

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

[AS AMENDED AT STAGE 2]

REVISED FINANCIAL MEMORANDUM

INTRODUCTION

1. This revised Financial Memorandum has been prepared by the Non-Government Bills Unit, on behalf of the member in charge of the Bill, Jim Hume MSP, to accompany the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill following Stage 2 consideration of the Bill. It has been produced in accordance with Rule 9.7.8B of the Parliament's Standing Orders. It does not form part of the Bill and has not been endorsed by the Parliament. It should be read in conjunction with the revised Explanatory Notes and other accompanying documents published with the Bill.

2. The purpose of this revised Financial Memorandum is to set out the best estimates of the administrative, compliance and other costs to which the provisions of the Bill (as amended at Stage 2) will give rise, and an indication of the margins of uncertainty in these estimates.

3. 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 (subject to limited exceptions).

4. The offence is to be enforced jointly by Police Scotland and authorised officers of local authorities, mainly by a fixed penalty regime as an alternative to prosecution, although there is also provision for offenders who are convicted to be fined. The principle behind the Bill is to provide protection for a vulnerable section of society, by encouraging a culture shift in attitudes, so any revenue generated through fixed penalties or fines is expected to be modest.

BACKGROUND

Estimating the number of fixed penalty notices

Introduction

5. Before any estimates are made of the likely costs to the various bodies responsible for enforcing the Bill (i.e. Police Scotland, local authorities, and the Scottish Court Service), it is necessary to explore the numbers of fixed penalty notices (FPNs) likely to arise as a result of the new legislation.

6. Current estimates suggest that approximately 60,000 children in Scotland are exposed to second-hand smoke (SHS) in a car each week.¹ Some of these cases will involve more than one child being exposed to SHS from a single adult while other cases could involve more than one adult smoking in the presence of a single child. However, it is reasonable to assume that the number of adults in Scotland currently engaged in the activity of smoking in a car with a child present is likely to be in the region of 60,000.

7. It can be anticipated that, since the vast majority of adults comply with the law on seatbelts and the use of mobile devices, and there was very good compliance with the Smoking, Health and Social Care (Scotland) Act 2005², the same can be predicted for this new offence and it is therefore likely that the numbers of those committing this offence, being detected and receiving FPNs will be low.

Other legislation affecting car users

8. Figures supplied by Police Scotland for 2013/14 reveal that over 36,000 seatbelt offences and over 34,000 mobile device offences were detected. 64% of people over the age of 17 in Scotland drive on a regular or occasional basis³, which equates to approximately 2,787,000 individuals. This means that the number of seatbelt offences equates to approximately 1.3% of the driving population and the number of mobile device offences to approximately 1.2% of that population.

9. The number of individuals capable of committing the offence of smoking in a car with a child present is very much lower, estimated above to be in the region of 60,000. If a similar percentage of that number were to be detected breaching the new legislation, it would result in between 700 and 800 FPNs being issued annually. However, detection of this offence is not likely to be as straightforward as detection for seatbelt and mobile device offences since it is not immediately obvious, on observing traffic, whether passengers are present (small children may not be visible) and whether passengers are likely to be below the age of 18. For this reason, the number of FPNs issued in a year is likely to be lower than 700.

Previous legislation on smoking

10. The rate of offences detected under the 2005 Act is likely to be informative. Following the implementation of the Act, compliance data was collected by local authorities. The number of FPNs issued to individuals in a series of three month periods have been published by the Scottish Government⁴ and record that, in the year following the commencement of the 2005 Act (1 April 2006 – 31 March 2007), 620 FPNs were issued to individuals: therefore around 0.06% of the 924,000 smokers in Scotland received a FPN in the year following the introduction of the ban on smoking in public places.

¹ Respiratory Group at the University of Aberdeen. Response to the Member's consultation (question 2). (2013) Available at: <http://jimhume.org/en/document/consultation-responses#document> [Accessed 29 October 2014].

² 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].

³ Transport Scotland. *Scottish Transport Statistics No 32 2013 Edition*. Table 11.10. Available at: <http://www.transportscotland.gov.uk/statistics/j285663-14.htm#table1110> [Accessed on 4 November 2014].

⁴ Scottish Government: Healthier Scotland *Clearing the air*. Available at: <http://www.clearingtheairscotland.com/latest/index.html> [Accessed October 2014]

11. Figures for the second year following the ban (March 2007 – April 2008) were higher. 1,187 FPNs were issued. This figure means that in the region of 0.1% of the smoking population received a FPN for breaking the law in that period.

12. Clearly, the opportunities to commit the offence created by this Bill are considerably fewer than for smoking in enclosed public spaces, since only a subset of smokers drive in vehicles with children present. If FPNs were issued to 0.1% of the 60,000 estimated to be currently engaged in smoking in cars while children are present, then that would result in around 60 FPNs being issued annually.

Experience from other countries implementing similar legislation

13. In the first six months after introduction of similar legislation in Australia, 158 on-the-spot fines (the equivalent of fixed penalty notices) were recorded in Queensland (population 4.8 million) and 138 in Victoria (population 5.8 million) respectively.⁵ In New South Wales (population 7.4 million) 1,330 on-the-spot fines were issued for people smoking in cars when children under the age of 16 were present in the four years following the ban – an average of 332 per annum⁶. While the laws in these different jurisdictions are not identical to this Bill and the states involved will have different smoking demographics and will have promoted and enforced the ban in various ways, these figures suggest an estimate in the region of 280 for Scotland (population 5.3 million).

Conclusion

14. Based on the above information on compliance with Scottish smoking legislation and other legislation affecting car users, taking into account estimates of the numbers of those in Scotland currently smoking in cars while children are present and combining this with evidence of detection rates for similar offences in other legislatures, the number of FPNs issued annually (under the joint enforcement regime provided for in the Bill) is likely to be in the region of 200.

COSTS ON THE SCOTTISH ADMINISTRATION

Scottish Government

15. The provisions of the Bill do not place any obligations directly on the Scottish Government but it is anticipated that they would wish to publicise the ban and the ban is unlikely to succeed without publicity. The advertising costs to the Scottish Government are therefore set out below.

⁵ 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].

⁶ New South Wales Government. *Public Health (Tobacco) Act 2008 Statutory Review Discussion Paper*. Page 11. Available at: <http://www.health.nsw.gov.au/legislation/Documents/tobacco-act-review-discussion-paper.pdf> [Accessed on 4 November 2014].

Costs for advertising

16. Advertising costs are published on the Scottish Government website.⁷ Total advertising spend in relation to smoking in 2005-06, in the lead-up to the implementation of the smoking ban under the 2005 Act – a major shift in policy which affected many people – was just over £1 million.⁸ In 2006-07, spend was significantly lower – just under £45,000.⁹ (The ban came into force on 26 March 2006).

17. In 2010-11 the Scottish Government spent significant sums under “Tobacco (Cessation, Legislation)”, incorporating initiatives and raising public awareness of the restrictions on tobacco advertising and sales in the Tobacco and Primary Medical Services (Scotland) Act 2010 (“the 2010 Act”).¹⁰ The spend in this period is identified as just under £350,000¹¹, broadly in line with the estimate set out in paragraph 77 of the Financial Memorandum to the Bill leading to the 2010 Act (£400,000 for set up and year one costs associated with the registration scheme). The average spend from 2010-11 to 2012-13 is just under £400,000¹².

18. Scottish Government expenditure on advertising related to smoking therefore tends to peak around legislation then stabilise. It is expected that this would be mirrored around this legislation, although it should be noted that the Scottish Government is already very active with campaigns designed to protect people from second-hand smoke.

19. Chapter 5 of the Scottish Government’s Tobacco Control Strategy focuses on “protecting people from second-hand smoke” and includes a section on “reducing children’s exposure to second-hand smoke in enclosed spaces”.¹³ Page 25 of the Strategy states that the Scottish Government will “run a social marketing campaign ... to raise awareness of second-hand smoke in enclosed spaces and to support people to reduce the harm it can cause”. The recent re-launch of the “Take it Right Outside” campaign¹⁴ focused on protecting children from the harmful effects of second-hand smoke in the home and car.

⁷ Scottish Government. *Advertising spend*. Available at: <http://www.scotland.gov.uk/About/People/Directorates/Communications/advertising-marketing/spend> [Accessed 29 October 2014].

⁸ £1,056,867.36. Scottish Government. *Details of the 2005-2006 spend*. Available at: <http://www.scotland.gov.uk/About/People/Directorates/Communications/adspend0607> [Accessed 29 October 2014].

⁹ £43,288.31. Scottish Government. *Details of the 2006-2007 spend*. Available at: <http://www.scotland.gov.uk/About/People/Directorates/Communications/adspend2006-07> [Accessed 29 October 2014].

¹⁰ 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].

¹¹ £334,717.92. Scottish Government. *Details of the 2010-11 spend*. Available at: <http://www.scotland.gov.uk/About/People/Directorates/Communications/advertising-marketing/spend/Spend-2010-11> [Accessed 30 October 2014].

¹² £382,897.28, as an average of the following figures: 2010-11 spend, £334,717.92; 2011-12 spend, £466,673.47; 2012-13 spend, £347,300.46. Scottish Government. *Advertising spend*. Available at: <http://www.scotland.gov.uk/About/People/Directorates/Communications/advertising-marketing/spend> [Accessed 30 October 2014].

¹³ 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].

¹⁴ Scottish Government. (2015) ‘Take smoking right outside’. Available at: <http://news.scotland.gov.uk/News/Take-smoking-right-outside-1e0b.aspx> [Accessed 23 November 2015].

20. The Scottish Government advised the Non-Government Bills Unit that “the money set aside from 2013-15 was used for the [2014] Take it Right Outside campaign”, with the current campaign spend allocation on smoking prevention being up to March 2015¹⁵. Marketing spend in relation to smoking prevention in 2013-14 was £319,954.12¹⁶.

21. Early analysis¹⁷ of the 2014 campaign showed that 18% of people (as a result of the campaign) tried to stop smoking altogether and 13% stopped smoking in the home, while 4% stopped smoking at all in the car, and 3% don’t smoke in the car when children are present. The figures for smoking in cars are likely to reflect the lower incidence of the behaviour in general among the smoking population, since many smokers already refrain from this behaviour and a proportion do not travel by car.

22. It is anticipated that the cost for a high-profile advertising campaign in relation to this legislation will not be as significant as it was for the campaign prior to the smoking ban coming into effect, as that and subsequent smoking-related legislation has created a greater public awareness of the impacts of smoking and second hand smoke. Nevertheless, this would be a new campaign to highlight new laws coming into effect, and it would be for the Scottish Government to determine the most effective way of raising awareness and getting the message across. It is estimated that the cost of a suitably high-profile campaign would be between £250,000 and £300,000.

23. This potential cost could be spread over one or two financial years, subject to the Scottish Government’s decision on how best to implement the campaign. It is anticipated that the costs of follow-up public information or social advertising campaigns will be linked with other campaigns and would not, therefore, impact on on-going average expenditure beyond the year of legislation.

Scottish Court Service

24. It is estimated (as set out in the background section of this memorandum) that in the region of 200 FPNs will be issued per year as a result of detection of the new offence.

Costs of prosecution when FPNs are challenged or not paid

25. Police Scotland informed the Non-Government Bills Unit that an average of approximately 20-25% of FPNs which are issued for seatbelt and mobile device offences are not paid and, as a consequence, result in reports being submitted to the Crown Office and Procurator Fiscal Service (COPFS). The Scottish Court Service, in correspondence with the Non-Government Bills Unit, quoted a figure of 26% for challenged or unpaid penalties. Based on the estimate of 200 FPNs being issued annually, then approximately 55 penalties would be challenged or unpaid if it is assumed that there will be a similar level of non-payment of FPNs associated with this offence.

¹⁵ Scottish Government correspondence to the Non-Government Bills Unit. September 2014.

¹⁶ Scottish Government. (2015) *2013-14 Expenditure covering public information, social marketing and international marketing*. Available at: <http://www.gov.scot/Resource/0048/00484906.pdf>

¹⁷ Story and the Scottish Government. (September 2014) *‘Take it right outside’ Campaign Tracking Research: Key findings – Post-campaign*. Page 41. Available at: <http://www.scotland.gov.uk/Resource/0045/00459841.pdf> [Accessed 30 October 2014].

26. In the 12 months following the passage of the 2005 Act, there was one prosecution of an individual for smoking in a public place. Following that year, numbers remained low, ranging between zero in some years and peaking at eight prosecutions in 2010-11¹⁹. It is likely, therefore, that the number of cases proceeding to prosecution would be very small indeed and the resulting cost could therefore be absorbed within current budget levels.

27. Paragraph 10 of the schedule provides a mechanism under which disputes as to whether or not a fixed penalty has been paid within the period for payment can be resolved by the Scottish Court Service. The schedule enables a person who is in dispute with the local authority to apply to the sheriff by summary application, for a declaration that the fixed penalty cannot be enforced because either, the fixed penalty has been paid, or a request for a hearing has been made to the local authority. It is expected that the majority of fixed penalties will be paid and only a small minority of cases not accepted, therefore the financial impact on the Scottish Court Service will be minimal.

28. Audit Scotland estimated in 2011 that the total cost of processing a summary case was £2,148²⁰, a cost borne between the Police Service, the Court Service and the Crown Office and Procurator Fiscal Service. This figure may have increased since then due to inflation.

COSTS ON LOCAL AUTHORITIES

29. While the joint enforcement regime is not expected to result in a major rise in the number of fixed penalty notices issued, it can be anticipated that some costs will fall on local authorities.

30. The Scottish Government currently provides £2.5 million a year to local authorities as part of their baseline grant to support current smoke-free legislation but there is the possibility for “modest one-off additional costs associated with training, guidance and producing fixed penalty notices” as identified by the Minister for Public Health.²² These costs could be up to £50,000 across all local authorities but can reasonably be expected to be lower, as the Scottish Government would be able to prepare any guidance as part of its normal business²³, and some of the costs of administering FPNs will be offset by any penalties paid. The Scottish Government will consider any business case for additional one-off funding if the local authority cannot meet these costs from existing funding.

31. Local authorities will be responsible for collecting sums payable under any fixed penalties arising, whether issued by Police Scotland or the local authority itself. Payments received by local authorities will remain fully within their responsibility, and it will be for each local authority to determine what to do with that money, subject to meeting regulations set out by the Scottish Ministers in relation to the keeping of accounts, the application of fixed penalties, and the preparation and publication of statements of account relating to the fixed penalties under the schedule.

¹⁹ Figures provided to SPICe by Scottish Government officials. November 2014.

²⁰ Audit Scotland. (2011) *An overview of Scotland's criminal justice system*. Page 17. Available at: http://www.audit-scotland.gov.uk/docs/central/2011/nr_110906_justice_overview.pdf [Accessed 30 October 2014].

²² Scottish Parliament. Health and Sport Committee. *Official Report, 17 November 2015*. Col 10.

²³ Scottish Government. Email to the Non-Government Bills Unit. November 2015.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

Police Service of Scotland

32. The Police Service of Scotland will be responsible for enforcing the legislation (jointly with local authorities), using existing powers to stop vehicles. It is envisaged that the police will enforce the prohibition through its routine monitoring of traffic offences, with the detection of any offence under this Bill undertaken in the same way as currently conducted for the enforcement of legislation regarding the use of seatbelts or hand-held devices.

33. This additional responsibility does not introduce any significant changes to police procedures; it just introduces a new facet to roadside operations. Police Scotland, in correspondence with the Non-Government Bills Unit, stated that “minor costs” will be incurred to amend fixed penalty administration systems with details of the new offence and to update electronic notebooks and paper ticket books.²⁴

34. As set out in the background to this memorandum, it is estimated that in the region of 200 FPNs will be issued as a result of the Bill. Some training will be necessary in order to inform officers of the new offence, the powers associated with it and methods for dealing with it. Police Scotland, in correspondence with the Non-Government Bills Unit, anticipated that the costs involved in this will be minimal.

Health Boards

35. The cost implications of the Bill for Health Boards are long-term savings in treating smoking-relating illnesses (which should decline as a result of fewer children being exposed to SHS and some adults being prompted to quit smoking or smoking less) and the shorter-term cost of providing smoking cessation services (which may increase if the Bill prompts more people to attempt to stop smoking and results in an increased demand for such services).

Smoking related illnesses

36. It is estimated that it costs the NHS in Scotland around £400m each year to treat smoking-related illness.²⁵ Other estimates range from at least £300m to in excess of £500m depending on the methodology applied.²⁶ The Scottish Public Health Observatory has estimated that a one per cent reduction in smoking prevalence would save around 540 lives a year; reduce smoking-attributable hospital admissions by around 2,300; and reduce estimated NHS spending on smoking-related illness by between £13 million and £21 million.²⁷

²⁴ Police Scotland. Letter to the Non-Government Bills Unit. October 2014.

²⁵ Scottish Government. (2013) *Publication of Scottish Government Tobacco Control Strategy*. Available at: <http://www.scotland.gov.uk/topics/health/services/smoking> [Accessed 30 October 2014].

²⁶ ScotPHO Smoking Ready Reckoner (2011 Edition, published January 2012), Tables 3 and 4. Available at: http://www.scotpho.org.uk/downloads/scotphoreports/scotpho120626_smokingreadyreckoner.pdf [Accessed 30 October 2014].

²⁷ ScotPHO Smoking Ready Reckoner (2011 Edition, published January 2012), Page 4. Available at: http://www.scotpho.org.uk/downloads/scotphoreports/scotpho120626_smokingreadyreckoner.pdf [Accessed 30 October 2014].

This document relates to the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill as amended at Stage 2 (SP Bill 58A)

37. The 2013 Scottish Household Survey shows that 23.1% (approximately 924,000) of the adult population smokes, representing a 5% reduction over the last ten years, although the rate has remained at around 23 per cent each year since 2011.²⁸

38. Recent work from the Royal College of Physicians has estimated the health burden of children's exposure to SHS at a UK level each day. Approximately 800 children see a doctor as a result of ill-health linked to their exposure to second-hand smoke, with 25 of these serious enough to be admitted to hospital.²⁹ This would indicate that approximately 60-70 children see a doctor while two children are admitted to hospital in Scotland each day due to exposure to SHS.³⁰

39. A study was carried out in 2006 to detect any change in exposure to SHS among primary schoolchildren in Scotland after the implementation of the 2005 Act.³¹ Salivary cotinine concentrations, reports of parental smoking, and exposure to tobacco smoke in public and private places were compared before and after legislation. The study found that the legislation reduced exposure to SHS among young people in Scotland, particularly among groups with lower exposure in the home. No evidence of increased SHS exposure in young people associated with displacement of parental smoking into the home was found. The study concluded that Scottish smoke-free legislation had therefore had a positive short term impact on young people's health, but added that further efforts were needed to promote both smoke-free homes and smoking cessation.

40. A study carried out by the University of Glasgow and published in the New England Journal of Medicine found that the 2005 Act was responsible for a reduction in hospital admissions for asthma among children.³²

41. Smoking bans are known to increase the rate of smoking cessation and quit attempts.³³ Aberdeen University's Respiratory Group stated that "we would anticipate immediate health benefits to result from this exposure reduction" and added "we would expect to see some reduction in GP consultation rates and hospital admissions with the consequent financial benefits that would bring".³⁴

²⁸ Scottish Government. (2013) *Scotland's People. Annual report: Results from 2013. Scottish Household Survey*, page 96. Available at: <http://www.scotland.gov.uk/Resource/0045/00457570.pdf> [Accessed October 2014].

²⁹ Respiratory Group at the University of Aberdeen. Response to the Member's consultation. Page 1. Available at: <http://jimhume.org/en/document/consultation-responses#document> [Accessed 30 October 2014].

³⁰ Calculated on the Scottish population being 8.3% of that of the UK and not accounting for different smoking behaviours that might exist amongst the countries forming the UK.

³¹ The British Medical Journal. (2007) *Changes in child exposure to environmental tobacco smoke (CHETS) study after implementation of smoke-free legislation in Scotland: national cross sectional survey*. Available at: <http://www.bmj.com/content/335/7619/545.full> [Accessed 28 October 2014].

³² Mackay, D., Haw, S., Ayres, J.G., Fischbacher, C. and Pell, J.P. (2010) *Smoke-free legislation and hospitalizations for childhood asthma*. New England Journal of Medicine, 363. pp. 1139-1145. Available at: <http://eprints.gla.ac.uk/42802/1/42802.pdf> [Accessed 30 October 2014].

³³ Musiello, T. 2009. *An investigation into the effects of the Scottish smoking ban*. PhD thesis. Chapter 2.3. Queen Margaret University. Available at: <http://etheses.qmu.ac.uk/116/1/116.pdf> [Accessed 29 October 2014].

³⁴ Respiratory Group at the University of Aberdeen. Response to the Member's consultation. Page 2. Available at: <http://jimhume.org/en/document/consultation-responses#document> [Accessed 30 October 2014].

42. While these savings and health benefits are not easy to quantify (especially since children who are currently exposed to SHS in cars may continue to be exposed in the home) it must be assumed that some level of saving will be achieved as a result both of a reduction in exposure to SHS among the young, and as a result of adults cutting down or deciding to stop smoking once the new offence comes into force.

43. Monitoring of the 2005 Act and an examination of similar bans in other countries shows that smoke-free legislation can be “associated with an increase in smoke-free homes, a tendency to smoke less, and more successful cessation attempts”.³⁵ It is widely understood that children who are exposed to smoking behaviours are more likely to take up the habit themselves³⁶ therefore some long-term health benefits in the population can be anticipated as a result of some individuals viewing this Bill as an incentive to cease smoking.

44. While it cannot be assumed that this legislation will have the same level of impact as the 2005 Act, (since it affects a subset of smokers, who will only be prevented from smoking at certain points in their day) it can be predicted that it will have some influence on smoking prevalence and that consequent savings to Health Boards will therefore be realised.

45. Aberdeen University’s Respiratory Group, in its response to the member’s consultation, cited research³⁷ that showed that a predicted “displacement effect” of the 2006 ban on smoking in public places (i.e. that more smoking would take place in the home) did not occur. It can be predicted therefore that an inability to smoke in vehicles will not simply mean more cigarettes are smoked elsewhere but that the total number of cigarettes smoked is likely to decline as a result of this Bill. Such a reduction would bring health benefits to both smoker and the young people around them with consequent health budget savings.

46. It is anticipated that savings to Health Boards would increase incrementally, as smoking behaviours and attitudes to smoking and exposing children to smoking change over time partly as a result of this Bill.

Cessation services

47. Health Boards currently receive an annual allocation of £11m to deliver Smoking Cessation services. The ban on smoking in enclosed public places, effected through the 2005 Act, saw a significant increase in the number of prescriptions and sales for Nicotine Replacement Therapy, as many people used the ban as an incentive to quit smoking.³⁸ It is probable that Health Boards will see a small increase in the number of people seeking assistance to quit

³⁵ The British Medical Journal. (2007) *Changes in child exposure to environmental tobacco smoke (CHETS) study after implementation of smoke-free legislation in Scotland: national cross-sectional survey*. Available at: <http://www.bmj.com/content/335/7619/545.full> [Accessed 28 October 2014].

³⁶ Robinson S & Bugler C. (2008) *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>

³⁷ Mackay, D., Haw, S., Ayres, J.G., Fischbacher, C. and Pell, J.P.(2010) *Smoke-free legislation and hospitalizations for childhood asthma*. New England Journal of Medicine, 363. pp. 1139-1145. Available at: <http://eprints.gla.ac.uk/42802/1/42802.pdf> [accessed October 2014].

³⁸ Lewis et al. Division of Epidemiology and Public Health, University of Nottingham, UK Centre for Tobacco Control Studies, UK, Nottingham 2008 *The impact of the 2006 Scottish smoke-free legislation on sales of nicotine replacement therapy*. Available at: <http://www.ncbi.nlm.nih.gov/pubmed/19023830> [accessed on 30 October 2014].

smoking in the light of this Bill. While it is envisaged that the annual allocation should be sufficient to cover the cost of any increase in the need to deliver such services this may need to be monitored.

Conclusion

48. It is anticipated that the potential short-term demands on budgets for cessation services and therapies will be outweighed in the longer term by a decline in the demand for services to treat smoking-related illnesses in both smokers and those exposed to SHS. NHS Forth Valley, in its response to the member's consultation, said "[there] may be a short term increase in smokers attending Stop Smoking services ... which would have a small cost to the service, but this cost is inconsequential to the savings to be made in the longer term ... from the reduction in treatments for diseases caused by second hand smoke".³⁹

Individuals

49. Individuals who commit the offence introduced by this Bill risk incurring the following costs:

- £100 – the payment of the fixed penalty, or
- up to £1,000 – the maximum fine of level 3 on the standard scale (see section 1(5)), applicable in the event of the offender being charged and proceedings being successfully completed.

50. There are now many ways for individuals to get an idea of potential savings they could accrue by quitting smoking. Calculations show that if a person smokes five cigarettes a day, at a cost of approximately £7 per packet of 20, over the course of a year, they could save almost £650. People who smoke 20 cigarettes a day could save £2,500.⁴⁰

51. The Scottish Health Survey 2012⁴¹ found that smokers smoked an average of 13.5 cigarettes per day. Based on that average, and estimating a packet of 20 cigarettes to cost £7, an individual would save, on average, £33 per week by giving up smoking, and approximately £1,725 in the course of a year.

Businesses

52. Businesses which manufacture or retail cigarettes could experience a reduction in profits if the Bill causes some smokers to cut down or cease to smoke. On the other hand, if such behavioural changes were observed, the wider business community would see an improvement in productivity. According to a 2010 report by ASH Scotland, each year there are £692m in productivity losses due to active smoking and £60m in productivity losses due to passive

³⁹ NHS Forth Valley. Response to the Member's consultation. Page 2. Available at: <http://jimhume.org/en/document/consultation-responses#document> [Accessed 30 October 2014]

⁴⁰ Department of Health, smokefree cost calculator. Available at: <http://gosmokefree.nhs.uk/quit-tools/calculate-the-cost/> [Accessed 30 October 2014].

⁴¹ Scottish Government. (2013) *Scottish Health Survey 2012 – Volume 1 Main Report. Chapter 4. Smoking*. Available at: <http://www.scotland.gov.uk/Publications/2013/09/3684/8> [Accessed 30 October 2014].

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as amended at Stage 2 (SP Bill 58A)*

smoking.⁴² The measures in the Bill may have a positive impact on the profits of firms providing smoking cessation services or aids.

⁴² ASH Scotland. 2010. *Up in smoke: The economic cost of tobacco in Scotland*. Page 3. Available at: <http://www.ashscotland.org.uk/what-we-do/campaign/policy-reports/up-in-smoke-tobacco-economics.aspx> [Accessed 29 October 2014].

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