



Health (Tobacco, Nicotine etc. and Care)(Scotland) Bill

Bill Number:	SP Bill 73
Introduced on:	04 June 2015
Introduced by:	Shona Robison MSP (Government Bill)
Passed:	03 March 2016
Royal Assent:	06 April 2016

Passage of the Bill

The Health (Tobacco, Nicotine etc. and Care)(Scotland) Bill was introduced in the Parliament on 4 June 2015 by the Cabinet Secretary for Health and Wellbeing, Shona Robison MSP. The Health Committee was designated lead Committee on the Bill and issued a call for evidence on the general principles of the Bill which closed on 5 August 2015. In response, the Committee received 94 submissions. The main themes to arise from the written submissions were included in the [SPICe stage 1 briefing on the Bill](#).

The Committee also undertook a survey asking for views on regulating e-cigarettes and restricting smoking in hospital grounds. The findings of the survey were published in a [report to the Committee](#).

The Committee took oral evidence on the Bill at its meetings on 1, 8, 15 and 22 September, and with the Minister for Public Health on 6 October. It published its [stage 1 report](#) on 9 November 2015. Consideration of the Bill at stage 1 concluded with the [stage 1 debate](#) on 1 December 2015. Consideration of amendments at stage 2 took place at the Committee meetings on 19 and 26 January 2016.

Following the [stage 3 debate](#) on 3 March 2016, the Bill was passed and received Royal Assent on 6 April 2016.

Purpose and objectives of the Bill

The Bill was in three parts, each with its own policy objective. These were:

- **Part 1: Tobacco, nicotine vapour products and smoking** – the proposals were intended to support the aims of the Tobacco Control Strategy in achieving a smoking prevalence of less than 5% by 2034
- **Part 2: Duty of candour** – the duty was intended to support a consistent response across health and social care providers when there has been an unexpected incident which has resulted in death or harm
- **Part 3 – Ill-treatment and wilful neglect** – to implement a recommendation of the Francis report¹ that there should be an offence of wilful neglect or ill treatment which is on a par with that covering mental health patients.

Provisions of the Bill

The Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill contained four broad proposals at introduction:

1. To introduce restrictions on the sale of nicotine vapour products (NVPs) such as e-cigarettes. The restrictions proposed included: a minimum purchase age of 18; the power to prohibit their sale from vending machines; to make it an offence to purchase an NVP on behalf of someone under 18; a requirement for NVP retailers to register on the tobacco and nicotine vapour product retailer register; and the power to restrict or prohibit domestic advertising and promotions. It also places further controls on the sale of tobacco.
2. To make it an offence to smoke in a designated zone outside of buildings on NHS hospital sites.
3. To place a duty of candour on health and social care organisations. This would create a legal requirement for health and social care organisations to inform people when they have been harmed as a result of the care or treatment they have received.
4. To establish new criminal offences of ill-treatment or wilful neglect in health and social care settings; one offence would apply to individual health and social care workers, managers and supervisors, and another to organisations.

Parliamentary consideration

The Health and Sport Committee supported the general principles of the Bill at stage 1 and was generally positive about the proposals contained therein. The part of the Bill that caused most debate was the restrictions around smoking in hospital grounds. However, this was more in relation to how designated zones

¹ [Mid-Staffordshire NHS Foundation Trust Public Inquiry \(2013\). Report of the Mid-Staffordshire NHS Foundation Trust Public Inquiry. London, the Stationary Office.](#)

should operate as opposed to the principle of having them at all. The Committee had concerns about the feasibility of setting the same distance from hospital buildings for all hospital sites and suggested each NHS Board could set its own distance. This was rejected by the Scottish Government which argued that the change in law needs to be clearly communicated to the public in order for people to understand when it is an offence and when it is not.

There were few amendments to the Bill at stage 2, but the most significant was the inclusion of a statutory duty on Ministers to provide (or secure the provision of) communication equipment, and support in using that equipment, for any person who has lost their voice or has difficulty speaking.

One of the most significant amendments to be withdrawn at stage 2 was one which would have established a single register for retailers of all age restricted products.