

Alarm at smoke signals

If the draft Tobacco Products Control Act's revised regulations on smoking in public places are approved as proposed, smokers will have to get used to standing even further from the crowd.

Released by health minister Aaron Motsoaledi's department, they have been criticised by some as unrealistic. But the World Health Organisation (WHO) says that globally six million deaths are linked to tobacco use every year, and this statistic is sound enough ground for a strong debate on whether the rights of adult smokers are more important than those of adult non-smokers and children.

The WHO says more than five million of the six million who died were smokers and former smokers, and a further 600000 had been exposed to secondary smoke.

The organisation estimates that the annual number of tobacco-related deaths could rise to more than eight million by 2030. It judges that tobacco was the cause of 100 million deaths in the 20th century, and expects up to 1 billion tobacco-related deaths by the end of the 21st century if the current trends continue.

Free Market Foundation executive director Leon Louw, a non-smoker, says the proposed changes to the law are unbalanced and that laws should protect the rights of both smokers and non-smokers.

Louw says it's a freedom-versus-control issue, adding that in his view the "nanny state" type of regulation could lead to a knock-on effect, perhaps making way for the erosion of choice in other areas.

He questions how many business owners, labourers and other people realise that all indoor smoking is to be banned, regardless of how effectively smokers are isolated. This is regardless of property rights and the right of freedom of association. Louw also points out that restaurants, offices, factories and hotels have spent millions on partitions and ventilation to comply with the existing regulations to protect others from tobacco smoke.

"[Government] is forcing people onto sidewalks, and they are not eliminating exposure to secondary smoke. Imagine trying to apply these rules in a place such as Long Street in Cape Town," says Louw.

Tsogo Sun marketing director Noeleen Bruton says: "We are reviewing the proposed legislation and will submit our comments once we've had the opportunity to fully [consider its] implications."

The SA Medical Research Council estimates there were 44400 deaths from tobacco use in 2000, 8% of the total number of deaths that year in SA.

SA is under mounting pressure to enforce its obligations as one of the 175 parties to the WHO Framework Convention on Tobacco Control and to comply with its regulations. Other African countries that are signatories include Angola, Botswana, Burundi and the Democratic Republic of Congo. Some of the commitments the countries make are to protect their entire populations by creating 100% smoke-free environments in all indoor workplaces, public spaces, public forms of transport and other public places as appropriate (see table).

National Council Against Smoking director Peter Ucko says the draft regulations are excellent but may need some modification. He says any regulatory change that aims to encourage people to quit smoking and limits the number of people taking it up is welcome.

"There is no right to smoke, and if you choose to smoke, you are obliged to protect the rights of those who don't. Some people have decided to quit since the country first started applying stricter smoking rules. In the early 1990s an estimated 37% of the population smoked. The incidence today is [thought] to be in the range of 22%-23%," says Ucko.

But Louw disagrees that stricter smoking regulations automatically lead to a decline in the prevalence of smoking. "Tobacco industry sales don't fall significantly when such laws are made. There are unknown numbers of people who smoke smuggled cigarettes, and the number of young smokers usually increases when regulation is tough. People simply switch from legal to illegal smoking," he says.

Ucko says the proposed law will just remove a trigger that leads people to start smoking. "Jobs lost in the process will be created elsewhere, and the money that was spent on tobacco will be spent on other items. Tobacco companies overemphasise their importance in a country where breadwinners can die as a result of smoking."

He says another issue is productivity, pointing out that a smoker who uses three 15-minute smoke breaks a day can spend up to 180 hours less a year doing their work than a non-smoking employee.

Further, he says: "In a medical aid scheme all the members have to pay for an ill smoker - is that fair?"

Another issue that has to be considered in SA is the high incidence of tuberculosis. The health department says smokers with the disease are at greater risk of dying than non-smokers with it. The country also has increased rates of non-communicable diseases linked to tobacco use, such as cardiovascular disease, cancer, chronic lung disease and diabetes.

Health department spokesman Fidel Hadebe says: "Enforcement of the new regulations will depend on the volume of comments and their content. The department will consider all comments carefully, but is aware that delay in enacting the regulations prolongs the risk to people's health. Not only are we focusing on the current regulations, work is being done on regulations relating to the banning of tobacco advertising and limiting displays at points of sale. We are also working on putting graphic health warnings on cigarette packets and packs."

A judgement in the supreme court of appeal, rejecting the appeal against stricter tobacco advertising rules brought by British American Tobacco (BAT) SA against a ruling in favour of the health department and the National Council Against Smoking could be an indication of government's seriousness about achieving an eventual 100% ban on smoking.

BAT SA communications manager Itumeleng Langeni says the company is considering its legal options. It found the ruling on the initial appeal against a north Gauteng high court judgement disappointing because it felt the advertising amendments proposed in 2009 went too far in curtailing what she says are tobacco companies' rights to communicate with consenting adult consumers.

"BAT SA supports and is committed to complying with enforceable tobacco regulation, and there are a number of provisions in the amendment to the act that the company actively supports," says Langeni.

Ucko believes it is awareness that will change people's public smoking behaviour and not so much law enforcement, even though the proposed smoking rules carry a fine of up to R50000 in some instances.

"A smoking ban in planes and cinemas and indoor smoking restrictions [introduced] 11 years ago worked without a policeman around. People do what is popular or follow the norm. It is unquestionable that these new regulations will work. Previous regulations worked because people wanted them to work," says Ucko.

Source: Financial Mail