions. However, there will be no extension to local authority approved operators such as traffic wardens.

Sustainable development

64. The UK Shared Framework for Sustainable Development²⁰ was adopted by the Scottish Government in 2005. Commitment to the Framework was reaffirmed in the recent draft Scottish Planning Policy.²¹ The Framework includes the principle: “*Ensuring a Strong, Healthy and Just Society – meeting the diverse needs of all people in existing and future communities, promoting well-being, social cohesion and creating equal opportunity for all*”. This Bill puts that principle

²⁰ Scottish Government. (2005) News release. Available at: <http://www.scotland.gov.uk/News/Releases/2005/03/07102535> [Accessed 29 October 2014].

²¹ Scottish Government. (2013) *Draft Scottish Planning Policy for consultation*. Available at: <http://www.scotland.gov.uk/Publications/2013/04/1027/3> [Accessed 29 October 2014].

into practice by ensuring that all children in Scotland are protected from the health risks that SHS in a vehicle poses, and promotes a strong and healthy future generation.

65. The Scottish Government's National Performance Framework, "*Scotland Performs*",²² measures and reports on progress in creating a more successful country, with opportunities for all to flourish through increasing sustainable economic growth. This Bill will assist with that progress, by addressing some of the strategic objectives and national outcomes set out in the National Performance Framework, in particular by seeking to ensure that our children have the best start in life and by contributing to improving the life chances for children, young people and families at risk. The Bill will also contribute to the Scottish Government's national indicators of reducing premature mortality and reducing the percentage of adults who smoke, leading to the purpose target of increasing healthy life expectancy.

66. The Bill promotes social and economic development by improving the life chances of children in some of the lower social classes. Research has shown that a disproportionate number of smokers are from lower socio-economic groups²³ and children of smokers are more likely to become smokers themselves²⁴. By promoting and safeguarding healthy childhoods for all children in Scotland it therefore reduces the health inequalities between more and less advantaged groups and increases the capability of children in lower socio-economic groups for economic participation and livelihoods in the long term.

67. The Bill has no direct environmental impact (for example, in terms of energy use). There is no reason to believe that the positive changes it will bring about could not be sustained indefinitely.

²² Scottish Government. (2012) *National Performance Framework*. Available at:

<http://www.scotland.gov.uk/About/Performance/purposestratobj> [Accessed 29 October 2014].

²³ ASH Scotland. (2014) *Smoking in Scotland: where are we now?* Pages 8 and 9. Available at: http://www.ashscotland.org.uk/media/5980/Smoking_in_Scotland_Jan2014.pdf [Accessed 29 October 2014].

²⁴ NHS choices. (2013) *Is passive smoking harmful? Children and passive smoking*. Available at: <http://www.nhs.uk/chq/pages/2289.aspx?categoryid=53&> [Accessed 29 October 2014].

*This document relates to the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill
(SP Bill 58) as introduced in the Scottish Parliament on 15 December 2014*

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