

Health and Care Bill

AMENDMENTS TO BE MOVED ON REPORT

Clause 21

BARONESS ARMSTRONG OF HILL TOP

Page 29, line 40, at end insert –

“(c) the need to improve health outcomes for Inclusion Health populations.”

Member’s explanatory statement

This amendment requires an Integrated Care Partnership, when preparing an Integrated Care Strategy, to have due regard to the need to improve health outcomes for Inclusion Health populations as well as the current proposed requirements to have due regard to the NHS Mandate and DHSC Guidance.

Page 30, line 4, after “services” insert “, housing”

Member’s explanatory statement

This amendment enables an Integrated Care Partnership to include in its Integrated Care Strategy integration arrangements with housing as well as health and social care services.

Page 30, line 28, at end insert –

“(d) “Inclusion Health populations” are identifiable groups who experience social exclusion and elevated levels of morbidity and mortality when compared to otherwise equivalent groups.”

Member’s explanatory statement

This amendment defines Inclusion Health populations for the purposes of the amendment to Clause 21 at page 29, line 40.

After Clause 164

LORD CRISP
LORD FAULKNER OF WORCESTER
LORD RENNARD
LORD YOUNG OF COOKHAM

Insert the following new Clause—

“Tobacco products statutory scheme: consultation

- (1) The Secretary of State must, no later than six months after this Act is passed, consult and report on the desirability of making a scheme (referred to in this section and section *(Tobacco products statutory scheme: supplementary)* as a statutory scheme) for one or more of the following purposes—
 - (a) regulating, for the purposes of improving public health, the prices which may be charged by any manufacturer or importer of tobacco products for the supply of any tobacco products;
 - (b) limiting the profits which may accrue to any manufacturer or importer in connection with the manufacture or supply of tobacco products;
 - (c) providing for any manufacturer or importer of tobacco products to pay to the Secretary of State an amount calculated by reference to sales or estimated sales of those products (whether on the basis of net prices, average selling prices or otherwise) to be used for the purposes of reducing smoking prevalence and improving public health.
- (2) The consultation must ask for views on a draft statutory scheme (or alternative draft schemes), which may, in particular, make any provision mentioned in subsections (3) to (6).
- (3) The draft scheme or schemes may provide for any amount representing sums charged by any manufacturer or importer to whom the scheme applies, in excess of the limits determined under the scheme, for tobacco products covered by the scheme to be paid by that person to the Secretary of State within a specified period.
- (4) The draft scheme or schemes may provide for any amount representing the profits, in excess of the limits determined under the scheme, accruing to any manufacturer or importer to whom the scheme applies in connection with the manufacture or importation of tobacco products covered by the scheme to be paid by that person to the Secretary of State within a specified period.
- (5) The draft scheme or schemes may provide for any amount payable in accordance with the scheme by any manufacturer or importer to whom the scheme applies to be paid to the Secretary of State within a specified period.
- (6) The draft scheme or schemes may—
 - (a) prohibit any manufacturer or importer to whom the scheme applies from varying, without the approval of the Secretary of State, any price charged by the manufacturer or importer for the supply of any tobacco product covered by the scheme, and
 - (b) provide for any amount representing any variation in contravention of that prohibition in the sums charged by that person for that product to be paid to the Secretary of State within a specified period.

After Clause 164 - continued

- (7) The Secretary of State must lay the report before Parliament and a Minister of the Crown must arrange to make a statement to each House of Parliament setting out in detail any steps which will be taken to implement the findings of the report.”

Member’s explanatory statement

This new Clause, along with others, would require the Secretary of State for Health and Social Care to carry out a consultation about a statutory scheme for the regulation of prices and profits of tobacco manufacturers and importers. Funds raised by the scheme would be used to pay for the cost of tobacco control measures to deliver the Government’s ultimatum for industry to make smoked tobacco obsolete by 2030 and for England to be smoke-free with smoking rates 5% or below.

Insert the following new Clause –

“Tobacco products statutory scheme: supplementary

- (1) The Secretary of State may make any provision he or she considers necessary or expedient for the purpose of enabling or facilitating –
 - (a) the introduction of a statutory scheme of the type mentioned in section (Tobacco products statutory scheme: consultation), or
 - (b) the determination of the provision to be made in a proposed statutory scheme.
- (2) The provision may, in particular, require any person to whom such a scheme may apply to –
 - (a) record and keep information;
 - (b) provide information to the Secretary of State in electronic form.
- (3) The Secretary of State must –
 - (a) store electronically the information which is submitted in accordance with this provision;
 - (b) ensure that information submitted in accordance with this provision is made publicly available on a website, taking the need to protect trade secrets duly into account.
- (4) Where the Secretary of State is preparing to make or vary a statutory scheme, he or she may make any provision he or she considers necessary or expedient for transitional or transitory purposes which could be made by such a scheme.”

Insert the following new Clause –

“Tobacco products statutory scheme: enforcement

- (1) The provisions of this section apply if, following consultation under section (Tobacco products statutory scheme: consultation), legislation is enacted which enables the making of a statutory scheme.
- (2) Regulations may provide for a person who contravenes any provision of the scheme, including any regulations or directions made under the scheme, to be liable to pay a penalty to the Secretary of State.
- (3) The penalty may be –

After Clause 164 - continued

- (a) a single penalty not exceeding £5 million;
 - (b) a daily penalty not exceeding £500,000 for every day on which the contravention occurs or continues.
- (4) Regulations may provide for any amount required to be paid to the Secretary of State by virtue of any provision in the scheme reflecting section (*Tobacco products statutory scheme: consultation*) (4) or (6)(b) to be increased by an amount not exceeding 50 per cent.
- (5) Regulations may provide for any amount payable to the Secretary of State by virtue of any provision in the scheme reflecting section (*Tobacco products statutory scheme: consultation*) (3), (4), (5) or (6)(b) (including such an amount as increased under subsection (4) of this section) to carry interest at a rate specified or referred to in the regulations.
- (6) Provision may be made by regulations for conferring on manufacturers and importers a right of appeal against enforcement decisions taken in respect of them in pursuance of the scheme, section (*Tobacco products statutory scheme: consultation*), (*Tobacco products statutory scheme: supplementary*), and this section.
- (7) The provision which may be made by virtue of subsection (6) includes any provision which may be made by model provisions with respect to appeals under section 6 of the Deregulation and Contracting Out Act 1994, reading—
 - (a) the references in subsections (4) and (5) of that section to enforcement action as references to action taken to implement an enforcement decision, and
 - (b) in subsection (5) of that section, the references to interested persons as references to any persons and the reference to any decision to take enforcement action as a reference to any enforcement decision.
- (8) In subsections (6) and (7), “enforcement decision” means a decision of the Secretary of State or any other person to—
 - (a) require a specific manufacturer or importer to provide information to him or her,
 - (b) limit, in respect of any specific manufacturer or importer, any price or profit,
 - (c) refuse to give his or her approval to a price increase made by a specific manufacturer or importer, or
 - (d) require a specific manufacturer or importer to pay any amount (including an amount by way of penalty) to him or her,
 and in this subsection “specific” means specified in the decision.
- (9) A requirement or prohibition, or a limit, under section (*Tobacco products statutory scheme: consultation*), may only be enforced under this section and may not be relied on in any proceedings other than proceedings under this section.
- (10) Subsection (9) does not apply to any action by the Secretary of State to recover as a debt any amount required to be paid to the Secretary of State under section (*Tobacco products statutory scheme: consultation*) or this section.
- (11) The Secretary of State may by order increase (or further increase) either of the sums mentioned in subsection (3).”

After Clause 164 - continued

Insert the following new Clause—

“Tobacco products statutory scheme: controls: supplementary

- (1) The provisions of this section apply if, following consultation under section (*Tobacco products statutory scheme: consultation*), legislation is enacted which enables the making of a statutory scheme.
- (2) Any power conferred on the Secretary of State by legislation enacted which enables the making of a statutory scheme, and by section (*Tobacco products statutory scheme: supplementary*) may be exercised by—
 - (a) making regulations, or
 - (b) giving directions to a specific manufacturer or importer.
- (3) Regulations under subsection (2)(a) may confer power for the Secretary of State to give directions to a specific manufacturer or importer; and in this subsection “specific” means specified in the direction concerned.
- (4) In this section and sections (*Tobacco products statutory scheme: consultation*), (*Tobacco products statutory scheme: supplementary*) and (*Tobacco products statutory scheme: enforcement*)—
 - “tobacco product” means a product that can be consumed and consists, even partly, of tobacco;
 - “manufacturer” means any person who manufactures tobacco products;
 - “importer” means any person who imports tobacco products into the United Kingdom with a view to the product being supplied for consumption in the United Kingdom or through the travel retail sector, and contravention of a provision includes a failure to comply with it.”

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10 February 2022
