Summary of Regulatory Impact Analysis (RIA)

Department/Office:	**Title of Legislation:**
Department of Health	Public Health (Tobacco Products and Nicotine Inhaling Products) (Amendment) Bill
Stage:	**Date:**
General Scheme of a Bill	

Related Publications:

The national tobacco control policy *Tobacco Free Ireland* available at http://health.gov.ie/blog/publications/tobacco-free-ireland/

Contact(s) for enquiries: **Email:**

Claire Gordon **claire_gordon@health.gov.ie**

What are the policy objectives being pursued?

Increase the age of sale of tobacco products to 21 to drive down smoking prevalence and its associated disease, disability and death.

What policy options have been considered?

1. Do nothing
2. Information and education campaigns
3. Self or co-regulation
4. Legislate to increase the legal age of sale of tobacco products to 21.

Preferred Option

Approximately 4.500 deaths each year in Ireland are attributable to smoking and exposure to second-hand smoke and they are the cause of over 1000 hospital episodes each week. The national tobacco control policy, *Tobacco Free Ireland*, has set a target to reduce smoking levels to less than 5% of the population by 2025. Currently 18% of the population smoke in Ireland.

To do nothing will mean that the disease burden and death from tobacco use will continue.

Education or awareness campaigns on their own are not a preferred option. The Health Service Executive's *Tobacco Free Ireland Programme* already produces QUIT campaigns which include award winning advertisement on television, radio and social media therefore additional campaigns would be a duplication of these and unlikely to impact.

Self or co-regulation is not an option as Ireland has signed and ratified (in November 2005) the World Health Organisation Framework Convention on Tobacco Control ('WHO FCTC'). The Articles of this international treaty are legally binding and at Article 5.3 the FCTC states that: *In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law*.

In the context of the evidence that such a measure is likely to lead to immediate and long term reductions in smoking prevalence, the preferred option is to legislate.

POLICY OPTIONS

	COSTS	**BENEFITS**	**IMPACTS**
Policy Option 1	None	None	None
Policy Option 2	Costs to Exchequer Dependent on the type and duration of campaign(s). Would include procurement, production and administrative costs.	Benefits to Exchequer Unlikely to be any.	Unlikely to be any. High quality QUIT campaigns are already run by the HSE Tobacco Free Ireland programme. These on their own are not enough to address the complex problem of tobacco use.
Policy Option 3	N/A	N/A	N/A
Policy Option 4	Costs to Exchequer The tax take from tobacco products is likely to reduce.	Benefits to Exchequer The direct and indirect costs (such as loss of productivity) will be reduced.	Impact on public health The measure is designed to prevent the initiation of smoking in order to reduce the impact of the leading preventable cause of disease and death in Ireland.

2. Description of policy context and objectives

Policy context

Tobacco smoking is both addictive and lethal and remains the biggest risk factor driving disability and death combined in Ireland.[1] The life expectancy of a smoker is on average 10 years shorter than that of a person who has never smoked[2] and two out of three smokers will die as a result of their smoking[3].

In addition to the death toll of an estimated 4,500 deaths per year in Ireland[4], smoking and exposure to second-hand smoke cause an enormous range of preventable illness and disability.[5] They are the cause of 13% of all cancers here[6] and account for 2% of day case admissions, 5% of all inpatient admissions and 8% of all bed days in our hospitals[7]. A 2016 estimate of the cost of smoking in Ireland in a single year (including the estimated loss of welfare to individuals from contracting health conditions or dying prematurely) was €10.6 billion.[8]

Smoking prevalence in Ireland

---

[1] The Institute for Health Metrics and Evaluation, University of Washington http://www.healthdata.org/ireland.

[2] Doll R, Peto R, Boreham J, Sutherland I. *Mortality in relation to smoking: 50 years' observations on male British doctors*. BMJ 2004; 328: 1519.

[3] Banks E, Joshy G, Weber MF, et al. *Tobacco smoking and all-cause mortality in a large Australian cohort study: findings from a mature epidemic with current low smoking prevalence*. BMC Med 2015; 13:38. doi:10.1186/s12916-015-0281-z.

[4] *The State of Tobacco Control in Ireland:* HSE Tobacco Free Ireland Programme, 2022. https://www.hse.ie/eng/about/who/tobaccocontrol/research/state-of-tobacco-control-report-2022.pdf

[5] Illnesses and conditions attributable to tobacco smoking and exposure to second-hand smoke include:

- Cancers of the paranasal sinuses and nasal cavity, oral cavity including lips and tongue, larynx, pharynx, oesophagus, lung, liver, pancreas, kidney, stomach, bowel, bladder, ureter, ovary, cervix and myeloid leukaemia which is a type of bone marrow cancer.
- Respiratory diseases such as asthma and chronic obstructive pulmonary disease (COPD) which includes emphysema and chronic bronchitis. COPD involves permanent airflow obstruction that is irreversible. Smoking is the dominant cause.
- Cardiovascular diseases including aneurysms, coronary heart disease, peripheral arterial disease (which can lead to gangrene and the necessity for amputation) and stroke.
- Eye diseases such as age-related macular degeneration (AMD), cataracts and diabetic retinopathy which can eventually lead to blindness.
- Reproductive effects from maternal smoking include an increased risk of ectopic pregnancy, premature delivery, low birth weight and perinatal mortality.
- Diabetes
- Rheumatoid arthritis.
- Dementia.

[6] *Modifiable risk factors and cancer in Ireland*. National Cancer Registry Ireland, 2020.

[7] Sheridan A., Quintyne K.I. & Kavanagh P. *Counting the toll of smoking attributable hospitalisations.* Irish Medical Journal – January 2020 Vol. 113 No. 1.

[8] ICF International. *An assessment of the economic cost of smoking in Ireland.* March 2016. https://assets.gov.ie/34808/8b5d52eeea4447419f38b447733d02b9.pdf.

Recent data on smoking levels in Ireland show signs of a slowing down of the expected decreases in prevalence here. The 2022 Healthy Ireland survey found current smoking prevalence among persons over 15 to be 18%.[9] This is the same as in 2021 and an increase from the 2019 figure of 17%.

The results from the 2019 European Schools Project on Alcohol and Other Drugs survey show current smoking prevalence in young people aged 15-16 at 14.4% which is an increase on the rate of 13% in 2015.[10] In addition, data from the currently unpublished Health Behaviour in School Aged shows that in 2022, the percentage of children aged 10-17 that are current smokers remains at 5% .

Although much progress has been made in reducing smoking prevalence we are not near the target set in our national tobacco control policy, *Tobacco Free Ireland*, of less than 5% of the population smoking by 2025. Changing the legal age of sale of tobacco products to 21 will contribute to speeding up progress toward that goal and will align with the two overarching principles of that policy:

- The protection of children must be prioritised in all of the initiatives outlined in the policy.
- Denormalisation must be a complementary underpinning theme for all of the initiatives within the policy.[11]

The proposal will also contribute to the objective in *Sláintecare* and in the *Healthy Ireland Framework* of reducing health inequalities of which tobacco use is a leading cause and it aligns with the *Sláintecare* principle of a strong emphasis on prevention and public health.

Objectives

[9] Healthy Ireland survey 2022 https://www.gov.ie/pdf/?file=https://assets.gov.ie/241111/e31b2aaa-a8d7-411d-8b62-02cca079c741.pdf#page=null

[10] Sunday, S. Keogan, S. Hanafin, J. and Clancy, L. (2020). *ESPAD 2019 Ireland: Results from the European Schools Project on Alcohol and Other Drugs in Ireland*. Dublin: TFRI.

[11] See chapter 7. https://www.gov.ie/en/publication/0e91fc-tobacco-free-ireland/

The objective of the proposed legislation is to decrease smoking prevalence. Changing the legal age of sale of tobacco products to 21 is likely to achieve this because evidence shows that a significant proportion of smokers do not become regular smokers until young adulthood.[12] [13]

Data from a 2021 analysis of smokers in the EU and the UK show that 38% of smokers began regular smoking between the ages of 18 and 25 and the 2012 U.S. Surgeon General Report shows that 11.4% became daily smokers between the ages of 18 and 20.[14] [15]

The available evidence on effectiveness of the measure include studies of increases to age 21 at regional levels, on national increases to age 18 and analysis from the Institute of Medicine on the modelled impacts of an increase to age 21 at national level in the U.S.

Evidence from regional increases from 18 to 21

- A 2020 study from the National Bureau of Economic Research examined the effectiveness of U.S. state level laws raising the age of sale of tobacco to 21. Analysis of seventeen states found strong evidence of association with an approximately 3.9 percentage point reduction in smoking participation among 18–20-year-olds and a 2.8 percentage point reduction among 16–17-year-olds.[16]
- Analysis of sales data in the period 2015 to 2019 found that an increase in the legal age of sale to 21 in nine U.S. cities caused a decrease in sales of cigarette brands favoured by young people but did not affect sales of brands that young people do not consume.[17]
- A 2019 study of multiple US cities and local areas found a 3.1 percentage point reduction in the likelihood of 18-to 20-year-olds'smoking after the measure was introduced.[18]

[12] Hammond D. *Smoking behaviour among young adults: beyond youth prevention.* Tobacco Control 2005; 14:181–185. doi: 10.1136/tc.2004.009621.

[13] Lantz PM *Smoking on the rise among young adults: implications for research and policy.* Tobacco Control 2003;12(Suppl I): i60–i70.

[14] US Department of Health and Human Services. *The health consequences of smoking—50 years of progress: a Report of the Surgeon General.* Atlanta, GA; 2014.

[15] European Commission. *Report on the Attitudes of Europeans towards tobacco and electronic cigarettes.* February 2021. Special Eurobarometer 506– Wave EB93.2 – Kantar. https://europa.eu/eurobarometer/surveys/detail/2240.

[16] Bryan C, Hansen B, McNichols D and Sabia J. *Do State Tobacco 21 Laws Work?* NBER Working Paper No. 28173, December 2020, Revised April 2021, JEL No. I12, I18, K42 https://www.nber.org/system/files/working_papers/w28173/w28173.pdf

[17] Liber AC, Xue Z, Cahn Z, et al, *Tobacco 21 adoption decreased sales of cigarette brands purchased by young people: a translation of population health survey data to gain insight into market data for policy analysis.* Tobacco Control 2022;**31:**452-457.

[18] Abigail S Friedman, PhD, Rachel J Wu, BA, *Do Local Tobacco-21 Laws Reduce Smoking Among 18 to 20 Year-Olds?*, Nicotine & Tobacco Research, Volume 22, Issue 7, July 2020, Pages 1195–1201.

Evidence from national increases from 16 to 18

- Analysis of the 2007 increase in the legal age of sale of tobacco products from 16 to 18 in Ireland found evidence of reduced smoking prevalence and a reduction in the likelihood of ever having tried a cigarette among 14- and 15-year-olds.[19]
- The UK increased its legal age from 16 to 18 in 2007 and subsequent research found that in England the change was associated with a significant reduction in regular smoking among 11–15-year-olds and an increase in the percentage who stated that they found it difficult to buy cigarettes.[20]

Analysis by the U.S. Institute of Medicine

At the request of the Food and Drug Administration, the U.S. Institute of Medicine analysed the public health implications of raising the U.S. national minimum age for the sale of tobacco.[17] In its 2015 Report, the Institute concluded that raising the minimum age of legal access to tobacco products will lead to substantial reductions in tobacco use, improve the health of Americans across the lifespan, and save lives. Its conclusions included that:

- The largest proportionate reduction in the initiation of tobacco use will likely occur among adolescents aged 15 to 17 years old as this age group is unlikely to have members of their peer network over the minimum legal age who would be a source of cigarettes. In addition, a reduction in smoking in those aged 18-20 is expected due to this group being directly impacted by the measure and also having the benefit of the additional maturing of executive functions and a decreased sensitivity to the rewarding properties of nicotine.[21]
- Based on two models (SimSmoke and the Cancer Intervention and Surveillance Modelling Network) the expected reductions in initiation from raising the minimum legal age to 21 will, in several decades, lead to a 12% absolute reduction in smoking

[19] Savage M. *Do youth access control policies stop young people smoking? Evidence from Ireland*. September 2017. ESRI Working Paper WP572 https://www.esri.ie/publications/do-youth-access-control-policies-stop-young-people-smoking-evidence-from-ireland.

[20] Millett, C., Lee, J.T., Gibbons, D.C., & Glantz, S.A. (2011). *Increasing the age for the legal purchase of tobacco in England: impacts on socio-economic disparities in youth smoking*. Thorax, 66, 862 - 865.

[21] Institute of Medicine. 2015. *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*. Washington, DC: The National Academies Press. https://doi.org/10.17226/18997. Conclusion 7.2.

prevalence.[22] Both models suggest that it will take approximately a decade for a meaningful impact on population smoking prevalence to occur.

- A legal age increase is likely to immediately improve the health of adolescents and young adults by reducing the number of those with smoking-caused diminished health status. As those affected by the policy age into adulthood, the reductions of the intermediate and long-term adverse health effects will manifest. Reductions in smoking-related mortality will be large but will not be observed for at least 30 years after the increase takes effect.[23]

Research shows that the adolescent brain continues to mature well into a person's twenties[24] and that the adolescent brain has a heightened sensitivity to the rewarding effects of nicotine which diminishes with age[25] [26]. In addition, adolescents and young adults are uniquely susceptible to social and environmental influences to use tobacco.[27] In an Irish context, this is evidenced in the data on 20-year-olds, when asked their most important reason for smoking, the most commonly reported answer was 'because my friends smoke' (25%).[28] Increasing the minimum legal age of sale of tobacco products to 21 will ensure that Irish young adults will continue to be protected at ages when they remain biologically and psychologically vulnerable.to the risk of becoming regular smokers.

The measure is also like to impact on persons younger than the target age. The sources of cigarettes for those under the legal minimum age of sale include:

- Social sources - friends and family who smoke - the primary source for many.
- Proxy buys – waiting outside a shop and asking older adults to buy.

[22] Conclusion 7.4.
[23] Conclusion 8.2.
[24] Johnson SB, Blum RW, Giedd JN. *Adolescent maturity and the brain: the promise and pitfalls of neuroscience research in adolescent health policy*. J Adolesc Health. 2009;45(3):216-221. doi: 10.1016/j.jadohealth.2009.05.016.
[25] *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General.* Atlanta, GA: U.S. Department of Health and Human Services, 2012.
[26] Jamner, L. D., C. K. Whalen, S. E. Loughlin, R. Mermelstein, J. Audrain-McGovern, S. Krishnan-Sarin, J. K. Worden, and F. M. Leslie. 2003. *Tobacco use across the formative years: A road map to developmental vulnerabilities.* Nicotine & Tobacco Researc*h* 5(Suppl 1): S71–S87.
[27] Adriani, W., V. Deroche-Gamonet, M. Le Moal, G. Laviola, and P. V. Piazza. 2006. *Preexposure during or following adolescence differently affects nicotine-rewarding properties in adult rats*. Psychopharmacology 184(3–4):382–390.
[28] O'Mahony, D., E. McNamara, R. McClintock, A. Murray, E. Smyth and D. Watson (2021). Growing Up in Ireland: The Lives of 20-Year-Olds — Making the Transition to Adulthood, Dublin: ESRI/TCD/DCEDIY, https://www.esri.ie/publications/growing-up-in-ireland-the-lives-of-20-year-olds-making-the-transition-to-adulthood

- Direct buy - through pretending to be older, e.g. using borrowed ID.[29]

The evidence from previous regional and national increases is that age of sale increases significantly impacted the smoking prevalence of those younger than the age group targeted by the measure. The analysis from the Institute of Medicine provides some explanation. An increase in the legal age of sale to 21 will mean that children and young people under 18 will be less likely to be in social groups with persons who can legally purchase cigarettes, thus making their social sources more limited. The increase may also impact on other sources by making youth smoking even less acceptable and therefore discouraging adults from making proxy purchases on behalf of children. In relation to the third source, i.e. direct buys, for a person under 18, it is likely to be more difficult to appear to be 21 than to appear to be 18.

3. Identification and Description of Options

Option 1: Do nothing.
To do nothing would mean that the health harms and costs associated with smoking will continue.

Option 2: Information and education campaigns
The QUIT campaigns from the Health Service Executive's *Tobacco Free Ireland Programme* already deliver high quality information and education on tobacco control and these run on television, radio and social media. Additional information/education campaigns would be duplicative.

Option 3: Self or co-regulation
This option is effectively excluded by Ireland's ratification of the WHO FCTC. Article 5.3 of the FCTC requires that *In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law*.

Any form of self or co-regulation would mean that those with a commercial interest in the manufacture, distribution or sale of tobacco would have an involvement in the development

[29] Nuyts PAW, Kuijpers TG, Willemsen MC, Kunst AE. *How can a ban on tobacco sales to minors be effective in changing smoking behaviour among youth? - A realist review*. Prev Med. 2018 Oct; 115:61-67. doi: 10.1016/j.ypmed.2018.08.013. Epub 2018 Aug 23. PMID: 30144483.

of the policy and therefore Ireland would not be compliant with its legally binding obligations under the FCTC.

Option 4: Increase the minimum legal of sale of tobacco products
This is the preferred option to address the continuing disease and death caused in Ireland by tobacco use.

4. Analysis of Costs, Benefits and Impacts of Options

Option 1: Do nothing

Costs
None

Benefits
None

Impacts
None

Option 2: Information and education campaigns

Costs
The cost of an advertising campaign would be dependent on the type of media used and the number and duration of campaigns. However any campaign would include production costs, purchase of airtime or publication space and administrative costs associated with the procurement process to select a provider as well as the ongoing management of the campaign.

Benefits
It is difficult to see obvious benefits in view of the existence of the high quality QUIT campaigns that are already being run by the HSE Tobacco Free Ireland programme.

Impacts

No obvious impacts on *national competitiveness, the socially excluded and vulnerable groups, the environment, whether there is a significant policy change in an economic market, including consumer and competition impact, the rights of citizen, compliance burdens, including administrative burdens and North-South and East-West Relations.*

Option 3: Self or co-regulation

This is not applicable. Self or co-regulation would not be meaningful unless the regulated, such as the tobacco industry or other vested interests, had influence on the proposed approach or on its implementation. Ireland is a party to the legally binding Framework Convention on Tobacco Control so is required to act to protect public health tobacco control policies from the tobacco industry or other vested interests. On that basis Ireland could not engage in self or co-regulation.

Option 4: Legislate to increase the legal age of sale

Costs

If the measure is effective it will cause a reduction in the taxation take from tobacco products.

Benefits

The measure is designed to prevent the initiation of tobacco use and to continue to reduce the number of smokers in Ireland. As tobacco use here has been estimated to cause losses totalling €10.6 billion per annum, between Exchequer costs and the loss to individuals, a reduction in this would be a financial gain. In addition there would be the benefit of protecting the health, the productivity and the lives of those persons who would have become smokers if the measure was not introduced.

Impacts

The primary intended impact is a reduction in the number of smokers in Ireland and in the health harms associated with smoking. The proposal is designed to kick start further progress on reaching the primary objective of our national tobacco control policy, *Tobacco Free Ireland,* to reduce our smoking rates to less than 5% of the population.

The socially excluded and vulnerable groups

The proposals are designed to positively impact on the socially excluded and vulnerable groups as it is these groups that carry the highest burden of tobacco related disease. For example, the 2022 Healthy Ireland survey reports shows smoking rates are 20% percentage points higher among those that are unemployed vs. those that are employed (39% vs 19%).[9]

The environment

If the measures are effective, the reduction in the number of cigarettes smoked will reduce litter and litter costs from smoking and positively impact on the environment. According to the Department of Communications, Climate Action and Environment, cigarette related litter cigarette related litter (52.1%) continues to constitute the highest percentage of litter in the locations surveyed – this is comprised mainly of cigarette ends which constitute 49.1% of all litter items nationally.[30]

Whether there is a significant policy change in an economic market, including consumer and competition impacts

Consumers aged 18-20 will no longer be able to purchase tobacco products if the proposed prohibition is introduced. This in a reduction in consumer choice but is proposed in order to assist the target age group to avoid a lifelong addiction and its associated disease, disability and death.

The rights of citizens

The overall purpose of the provisions is to protect citizens' right to health.

Compliance burdens, including administrative burdens

No obvious compliance/administrative burden.

No obvious impacts on *national competitiveness* or *North-South and East-West Relations*

5 Consultation

[30] *National Litter Pollution Monitoring System: System Results 2022* and *2021* Available at litter.ie | Systems Report

The Minister for Health recently carried out a public consultation on policy options to further regulate nicotine inhaling products and tobacco products. The consultation asked whether the current age of sale of tobacco products should be increased (not specifying age 21) and the majority (63%) response was against the proposal. As detailed below, this is in contrast to other surveys on a proposal to raise the age of sale to 21 and may have been influenced by proposals in other jurisdiction for lifetime bans as well as by the respondents views on the regulation of nicotine inhaling products.

The Irish Heart Foundation's November 2021 poll found that 73% of all adults and 71% of those aged 18-24 supported raising the legal age to purchase tobacco in Ireland to 21.[31]

Similarly a 2022 IPSOS MRBI poll carried out on behalf of the HSE found that 76% of those surveyed believed that Government should do more to protect the public from tobacco-related harm and 71% agreed that the Government should raise the legal age of purchasing tobacco products to 21 years and older.[32]

6 Enforcement, compliance and review

The provisions will be enforced by the Environmental Health Service which already enforces the Public Health (Tobacco) Acts 2002-2023 and related EU legislation. It is not proposed to insert any specific review provisions.

[31] Irish Heart Foundation. (16 November 2021). *New poll shows 71 per cent of people want the legal age to purchase tobacco in Ireland to be increased to 21* [Press Release] https://irishheart.ie/news/majority-favour-raising-legal-age-for-tobacco-to-21/

[32] Health Services Executive. *Bringing the Tobacco Epidemic to an End: Public Views on "Tobacco Endgame" in Ireland* May 2022 https://www.hse.ie/eng/about/who/tobaccocontrol/news/tobacco-endgame-report-2022.pdf