



health

Department:  
Health  
REPUBLIC OF SOUTH AFRICA

**SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS)**

**REVISED (2020-2022): FINAL IMPACT ASSESSMENT TEMPLATE – PHASE 2**

**NAME OF THE PROPOSAL: TOBACCO PRODUCTS AND ELECTRONIC DELIVERY SYSTEMS**

**CONTROL BILL, of 2018**

*Disclaimer: The SEIAS revision period is amended on the cover page only.*

**PART ONE: ANALYSIS FOR FINAL SEIAS REPORT**

*Please keep your answers as short as possible. Do not copy directly from any other document.*

**1. Conceptual Framework, Problem Statement, Aims and Theory of Change**

1.1. What socio-economic problem does the proposal aim to resolve?

Tobacco is a major risk factor for non-communicable diseases and leads to worse outcomes for communicable diseases. In 2016 alone, there were 25 708 smoking attributable deaths in South Africa and over 200 000 people were admitted in hospitals for smoking related illnesses. Tobacco related illnesses cost South Africa's economy R42 billion, annually, in direct health care costs, lost productivity and premature deaths. Tobacco imposes a heavy economic, health, social and environmental burden on the country. (Boachie et al., 2021).

South Africa made significant strides in the fight against tobacco between the period of 1993 and 2010. During that period, several important pieces of legislation were introduced, starting with the Tobacco Products Control Act (TPCA) 83 of 1993 – the main legislation governing tobacco control efforts in the country. It was amended three times over a fifteen-year period with of the Tobacco Products Control Amendment Act 12 of 1999 (which came into force on 1 January 2001), the Tobacco Products Control Amendment Act 23 of 2007, and the Tobacco Products Control Amendment Act 63 of 2008, both of which came into force on 21 August 2009.

These legislative efforts, together with sharp increases in the excise tax on tobacco products, led to reductions in smoking prevalence and consumption as well as smoking-attributable deaths. The smoking prevalence for adults decreased from more than 30% in the early 1990s (van Walbeek, 2005) to current levels of around 20% (Southern Africa Labour and Development Research Unit, 2016). To date the current process of legislative changes recognises that much more can, and should be done to further reduce smoking prevalence rates in South Africa.

In addition to domestic legislation, South Africa ratified the World Health Organization's Framework Convention on Tobacco Control (WHO FCTC) on 19<sup>th</sup> April 2005. Through this treaty, South Africa made an obligation to protect its citizens from tobacco by implementing strong evidence-based tobacco control interventions (Gravely et al 2017).

However, after all these gains in tobacco legislation progress and tax regimes implemented, in the past number of years post 2010, tobacco control policy in South Africa has since stalled. As a result, smoking prevalence and consumption statistics began to increase once more. Moreover, tobacco use is listed among the top five risk factors contributing to the country's burden of disease and, non-communicable diseases. South Africa experienced a proliferation in non-communicable diseases (NCDs), with smoking, or second-hand exposure to cigarette smoke, being one of the major cause of many of them (WHO, 2018; Mayosi et al, 2009) Traditionally cigarettes have been the main source of tobacco consumption for smokers however, new generation products such as the Electronic Nicotine Delivery Systems (ENDS) and Non-Nicotine Delivery Systems (ENNDS), commonly referred to as 'e-cigarettes' and 'vapes' have since emerged. To date these New Generation Products (NGP) which contain nicotine and are harmful to health remain unregulated, and notably children and adolescents who start e-cigarette use double their risk of later smoking tobacco cigarettes. (Keller-Hamilton et al, 2021)

In light of the above mentioned legislative developments; trends of increase in smoking prevalence and consumption statistics; public health dangers posed by smoking tobacco directly and indirectly through exposure to Second Hand Smoke, have necessitated for the current Tobacco Products Control Act (TPCA) to undergo a repeal process in order to address key areas pertaining to indoor public smoking areas; the display of tobacco products at point of sale; use of electronic devices and the introduction of plain packaging of tobacco products.

These scientifically proven tobacco control measures addressed in the Tobacco Control Bill, will support the aspirations of the National Health Insurance (NHI). When consumption reduces, less people use tobacco and related products which means less people get sick, which means less pressure on the health system. Reduced absenteeism in the workplaces results in increased productivity. When less people use tobacco and related products, the health budget will not be depleted through tobacco -related hospitalisation and disabilities.

1.2. What are the main root causes of the problem identified above?

What socio-economic problem does the proposal aim to resolve	What are the main roots or causes of the problem
<p>Incoherent legislative framework, which excludes tobacco protection measures to non-users resulting in the following:</p> <ul style="list-style-type: none"> <li>• Overburdened healthcare resources (medical costs and healthcare practitioners) to care for tobacco related ill patients.</li> <li>• Reduced incomes, and the diverting of limited family resources from basic needs to a harmful product</li> </ul>	<p><u>Legislative environment</u></p> <ul style="list-style-type: none"> <li>• Currently the TPCA is partially compliant to the WHO FCTC guidelines in terms of indoor smoke free areas. As well as Tobacco Advertising, Promotion and Sponsorship (TAPS), since the TPCA allows for advertising at Point of Sale (POS) that is retail and wholesale amongst others.</li> <li>• The current TPCA does not allow for plain/standardized packaging of tobacco products, which includes pictorials/ graphics and health warnings. The importance of package and design in product promotion has long been established in the marketing strategy (Rundh, 2013). Additionally, research conducted in Australia after implementation of plain packaging with graphic health warnings shows that plain packaging reduces the appeal of tobacco products, increased the noticeability and effectiveness of health warnings, and appears to be having effects on smoker attitudes and behaviours. (Wakefield M et al, 2015)</li> <li>• The current TPCA does not include Electronic Nicotine Delivery Systems ENDS &amp; ENNDS and other such devices.</li> <li>• The current TPCA only caters for the following: <ul style="list-style-type: none"> <li>○ Smoking in 25% of indoor public areas and vending machines are allowed to be placed in these indoor public smoking areas.</li> <li>○ Text health warning on tobacco products.</li> <li>○ Brands logos and colours are used as part of the packaging of tobacco products.</li> <li>○ Descriptors that is light or mild tobacco product.</li> </ul> </li> </ul> <p><u>Socio-economic challenges</u></p> <ul style="list-style-type: none"> <li>• Properties of nicotine are highly addictive can lead to heart disease and stroke, and can harm brain development of adolescents. (Yuan, 2015; Mishra 2015).</li> <li>• Advances in technology have introduced new smoking devices, marketing and sponsorship campaigns have improved their appeal and spread to current smokers and new potential smokers through the use of social media and influencers.</li> </ul>

	<ul style="list-style-type: none"> <li>• Most smokers in South Africa start smoking in their teens, at a time when they are easily manipulated by aggressive marketing campaigns and feel the need to fit in with their peers (GYTS, 2011).</li> <li>• Inadequate protection of children and non-smokers from second-hand smoke.</li> <li>• Ease of use in public spaces, increasing prevalence and exposure to second-hand smoke that has chemicals, dangerous metals and nicotine</li> <li>• Tobacco use creates an economic burden for individuals, families, and society. The cost to the country was estimated at R42.3 billion, or 0.97% of GDP, in 2016. R28 Billion of this cost was due to illness-caused productivity losses and the losses in potential earnings from those who died prematurely, while the remaining R14 billion was due to direct healthcare costs. However, the tobacco industry only paid R12 billion in excise tax in the same year. For every Rand that SARS receives in cigarette excise tax, society loses R3.43. For Every Rand gained by the cigarette market, the cost to society is R1.50. (Boachie et al, 2021).</li> </ul>
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1.3. Summarise the **aims** of the proposal and **how** it will address the problem in no more than five sentences.

The proposal seeks to reduce the use of tobacco and ENDS & ENNDS which contribute to nicotine addiction. The Bill aims to introduce the following measures:

- 100% smoke free areas - indoor public places and certain outdoor areas that will be determined;
- Ban the sale of cigarettes through vending machines;
- Plain packaging with graphic health warnings/pictorials
- Ban on display at point-of-sale; and
- Regulation and control of Electronic Nicotine and Non-Nicotine Delivery Systems (ENDS & ENNDS).

The Bill repeals the amended Tobacco Products Control Act 1993 to consolidate currently fragmented and limited legislation regulating tobacco products and e-cigarettes. As a result, respond to changes in the epidemiological, technological, use and marketing environments.

1.4. How is this proposal contributing to the following national priorities?

National Priority	Impact
<p>1. Economic transformation and job creation</p>	<ul style="list-style-type: none"> <li>• A switch in spending from the manufacture of labour non-intensive products such as cigarettes to products which require more labour will result in job creation. If consumption expenditure is switched from tobacco to other goods and services in the economy, the net employment effects will be positive. (Van der Merwe &amp; Abedian, 2007).</li> <li>• Even if the very best tobacco control policies are adopted, in the short-term, due to nicotine addiction and population growth, the use of tobacco may fall slowly. Therefore, there will be little immediate impact on economic transformation and job creation.</li> <li>• Initial job losses and loss of revenue in small businesses, tobacco, and hospitality industries due to the switch in use of tobacco products; decreased tourism activities and number of people going to venues for business, entertainment and gambling; expenses to modernise and/or export vending machines to countries where vending machine cigarette sales are allowed; sponsorship and/or support to BEE initiatives; rebranding</li> <li>• A family's limited income expenditure will be diverted from tobacco consumption to other basic needs which do not cause harm</li> <li>• An increase in workforce productivity and economic growth</li> <li>• A sharp decrease in provincial GGR tax revenue across the country</li> <li>• A decrease of 18% in VAT payments for the country as a whole</li> <li>• Due to the harmful nature of tobacco and sustainability of job creation there is a need for transformation from growing tobacco to other alternative agricultural products that will provide for new jobs and economic contribution.</li> <li>• Reducing tobacco consumption will lead to reduced tobacco-related morbidity and mortality, consequently contributing to higher productivity and economic growth.</li> <li>• Farmers currently engaged in tobacco leaf production will likely need to engage in alternative farming, which in the short-run may incur transition costs, but that may be more economically beneficial in the long-run.</li> </ul>

National Priority	Impact
2. Education, skills and health	<ul style="list-style-type: none"> <li>Reduction in tobacco production and consumption will alleviate the burden on the healthcare system both in terms of cost and healthcare practitioners. Tobacco related illnesses cost the South African economy R42 billion in 2016 alone, R14 billion was due to direct health care costs (Boachie et al, 2021) Children and the youth are still developing which makes them uniquely vulnerable to nicotine exposure which harms the brain and can reduce their attention span and learning (Yuan, 2015).</li> </ul>
3. Consolidating the social wage through reliable and quality basic services	<ul style="list-style-type: none"> <li>On average smokers spend about R300 a month on cigarettes. In 2016, the HSRC conducted a study which found that about 2.3 million smokers live in households that receive child support grants. Therefore, measures aimed at reducing tobacco production and consumption will support users and non-users to effectively use their financial resources as well as minimise the need to utilise healthcare services due to ill health. (ATIM, Tobacco: a threat to South Africa's development)</li> </ul>
4. Spatial integration, human settlements and local government	N/A
5. Social cohesion and safe communities	N/A
6. Building a capable, ethical and developmental state	N/A
7. A better Africa and world.	N/A

1.5. Please describe how the problem identified could be addressed if **this proposal** is not adopted. At least one of the options should involve no legal or policy changes, but rather rely on changes in existing programmes or resource allocation.

<p><b>Option 1.</b></p>	<p><b><i>Maintain the status quo</i></b></p> <ul style="list-style-type: none"> <li>• No changes to the current legislation, therefore the Tobacco control legislation will remain as is currently</li> <li>• The emergence of new tobacco products, Electronic Delivery Systems (ENDS) and Electronic Non-Nicotine Delivery systems (ENNDS) is a public health concern.</li> <li>• Keeping the status quo as is would mean emerging tobacco products, ENDS and ENNDS will continue to be unregulated and flood the market.</li> <li>• Maintaining the status quo will lead to slower progression towards eliminating the harms from the use of tobacco products, ENDS and ENNDS.</li> </ul>
<p><b>Option 2.</b></p>	<ul style="list-style-type: none"> <li>• <b><i>Address access, education, research and monitoring issues</i></b>  Establishing action plans for the implementation of robust education, communication and training activities  Strengthening enforcement at all levels, including schools  <i>Developing and disseminating appropriate measures to promote cessation of tobacco use and adequate treatment for tobacco dependence</i>  Constant monitoring of the health risks  Increased research output</li> <li>• Option 2 is proposed as it will contribute towards socio-economic growth and enabling the realisation of the National Health goals.</li> </ul> <p>**This option is not comprehensive and will not single-handedly achieve the desired outcomes</p>
<p><b>Option 3</b></p>	<p><b><i>The proposed Bill to repeal the current legislation (as outlined in this report)</i></b></p> <ul style="list-style-type: none"> <li>• The Bill proposes evidence-based measures that have proven to be effective in reducing consumption and access to tobacco and related products globally.</li> <li>• When consumption reduces, the health system will not be overburdened by people with tobacco related diseases which are totally preventable.</li> <li>• Passing the Bill will benefit the health budget because of savings made due to less tobacco related illnesses.</li> <li>• The national fiscus also benefits when consumption reduces due to less absenteeism in the workplace, increased productivity and reduced pre-mature deaths.</li> </ul>

	<ul style="list-style-type: none"> <li>• A Healthy Nation equals improved productivity and progress in the socio-economic development which enables achievement of the national development targets of South Africa</li> <li>• The proposed Tobacco Products Control (TPC) Bill, seeks to repeal the current Tobacco Control Act of 1993, as amended, and replace it with an amendment act aimed to strengthen tobacco control and align with the World Health Organization Framework Convention on Tobacco Control (WHO FCTC).</li> </ul>
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**PART TWO: IMPACT ASSESSMENT**

**2. Policy/Legislative alignment with other departments, behaviours, consultations with stakeholders, social/economic groups affected, assessment of costs and benefits and monitoring and evaluation.**

2.1. Are other government laws or regulations linked to this proposal? If so, who are the custodian departments? Add more rows if required.

<b>Government legislative prescripts</b>	<b>Custodian Department</b>	<b>Areas of Linkages</b>	<b>Areas of contradiction and how will the contradictions be resolved</b>
Medicines and Related Substances Act, 1965 (Act No. 101 of 1965)	Health	The therapeutic use of nicotine	None
Sectional Titles Act, 1986 (Act No. 95 of 1986)	Human Settlements	Prohibition of smoking inside the home	None
Trademarks Act, 1993 (Act No 194 of 1993)	Trade and Industry	Trademark and plain packaging regulations	None
National Health Act 61 of 2003	Health	Chapter 12 - appointment of committees	None
Children’s act 38 of 2005	Social Development	Any facility that involves a child below the age of 18 years old	None



Schedules to the Customs and Excise Act, 1964	South African Revenue Service - Customs	Taxation FCTC Articles on Illicit trade protocols	None
Labour Relations Act, 1995 (Act No. 66 of 1995)	Labour and Employment	Enforcement of laws in the Workplace	None

2.2. Proposals inevitably seek to change behaviour in order to achieve a desired outcome. Describe (a) the behaviour that must be changed, and (b) the main mechanisms to bring about those changes. These mechanisms may include modifications in decision-making systems; changes in procedures; educational work; sanctions; and/or incentives.

a) What and whose behaviour does the proposal seek to change? How does the behaviour contribute to the socio-economic problem addressed?

Group whose behaviour that must be changed	Behaviour that must be changed	How does the behaviour contribute to the socio-economic problem
Tobacco consumers	Ignorance to health message warnings and the effects of second hand smoke exposure of non-smokers to tobacco smoke and chemicals or emissions from ENDS & ENNDS products.	Consumer access and demand for tobacco and ENDS & ENNDS products continues which directly affects users and indirectly affects non-user health condition.
Tobacco, ENDS and ENNDS Industry	Interference with policy changes	Ensures that ease of access to tobacco and related products continues through marketing strategies by the industry to make tobacco products, ENDS & ENNDS easily accessible and affordable to consumers. The focus of the industry is limited to financial viability and sustainability vs public health.

b) How does the proposal aim to bring about the desired behavioural change?

- A person's behaviour is affected by social, cultural, economic and other environmental factors. These factors can either promote or harm health. The proposed amendments on the Bill seek to educate and place restrictions with the aim to reduce consumer demand and access to the

products. These restrictions include prohibiting: Smoking (which includes use of ENDS and ENNDS) in indoor public areas and prescribed outdoor areas; the sale of tobacco and the related products through vending machines; sale of products that do not adhere to plain packaging with graphic health warnings; and the display at Point of sale (POS). Lastly, the industry will abide to newly introduced legislation on the ENDS & ENNDS products.

### 2.3. Consultations

- a) Who has been consulted inside of government and outside of it? Please identify major functional groups (e.g. business; labour; specific government departments or provinces; etc.); you can provide a list of individual entities and individuals as an annexure if you want.

A transparent good-faith attempt was made to consult with all key stakeholders (In and outside government) and their opinions were critically assessed in light of the objectives of the Bill. The Bill was published in the Government Gazette for public comment on 09 May 2018. Since 2018, further consultations were held as depicted in the tables below on consulted stakeholders.

### Consulted Government Departments, Agencies and Other Organs of State

Government Departments Consulted in 2018	Government Departments Consulted in 2020
Agriculture, Forestry and Fisheries	Department of Agriculture, Land Reform and Rural Development
South African Police Services	South African Police Services Crime Prevention National Prosecuting Authority
Department of Finance	Department of Finance: National treasury
Department of Justice	Legal Services
Department of Trade and Industry	Department of Trade and Industry C...
	South African Revenue Services (SARS)
Department of Labour	Department of Employment and Labour
Correctional services	-----
Tourism	Tourism
Economic Development	----- -----
Department of Small Business and Development	Department of Small Business and Development
Social Development	-----
Environmental affairs	-----
Department of Correctional Services	-----
Performance, Monitoring & Evaluation	Presidency: Quality Assurance
South Africa Local Government Association	-----
<p>NB: DPME sent out consultation invitation in 2018 to all departments.            NB: In 2020, Departments impacted or who have a role in the implementation of the Bill were identified and invited to a consultation session.            *The following departments did not send a representative to the 2020 consultation: Correctional Services; Environment, Social Development; Transport and Basic Education</p> <p>*The key Departments that did not participate in both 2018 and 2020 are Transport and Basic Education. The two Department will be consulted before the Bill is submitted to parliament.</p>	

Department's name	What do they see as main <u>benefits</u> , <u>Implementation/</u> <u>Compliance costs</u> and <u>risks</u> ?	Do they <u>support</u> or <u>Oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal? If yes, under which section?
<b>AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT</b>	Product Safety	Support	<ul style="list-style-type: none"> <li>- Nicotine and non-nicotine delivery systems should be included in the definition of "ingredients" and add a definition of nicotine and non-nicotine products.</li> </ul>	Accepted <ul style="list-style-type: none"> <li>- Added in definitions and under Clause 5.</li> </ul>
			<ul style="list-style-type: none"> <li>- Provision be made by addressing vending machines and any other form of dispensing machines.</li> </ul>	Accepted <ul style="list-style-type: none"> <li>- Clause 3(6)(a) Prohibiting Vending machines and any other form of dispensing machine</li> </ul>
			<ul style="list-style-type: none"> <li>- To establish a Monitoring committee               <ul style="list-style-type: none"> <li>o "Protection of Tobacco Control Policies from Commercial and other vested interests of the tobacco industry" and a comparative provision for possible adaptation by South Africa to implement the requirements of Article 5.3 of the WHO FCTC and its Guidelines.</li> <li>o Registration of tobacco products and other related products that are sold in the country to be controlled and regulate the market.</li> </ul> </li> </ul>	Accepted <ul style="list-style-type: none"> <li>- The request to develop a regulatory authority has been deferred to the next phase of the process of the Bill It was further suggested to establish a separate Independent Tobacco Regulatory Authority, dealing with registration of all tobacco, relevant and related products which will be accountable to the Minister. However, this will require a separate Bill process.</li> </ul>

Department's name	What do they see as main <u>benefits</u> , <u>Implementation/</u> <u>Compliance costs and risks?</u>	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal? If yes, under which section?
<b>TOURISM</b>	<p>The department does not foresee any benefits on the proposed Bill.</p> <p>100% smoke free ban will be costly to implement for businesses in the tourism sector.</p> <ul style="list-style-type: none"> <li>- Businesses have already made investments to modify businesses to accommodate 25% designated smoking areas</li> <li>- Completely removing these designated spaces will be costly for businesses</li> <li>- Some businesses do not have enough space to designate outdoor smoking areas</li> <li>- The proposed bill discourages tourism activities and criminalizes smokers</li> <li>- The proposed Bill will affect revenues of</li> </ul>	Oppose	<ul style="list-style-type: none"> <li>- Maintain the 25% allocation of indoor smoking areas and focus on enforcement of the current laws.</li> </ul>	<p>Not accepted – refer to Clause 2</p> <ul style="list-style-type: none"> <li>- The main concern is on the health impact of the workers and other non-smokers</li> <li>- The Department of Tourism did not provide evidence to support their statements.</li> <li>- Currently some of the businesses are already smoke free and costs are amortised.</li> <li>- There is no need for businesses to completely remove already</li> <li>- The proposed Bill does not require alterations but requires 100% smoke free indoor areas.</li> </ul>

Department's name	What do they see as main <u>benefits</u> , <u>Implementation/</u> <u>Compliance costs</u> and <u>risks</u> ?	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal? If yes, under which section?
	businesses as the number of tourists visiting the country will be reduced			
<b>TRADE, INDUSTRY AND COMPETITION</b>		Support	- The "Trademark" definition is incomplete	Accepted - The definition was amended accordingly and cross referenced with the appropriate Act
<b>NATIONAL PROSECUTING AUTHORITY</b>		Support	<p>- The Bill seems to be focused on policing and punishment instead of controlling tobacco products. The country is currently dealing with major judiciary issues with limited resources. Some of the issues can be controlled and not reliant on policing and punishment.</p> <p>- There should be consistency in the use of the word "Child" or "Person under the Age of 18 years"</p>	<p>Accepted</p> <p>- NPA provided in-depth input regarding offences and penalties The ban on smoking is an excellent example of primary health care in action. The law created an enabling environment and empowers citizens to take action to protect themselves and their family's health.</p> <p>Accepted</p> <p>- The word "child" was adopted and used throughout the body of the Bill</p> <p>- Amendments to Clauses 2 were made</p>

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			<ul style="list-style-type: none"> <li>- The term "Law Enforcement Officer" should be defined and clarified on who should enforce the law, as it creates ambiguity during enforcement, also taking into consideration the different scope of practices across various occupations.</li> </ul>	<p><b>Accepted</b></p> <ul style="list-style-type: none"> <li>- New definition adopted and used in Clause 17</li> </ul>
			<ul style="list-style-type: none"> <li>- Clause 2 should be relooked at as there might be contradictions regarding designated smoking areas and putting up signs. In addition, an individual cannot be punished for not displaying signs in the car or home, this cannot be applied.</li> <li>- It was argued that the use of the term tobacco smoke is limiting in relation to this Bill, as the Bill covers smoke from other devices e.g. (relevant and related products) ENDS &amp; ENNDS.</li> </ul>	<p><b>Accepted – clause 2(6)</b></p> <ul style="list-style-type: none"> <li>- The word tobacco was removed</li> </ul>
<b>SOUTH AFRICAN POLICE SERVICE (SAPS)</b>		Support	<ul style="list-style-type: none"> <li>- There should be an engagement with the Cannabis team to correlate the definition of smoking to provide for better enforcement on the two legislation pieces to enable efficiency in enforcement.</li> </ul>	<p><b>Accepted</b></p> <ul style="list-style-type: none"> <li>- To discuss with the cannabis team to align the definitions</li> </ul>

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			<ul style="list-style-type: none"> <li>- Advised that there should be consistency in the use of the word "Child" or "Person under the Age of 18 years"</li> </ul>	<p>Accepted</p> <ul style="list-style-type: none"> <li>- Clause 2 - The word "child" was adopted and used throughout the body of the Bill</li> </ul>
			<ul style="list-style-type: none"> <li>- The term "Law Enforcement Officer" should be defined and clarified on who should enforce the law, as it creates ambiguity during enforcement, also taking into consideration the different scope of practices across various occupations.</li> </ul>	<p>Accepted</p> <ul style="list-style-type: none"> <li>- Clause 17</li> </ul>
			<ul style="list-style-type: none"> <li>- It will be difficult to enforce the law in individual homes. Therefore, obtaining a warrant will be required and to prove this in court.</li> </ul>	<p>Accepted</p> <ul style="list-style-type: none"> <li>- Clause kept mainly because it protects the constitutional rights of workers.</li> </ul>
SOUTH AFRICAN REVENUE SERVICE (SARS)		Support	<ul style="list-style-type: none"> <li>- The reference to "tax stamps" in clause 4(2)(e) of the Bill is outdated and should be replaced with the term "fiscal identification markings"</li> </ul>	<p>Accepted</p> <ul style="list-style-type: none"> <li>- Amendments were made accordingly.</li> </ul>



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			<ul style="list-style-type: none"> <li>- There should be a correlation between the clauses that may be similar in the Tobacco and the SARS pieces of legislation. That is the clauses related to the quantity or weight; type, size, and shape; the amount of any substance or ingredient that may be contained into a product or its emissions; and design features and composition of products</li> </ul>	<p>Accepted</p> <ul style="list-style-type: none"> <li>- Similar clauses referred to were aligned accordingly.</li> <li>- In addition, the Minister may prescribe the number of cigarettes in a pack. All tobacco products must be sold in plain packaging with graphic health warnings/pictorials</li> </ul>
			<ul style="list-style-type: none"> <li>- There is a loophole wherein manufactures and importers do not declare correct information regarding the country of origin and the value of products</li> </ul>	<p>Accepted</p> <ul style="list-style-type: none"> <li>- Clause 10 The Minister may request information.</li> </ul>
<b>NATIONAL TREASURY</b>	The benefits of the Bill are that regulation and taxation of novel products will be enabled.	Support	<ul style="list-style-type: none"> <li>- Concerned about online sales that sometimes does not abide by the law</li> </ul>	<p>Accepted</p> <ul style="list-style-type: none"> <li>- This will be addressed by GCIS</li> </ul>

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<b>EMPLOYMENT AND LABOUR</b>	<ul style="list-style-type: none"> <li>- The benefits of the Bill are that non-user employees' health will be protected.</li> </ul>	Support	<ul style="list-style-type: none"> <li>- The term "Law Enforcement Officer" should be defined and clarified on who should enforce the law, as it creates ambiguity during enforcement, also taking into consideration the different scope of practices across various occupations.</li> </ul>	Accepted <ul style="list-style-type: none"> <li>- Amended accordingly. All law enforcement agencies were included as they carry-out different mandates relevant for the Bill.</li> </ul>
			<ul style="list-style-type: none"> <li>- Definition of "employer" be added as defined according to the Department of Labour and Employment</li> </ul>	Accepted <ul style="list-style-type: none"> <li>- Redefined in clause 2(7)</li> </ul>
<b>SMALL BUSINESS DEVELOPMENT</b>	<ul style="list-style-type: none"> <li>- The department foresees cost implications related to plain packaging on small businesses. In addition, to packaging costs this has implications for brand establishment in the tobacco selling market, as well as the creation of unfair competition especially for small businesses looking to establish themselves in this industry.</li> </ul>	Oppose	Not to introduce plain packaging and not to ban single stick cigarette sales	Not accepted <ul style="list-style-type: none"> <li>- Plain packaging has been introduced to reduce attraction of products which will lead to reduce consumption.</li> </ul>

Department's name	What do they see as main <u>benefits</u> , <u>Implementation/</u> <u>Compliance costs</u> and <u>risks</u> ?	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal? If yes, under which section?
	<ul style="list-style-type: none"> <li>- Over and above plain packaging, the limits placed on selling single stick cigarettes. The ban on selling loose cigarettes will negatively impact spaza/tuckshop owners and hawkers who mostly sell single stick cigarettes to their customers.</li> </ul>			<p>Noted</p> <ul style="list-style-type: none"> <li>- The concerns on selling single stick cigarettes will be addressed when regulations are developed.</li> </ul>
<b>ALL PARTICIPATING DEPARTMENTS</b>		Support	<ul style="list-style-type: none"> <li>- Nicotine and non-nicotine delivery systems should be included in the definition of "ingredients" and add a definition of nicotine and non-nicotine products</li> </ul>	<p>Accepted</p> <ul style="list-style-type: none"> <li>- Amended accordingly. The definition of relevant and related products includes New Generation Products, and a new clause was added namely clause 6</li> </ul>
			<ul style="list-style-type: none"> <li>- The word "room" to be replaced with "private enclosed space"</li> </ul>	<p>Accepted</p> <ul style="list-style-type: none"> <li>- Amended accordingly.</li> </ul>

Department's name	What do they see as main <u>benefits</u> , <u>Implementation/</u> <u>Compliance costs</u> and <u>risks</u> ?	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal? If yes, under which section?
			<ul style="list-style-type: none"> <li>- GCIS should be consulted regarding cross-border advertising and marketing (pop-up adverts as used by the Tobacco Industry)</li> <li>○ A clause should be included that makes an obligation on network (internet) providers to be responsible and block online advertising and marketing in SA</li> <li>- Marketing and advertisement of New Generation Products</li> <li>○ Will cross-border marketing and advertisement be covered under this section?</li> </ul>	<p>Accepted</p> <ul style="list-style-type: none"> <li>- GCIS will be consulted</li> </ul>
			<ul style="list-style-type: none"> <li>- The title in clause 8 addressing standards of manufacturing was suggested to include processing and growing</li> </ul>	<ul style="list-style-type: none"> <li>- Partially accepted Concerns related to processing were addressed in this section. However, the concern on growing does not fall within the mandate of this Bill.</li> </ul>
			<ul style="list-style-type: none"> <li>- "Courier Services" should be included along with postal services</li> </ul>	<ul style="list-style-type: none"> <li>- Accepted Included Clause 9(6)</li> </ul>

Department's name	What do they see as main benefits, <u>Implementation/</u> <u>Compliance costs and risks?</u>	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal? If yes, under which section?
			- Brand establishment should be prohibited at Kiosks and entertainment establishments	- Accepted Clause 9(4) To be included in the regulations

## Consulted stakeholders outside government

### (1) Tobacco Industry Consulted in 2021

Tobacco Industry Categories Consulted	Names of Organisations/Companies 2018	Names of Organisations/Companies 2021
Tobacco Manufacturers (Multinational and Local manufacturers)	<ul style="list-style-type: none"> <li>- BAT, PMI, JTI</li> <li>- TISA</li> </ul>	<ul style="list-style-type: none"> <li>- BAT, JTI, PMI, Gold Leaf Tobacco Company</li> <li>- Other Tobacco Products Distributors (OTP)</li> </ul>
Growers and Processors		<ul style="list-style-type: none"> <li>- Limpopo Farmers Development Co-operative (LFDC)</li> <li>- Black Farmers Association of South Africa (BFSA)</li> <li>- Lesedi Black Business Forum</li> </ul>
Retailers and Vending Industry (Including small business)	<ul style="list-style-type: none"> <li>- Fuel Retailer Association (FRA) Of Southern Africa</li> <li>- Shoprite Checkers Group</li> <li>- Pick 'n Pay</li> </ul>	<ul style="list-style-type: none"> <li>- SPAR, Pick 'n Pay, Shoprite Checkers Group, Massmart</li> <li>- South African Informal Trade Alliance (SAITA), South African Spaza &amp; Tuck Shop Association (SASTA - SASTAA)</li> <li>- The Cigar Company/ Big Five Duty Free, Airport Duty Free Retailers</li> <li>- Shell, Sasol Energy</li> </ul>
Vending Industry	<ul style="list-style-type: none"> <li>- Vending Association of Southern Africa (VASA).</li> </ul>	<ul style="list-style-type: none"> <li>- Vending Association of Southern Africa (VASA)</li> </ul>
Other Tobacco Distributors and Producers	<ul style="list-style-type: none"> <li>- Other Tobacco Distributors and Producers</li> </ul>	

Hospitality	<ul style="list-style-type: none"> <li>- Federated Hospitality Association of South Africa (FEDHASA)</li> <li>- National Gambling Board</li> </ul>	<ul style="list-style-type: none"> <li>- Federated Hospitality Association of South Africa (FEDHASA)</li> <li>- CASA: Casino Association of South Africa</li> <li>- Tsogo Sun Holdings Limited, Sun International (South Africa) Ltd</li> <li>- Emerald Casino, Legacy Hotels</li> <li>- Food and Allied Workers Union</li> </ul>
Associations and Consortiums (Including Electronic Delivery Systems Producers and sellers)	<ul style="list-style-type: none"> <li>- Electronic Cigarette Association of Southern Africa (EASA)</li> <li>- South African Informal Traders Association (SAITA)</li> </ul>	<ul style="list-style-type: none"> <li>- FITA</li> <li>- The South African Transformation Alliance</li> <li>- VPASA: Vape Products Association of South Africa</li> <li>- African Harm Reduction Alliance</li> </ul>

Civil Society Organisations Consulted in 2018 and in 2020/21
<ul style="list-style-type: none"> <li>- National Council Against Smoking (NCAS)</li> <li>- Priority Cost Effective Lessons for Systems Strengthening (PRICLESS)</li> <li>- Tobacco Alcohol and Gambling Advisory Advocacy and Action Group</li> <li>- Campaign for Tobacco Free Kids (South Africa)</li> <li>- Tobacco Control Alliance</li> </ul>

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose the proposal?</u>	What <u>amendments do they propose?</u>	Have these amendments been <u>incorporated in your proposal?</u>
RETAILERS	<p><b><i>Legislating the Electronic Nicotine and Non-Nicotine Delivery Systems (ENDS &amp; ENNDS)</i></b></p> <ul style="list-style-type: none"> <li>- <b>Risks:</b> Legislating these products will eliminate the entire sub-category and miss an opportunity on growth. As a result, it will reduce consumption of legal products and harm profit margins.</li> <li>- An increase in illicit trade of tobacco products includes New Generation Products (NGP's) – (Also mentioned by</li> </ul>	Oppose	<p>No ban on display must be placed at point of sales and advertising of nicotine free NGP and nicotine NGP as a whole. The two products should still be treated differently.</p> <p>Government should join forces with the tobacco industry and suppliers in the fight against Illicit trading of tobacco products</p>	<p>Not accepted</p> <ul style="list-style-type: none"> <li>- See text below this table on Point-of Sale (Point b)</li> <li>- Evidence reveals harm in both non-nicotine and nicotine products. See text below this table on (Point b)</li> <li>- Government cannot join forces as the two are pursuing different objectives</li> </ul>

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose the proposal?</u>	What <u>amendments do they propose?</u>	Have these amendments been <u>incorporated in your proposal?</u>
	SAITA, BAT, PMI & Shell garages, Vending association) - There is also a possibility that less investment will be placed on innovation by suppliers.			
	<b><i>100% Smoke Free Areas – indoor, public places and certain outdoor areas</i></b>  - <b>Risks:</b> This will reduce legal tobacco consumption, volumes will decline and this will cause harm on profit margins, resulting in retail business shutdown. (Similar comments were made by Manufacturers, Distributors and Consortiums). - The proposed Bill will harm the economy, criminalise legal trade and economic endeavors by unemployed people who have turned to the informal trade for their livelihood.	Oppose	Keep the 25% designated smoking areas	Not accepted  - Evidence suggest the opposite, where revenue has increased in businesses with 100% Smoke Free policies. See text below this table on (Point B)
	<b><i>A ban on Vending Machines – (includes Sales &amp; Advertising)</i></b>  - Manufacturing incentive spending will be eliminated	Partially supported	The banning of vending machines is supported because they make it easier for children to access the tobacco products.	Accepted  - Vending machines are categorised as a Point of Sale and are used for advertising. In addition, they provide easy access to tobacco products for children.

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose the proposal?</u>	What <u>amendments do they propose?</u>	Have these amendments been <u>incorporated in your proposal?</u>
			In addition, revise the SEIAS certification process post consultation of all stakeholders.	Noted - The Department has adhered to the SEIAS certification process.
	<p><b><i>Plain Packaging with Graphic Health Warnings / Pictorials</i></b></p> <ul style="list-style-type: none"> <li>- Diminishes the value on products</li> <li>- Drives prices and trading down</li> <li>- Opens up new markets for existing and new smokers</li> </ul>	Partially supported: SAITA - Supports Graphic Health Warning Messages but not plain packaging	Implementation of the tracing and tracking system will control illicit trade.	Accepted
			Allow for graphic health warnings without plain packaging	Not accepted - Plain packaging with graphic health warnings is effective in making health warnings more noticeable, reducing appeal of products and reducing smoking. (Wakefield et al, 2015).
			Enough space should be allowed for branding.	Not accepted - The Bill does not allow any form of advertising. Branding to be regulated.
	<p><b><i>Ban on display at point-of-sale</i></b></p> <ul style="list-style-type: none"> <li>- Due to that customers are no longer able to recognise their choice of brand it will increase customer waiting time at point of sale and this will result in sales</li> </ul>	Oppose	Allow for 18-24 months' grace period for implementation once the Bill has been passed into law.	Not accepted - Provisions on the implementation time frame of the different sections of the promulgated Bill will be prescribed.



Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose the proposal?</u>	What <u>amendments do they propose?</u>	Have these amendments been <u>incorporated in your proposal?</u>
	<p>loss and will impact on business profit targets</p> <ul style="list-style-type: none"> <li>- Retail Display Bans have previously not been successful.</li> <li>- Smaller retail stores will most likely be unable to bear the costs of compliance as a result, would lose sales profits to larger retail stores.</li> </ul>			
			Allow for digital display on the units for NGP, and not tobacco products	<p>Not accepted</p> <p>A ban on point of sale will lead to reduced initiation, experimentation, access and demand to tobacco. (Ajmal et al, 2018)</p>
			Prescribed price boards should be allowed	Accepted
	<p><b><i>Advertising, Promotion and Sponsorship</i></b></p> <ul style="list-style-type: none"> <li>- Business to business communication will be limited and will shrink the category. (Similar comments were by Manufacturers, Distributors and Consortiums)</li> </ul>	Oppose	No proposal made	<ul style="list-style-type: none"> <li>- The Bill does not prohibit Business to business communication.</li> </ul>

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose the proposal?</u>	What <u>amendments do they propose?</u>	Have these amendments been <u>incorporated in your proposal?</u>
<b>TOBACCO INDUSTRY: MANUFACTURERS, DISTRIBUTORS AND CONSORTIUMS</b>	<p><i>Legislating the Electronic Nicotine and Non-Nicotine Delivery Systems (ENDS &amp; ENNDS)</i></p> <p><b>PMI: Risk-</b> Regulating ENDS similar to tobacco products will:</p> <ul style="list-style-type: none"> <li>- Prevent smokers from making the switch to alternative less harmful products.</li> <li>- Protect cigarettes from competing with ENDS.</li> <li>- Create difficulties for consumers who wish to know products ranges and want to try (taste) them out.</li> <li>- In addition, plain packaging will confuse consumers to assume that ENDS are as dangerous as cigarettes.</li> </ul>	Oppose	<p><b>PMI:</b></p> <p>The Bill should rather focus on tightening regulations and minimum age laws. Ensure rigorous enforcement is put in place.</p>	<p>Not accepted</p> <ul style="list-style-type: none"> <li>- Advertising of ENDS &amp; ENNDS is prohibited.</li> </ul>
			<p>Adult smokers should be given access to information about less harmful products in order to be made aware of alternatives and thereafter make informed decisions.</p>	<p>Not accepted</p> <ul style="list-style-type: none"> <li>- Communication is restricted to avoid misleading descriptors and advertisement</li> <li>- The Bill already allows for limited exemption such as Business to Business communication. These exemptions are not meant to bypass the Law.</li> <li>-</li> </ul>
			<p>Products should be regulated differently because they do not contain the same properties.</p>	<p>Not accepted</p> <ul style="list-style-type: none"> <li>- All tobacco and ENDS &amp; ENNDS products will be regulated.</li> <li>- The products cause health harm and are addictive.</li> </ul>

Name of Stakeholder	What do they see as main <u>benefits</u> , <u>Implementation/ Compliance costs</u> and <u>risks</u> ?	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal?
			<p><b>PMI, BATSA and JTI:</b> The definition of smoke should distinguish between combustible and non-combustible.</p>	<p>Not accepted</p> <ul style="list-style-type: none"> <li>- Both combustible and non-combustible products are harmful.</li> <li>- The law makes provision for developing legal definitions and in this case the required distinction can be used to mislead the public on health effects</li> </ul>
			<p>Communication on scientific evidence on alternatives to smoking should be allowed.</p>	<p>Not accepted</p> <ul style="list-style-type: none"> <li>- Communication is restricted to avoid misleading descriptors and advertisement</li> </ul>
			<p>To allow adult smokers to try out smoke-free products before purchasing them. To allow age-verified internet sales.</p>	<p>Not accepted</p> <ul style="list-style-type: none"> <li>- Trying out of products is a form of promotion and sponsorship, not allowed in current law</li> <li>- The current law does not allow internet sales</li> </ul>

Name of Stakeholder	What do they see as main <u>benefits</u> , <u>Implementation/ Compliance costs</u> and <u>risks</u> ?	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal?
			<p>To exclude smoke-free products from the following:</p> <ul style="list-style-type: none"> <li>- the point-of-sale display ban.</li> <li>- Plain packaging requirements</li> <li>- 100% smoke free areas in indoor public places and certain outdoor areas</li> <li>- A ban on advertising of ENDS &amp; ENNDS</li> </ul>	<p>Not accepted</p> <ul style="list-style-type: none"> <li>- The products are harmful and the objective of the Bill is to protect and promote public health</li> </ul>
			<p>ENDS &amp; ENNDS should be prohibited in places that are frequented by minors such as schools and outside designated areas in healthcare facilities.</p>	<p>Not accepted</p> <ul style="list-style-type: none"> <li>- Evidence suggests that there is second-hand smoke (aerosol) harm.</li> </ul>

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose the proposal?</u>	What <u>amendments do they propose?</u>	Have these amendments been <u>incorporated in your proposal?</u>
			Should include an “exemptions” clause. For example, the Tobacco Products Control Act 83 of 1993 and the Medicines and Related Substances Act 101 of 1965 Medicines Act	Not Accepted - All products are harmful to health and the Bill aims to protect and promote public health.
			Health warnings should be consistent with the known risks of different products	Not accepted - The products are harmful - Health warnings will be based on evidence. - The terminology “known” undermines the protection of public health. - Current evidence from credible sources is sufficient to inform regulation.
	<p><b>100% Smoke Free Areas – indoor, public places and certain outdoor areas that will be determined</b> <b>Public Smoking Ban</b></p> <p><b>JTI:</b> Smoking bans are likely to decrease the number of customers that support establishments.</p>	Oppose	Existing designated smoking areas in private and public places, written smoking policies, visible signage, and effective ventilation should be maintained. Rather increase enforcement.	Not accepted - Existing legislation is not comprehensive and does not protect non-smokers adequately. (Ngobese, et al, 2021). Some willing restaurants are already smoke free (Little, van Walbeek, 2018)

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose the proposal?</u>	What <u>amendments do they propose?</u>	Have these amendments been <u>incorporated in your proposal?</u>
	<p>There will most likely be negative financial impact on business activities and revenue such as:</p> <ul style="list-style-type: none"> <li>• Cost of going smoke free;</li> <li>• Lack of enforcement; and</li> <li>• Criminalisation of smokers.</li> </ul> <p>The WHO FCTC does not require 100% smoke-free indoor places</p>		<p>Alternatively, there should be no waiter services in the smoking designated areas in restaurants, and customers be afforded the opportunity to take beverages and/or food into these areas on their own.</p>	<p>Not accepted</p> <ul style="list-style-type: none"> <li>- Research revealed that there is still exposure to smoke in the smoke-free areas (Ngobese et al, 2021)</li> </ul>
			<p>Educational programs and targeted campaigns stimulating responsible behaviour.</p>	<p>Accepted</p> <ul style="list-style-type: none"> <li>- However, education alone is not adequate for behaviour change</li> </ul>
	<p><b><i>Plain Packaging with Graphic Health Warnings / Pictorials</i></b></p> <p>Destroys the value of the product, the product becomes less competitive against other legitimate brands.</p> <p>Counterfeiting of cigarettes will be made easier or will be enabled.</p>	<p>Oppose</p>	<p>Maintain Health Warning size of 30%. Sufficient for information purposes about the product.</p>	<p>- Not accepted</p> <p>Research demonstrates that larger and pictorial Health Warnings are more effective (Wakefield et al, 2012; Crawford et al, 2019.)</p>

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose the proposal?</u>	What <u>amendments do they propose?</u>	Have these amendments been <u>incorporated in your proposal?</u>
	<p>There will be a difficulty for smokers, to distinguish between a real pack from a fake pack. The recognition process will be an impossible task.</p> <p>There will be cost implications to implement plain packaging for brands and brands will lose their customer base because customers are no longer confident or satisfied with their brand offering. Due to that the customers are no longer able to tell which brands they are purchasing.</p> <p><b>JTI:</b> The Bill will certainly exacerbate the rise in illicit trade market and lead to further declines in product volumes and revenue for the legal – legitimate tobacco industry.</p>		Ratification of the FCTC Illicit Trade protocol (ITP)T Protocol should be done as a matter of urgency.	Accepted
	<p><b><i>Ban on display at point-of-sale</i></b></p> <p>There will be cost implications for manufacturers and retailers.</p> <p>Currently there are approximately 180,000 stores in South Africa (AC Nielsen). There will be an impact on store operational efficiencies. The lead to customer delays for service are imminent. Furthermore, other foreseen impacts will be on staff and other purchases.</p>	Oppose	There is a need to revise certain aspects of the proposed Bill.	<p>Not accepted</p> <p>- The stakeholder did not make an explicit proposed amendment for consideration.</p>

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose the proposal?</u>	What <u>amendments do they propose?</u>	Have these amendments been <u>incorporated in your proposal?</u>
<b>VENDING ASSOCIATION OF SOUTHERN AFRICA</b>	<p>There will be a loss of income for Vending Operators. The current approximate - turnover loss will be R90M/annum. The machine quantity is approximately 1400 machines worth R28M that can no longer be used or converted for alternative use. This will impact on unemployment opportunities:</p> <ul style="list-style-type: none"> <li>- Loss of rebates from vending sales</li> <li>- Loss of related purchases as smokers and social groups will spend less time at venues</li> </ul> <p>Manufacturers have a customer base that they will no longer be able to sell their products to. Furthermore, vending machines provide for an economical and efficient supply chain. Vending machines vs Numerous suppliers having to call on venues etc. was advantageous.</p>	Oppose	<p>Vending machines are already available at 18 years+ venues and sometimes some establishments place these vending machines out of sight.</p>	<ul style="list-style-type: none"> <li>• Not accepted Vending machines are a point of advertising and create easy access for under 18's.</li> </ul>
			<p>There is no need to ban vending machines but rather introduce technology that uses smart ID cards in order to limit access to cigarettes by minors/children under the age of 18.</p>	<p>Not accepted</p> <ul style="list-style-type: none"> <li>• The smart ID cards do not prevent the under 18s from using Identity cards of people above 18.</li> </ul>
<b>HOSPITALITY INDUSTRY</b>	<p><b><i>100% Smoke Free Areas - indoor public places and certain outdoor areas that will be determined</i></b></p> <p><b>COSTS:</b></p> <ul style="list-style-type: none"> <li>• Nationally, gross gambling revenue will decrease by a minimum of 18% which results in a monetary loss of R3.16</li> </ul>	Oppose	Keep the status quo	<p>Not accepted</p> <ul style="list-style-type: none"> <li>• According to WHO, no study using objective data and sound research methodology has found an overall negative impact because of smoke free laws. (WHO, Myth 8: Smoke-free laws harm the hospitality and tourism sectors)</li> </ul>



Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose the proposal?</u>	What <u>amendments do they propose?</u>	Have these amendments been <u>incorporated in your proposal?</u>
	<p>billion. Indications show that the total decrease could be as much as 25%.</p> <ul style="list-style-type: none"> <li>• This will in turn impact on financial institutions who have extended literally billions of rands of credit to these larger casinos.</li> <li>• Cost to reconfigure gaming floors.</li> </ul> <p><b>RISKS:</b></p> <ul style="list-style-type: none"> <li>• A sharp decrease in provincial GGR tax revenue across the country by 19% which translates to an actual monetary decrease of R343 million in provincial gambling taxes.</li> <li>• A decrease of 18% in VAT payments for the country as a whole – that is a monetary loss of R442 million.</li> <li>• An estimated more than 2000 direct and another 2000 indirect jobs would be lost.</li> <li>• Capital expenditure, development, investment, and job creation will be halted. It will not be viable to invest in the casino industry.</li> <li>• Billions of rands will be lost by the fiscus when people turn to illegal gambling on the internet.</li> <li>• Increased social evils and crime when gambling takes place in an unregulated environment.</li> </ul>			

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose the proposal?</u>	What <u>amendments do they propose?</u>	Have these amendments been <u>incorporated in your proposal?</u>
FARMERS AND SMALL BUSINESS	<p><b><i>Legislating the Electronic Nicotine and Non-Nicotine Delivery Systems (ENDS &amp; ENNDS)</i></b></p> <p><b>Risk:</b> A possible shutdown of the whole ENDS &amp; ENNDS industry in South Africa.</p> <p>There will be a missed opportunity to leverage on the industry's contribution to the harm reduction agenda.</p>	Oppose	ENDS should be regulated through a standard – because the focus is on product quality.	<p>Not accepted</p> <ul style="list-style-type: none"> <li>- Standards do not serve the public health agenda, especially on harmful products.</li> </ul>
	<p><b><i>100% Smoke Free Areas - indoor public places and certain outdoor areas that will be determined</i></b></p> <p>Loss in revenue for small businesses. This includes the informal hospitality sector, such as thousands of shebeens and taverns.</p>	Oppose	<p>Keep the current 25% Designated Smoking Areas provisions.</p> <p>Rather promote consumer and retailer education about the requirements to comply with the law, in the interests of public health.</p>	<p>Not accepted</p> <ul style="list-style-type: none"> <li>- 25% smoking areas expose workers and non-smokers to second-hand smoke.</li> </ul> <p>Partially accepted</p> <ul style="list-style-type: none"> <li>• Communication is restricted to avoid misleading descriptors and advertisement.</li> <li>• The Bill already allows for limited exemption such as Business to Business communication. These exemptions are not meant to bypass the Law.</li> </ul>
	<p><b><i>Ban the sale of cigarettes through vending machines</i></b></p> <p>There will be no impact on the Legal Industry. The ban on vending machines is supported because it does not have a robust age verification process prior to purchase.</p>	Support	Ban vending machines	<ul style="list-style-type: none"> <li>• Accepted</li> </ul>

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose the proposal?</u>	What <u>amendments do they propose?</u>	Have these amendments been <u>incorporated in your proposal?</u>
	<p><b><i>Plain packaging with graphic health warnings/pictorials</i></b>  This will create a loss in excess of R8.5 bn for the Legal Industry alone.</p> <p>Investments by legitimate retailers, farmers, and manufacturers will be undermined.</p> <p>There will be damage to South Africa's international economic reputation as a safe destination for foreign direct investment and intellectual property rights infringement.</p>	Oppose	Graphic Health Warnings covering 30% of the front on the bottom of the pack; 50% of the back of pack – No Plain Packaging	Not accepted. <ul style="list-style-type: none"> <li>• Research demonstrates that large noticeable Health Warnings are more effective.</li> </ul>
	<p><b><i>Ban on display at point-of-sale</i></b></p> <p>This ban violates fundamental rights of businesses, including the right to freedom of expression and the right to engage in a lawful business by impairing the ability of manufacturers to communicate with adult consumers.</p> <p>Prices would fall and consumption would increase due to commoditization of brands.</p>	Oppose	No Retail Display Ban to be introduced. Rather make mandatory inclusion of clear Youth access provision communication at the Point of Sale.	Not accepted <ul style="list-style-type: none"> <li>• The intention of the Bill is to protect the health of all citizens</li> </ul>

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose the proposal?</u>	What <u>amendments do they propose?</u>	Have these amendments been <u>incorporated in your proposal?</u>
	<p><b>Concerns on the SEIAS Process:</b> There will be a shutdown of legal industry operations.</p> <p>The current impact assessment report does not consider the current operation environment issues such as illicit trade, jobs across the tobacco value-chain, revenues, and livelihoods.</p>	Oppose	<p>A detailed evidence based impact assessment report should be commissioned from an independent economist. That impact assessment report should cover full value chain aspects based on current operation environment issues of the industry.</p> <p><b>JTI:</b> Made a proposal that government updates the current impact assessment report with global benchmarking examples using statistical evidence wherein the proposed amendments of the Bill have been effective.</p>	<p>Not accepted</p> <ul style="list-style-type: none"> <li>- Section 4.2 of the SEIAS Guidelines, recommends that custodian departments conduct their own impact assessments.</li> <li>- This SEIAS report has taken consideration of the RSA environment. The SEIAS has been fair, good-faith, the proposed Bill has considered local and international scientific evidence.</li> <li>- The SEIAS also used lessons from countries such as the UK and Australia.</li> </ul>

- b) Summarise and evaluate the main disagreements about the proposal arising out of discussions with stakeholders and experts inside and outside of government. Do not give details on each input, but rather group them into key points, indicating the main areas of contestation and the strength of support or opposition for each position

Generally, government departments support the Bill. However, areas of concern were raised by the Departments of Tourism as well as Small Business Development as indicated in the table above.

The other areas of concerns are as follows:

- **The 100% ban on smoking in indoor public places**

The perception is that the ban will lead to loss of revenue for the two sectors and ultimately the loss of jobs, as tobacco users may choose not to visit establishments, a concern shared by the tobacco industry.

The department takes cognisance of these perceptions, however local and international evidence confirms that these concerns are unproven. A study of the restriction of smoking in South African restaurants in 2000 found that it had a positive effect on revenues. (Bletcher, 2006). A 2018 UCT study found that 44% of the sampled restaurants were already 100% smoke-free, 44% had smoking sections outside, 11% had smoking sections inside, and only 1% allowed smoking anywhere. (Little & van Walbeek, 2018)

A study titled **Much Ado About Nothing? – Smoking Bans and Germany’s Hospitality Industry** estimated less than 2% short term decline in sales after smoking bans, with evidence that adverse effects do fade out if smoking bans have been in force for some time. This did not support worries previously expressed in Germany that smoking bans would be of serious harm to hospitality businesses. (Kvasnicka et al, 2012)

David E Garte (President & CEO: San Luis Obispo Chamber of Commerce, 2003) said there are gains for the business sector as confirmed in his statement: *“I must admit that when smoke free ordinance was presented, we were extremely wary of it. We **feared** that a ban on smoking would cost the business community revenue, jobs, tourists, and tourists generated income. Suffice to say our **initial fears were unfounded** and today, I am pleased to report that the effects have been extremely positive”*

Scientific evidence during the lockdown in the country shows that: A ban caused a drastic reduction in the use of tobacco products and ENDS & ENNDS, as demonstrated during the

COVID- 19 national hard lockdown. Surveys conducted estimate that between 16% to 48% people quit smoking during the lockdown (van Walbeek, 2021, Saloojee 2021).

A 2020 study conducted at the George Regional hospital in Cape Town compared the number and severity of COPD patients presenting to George Regional hospital from January to August 2020 and during the same period in 2019. The findings reveal a 69% reduction in patients presenting with severe COPD compared with the same period the previous year (Saieva et al, 2021). The reduction benefited the health system in that there were fewer COPD patients presenting to hospital and requiring admission.

Whilst there are positive outcomes on the ban during lockdown, a study by (van Walbeek, 2021) revealed an increase in illicit trade and a loss in excise revenue to government. This could have been averted if there was an effective tracking and tracing system and strong enforcement.

It is a constitutional imperative for government to protect all citizens from the harmful effects of second-hand smoke: The right to an environment that is not harmful to health or wellbeing (Section 24 (b) of the Constitution of RSA).

The tobacco industry raised the following concerns:

- **Plain packaging of tobacco products including graphic health warnings**

The tobacco industry raised concerns that such regulation will lead to illicit trade and that graphic health warnings will be costly for the tobacco industry since the industry would need to re-engineer the machines.

International experience reveals that plain packaging does not increase illicit trade but rather reduces the overall demand for tobacco products. The WHO states that the tobacco industry is complicit in illicit trade and the University of Bath Tobacco Control Research Group revealed that globally, the tobacco industry has exaggerated illicit trade data and manipulated the press over illicit trade matters (Lavery, 2021; Rowell et al, 2014).

The experience in South Africa points to numerous gaps in the system which could be improved by, amongst others, strengthening enforcement mechanisms and ratification of the Illicit Trade Protocol by Parliament, hence the disagreement with the tobacco industry. The benefits of plain packaging far outweigh tobacco industry concerns.

- **Ban of advertisement at point of sale**

The tobacco industry raised a concern that the perceived loss of sales will “harm business”.

Evidence from Ireland has revealed that the point of sale ban showed no significant economic impact on store revenue a year after the ban (McNeill et al, 2012).

The advertisement of tobacco products at a point of sale increases youth susceptibility, initiation, or experimentation to smoking. Youth susceptibility to smoking experimentation/

initiation because of the attractiveness created at the Point of Sale is a major concern, hence the opposition to the tobacco industry arguments.

In 2012, the South African Supreme Court of Appeal stated that “there could be no question that the government has a responsibility to protect its citizens from the ravages of tobacco” and that a “prohibition of the advertising and promotion of tobacco is reasonable and justified.” Point of sale advertising promotes the sale of tobacco products and contradicts the Supreme Court ruling. (British American Tobacco South Africa (Pty) Ltd v Minister of Health, 2012)

- **Regulation of electronic cigarettes**

ENDS & ENDS companies claim that electronic cigarettes should be regulated separately to conventional tobacco products because they are “less harmful” .However, the 2021 WHO Report on the Global Epidemic, clearly states that e-cigarettes are “undoubtedly harmful” because they contain toxic substances including nicotine which is highly addictive, and can lead to heart disease, strokes, (WHO, 2020; Tsai et al, 2020 ) and respiratory damage (Wills et al, 2020; National Academies of Science, Engineering & Medicine, 2018). The non-nicotine delivery systems which contain artificial flavourings have been found to be equally harmful, when inhaled the flavourings have been shown to cause serious lung disease (US Department of Health and Human services, 2016)

Additionally, there is a risk that use of the products by children and youths promotes subsequent tobacco use (Keller-Hamilton et al, 2021). Research from Poland and the US shows an increasing number of adolescents who had never smoked are using e-cigarettes (Barrington -Trimis, Urman et al, 2016). A South African study has found a high incidence of dual use – that is most current e-cigarette users (97.5%) were concurrently and regularly cigarette users (Agaku et al, 2021).

It is for the reasons stated above that the Bill regulates electronic delivery systems.

At a global level, over 20 countries have completely ban the use and sale of e-cigarettes including Uganda, Ethiopia, Uruguay, and Brazil. Other countries regulate e-cigarettes as medicinal products, allowing use only under prescription, and these include Australia and Japan. In addition , more than 40 countries extend tobacco control laws to e-cigarettes and regulate the different products under a single legislation similar to South Africa. These countries include: Canada, New Zealand, and Norway.

With variations in regulation, the common restrictions include restrictions on public use (public places), content, advertising, marketing, and minimum age provisions. The Bill includes these

restrictions and empowers the enactment of regulations to address the different products more specifically.

The importance of combining the regulation of e-cigarettes with other tobacco products is informed by the emerging evidence on the harm to human health, addiction and dual use as highlighted above.

- 2.4. Describe the groups that will benefit from the proposal, and the groups that will face a cost. These groups could be described by their role in the economy or in society. Note: No law or regulation will benefit everyone equally so do not claim that it will. Rather indicate which groups will be expected to bear some cost as well as which will benefit. Please be as precise as possible in identifying who will win and who will lose from your proposal. Think of the vulnerable groups (disabled, youth women, SMME), but not limited to other groups.

List of beneficiaries (groups that will benefit)	How will they benefit?
Tobacco consumers	Healthcare benefits and reduced costs; productivity, quality of life, better access to information, lower insurance premiums, and expenditure savings.
Children, youth, non-smokers.	Minimised addiction temptations, healthcare, limited exposure to second hand tobacco smoke and chemicals/vapour from ENDS & ENNDS products.
People with tobacco-related diseases (cardiovascular, lung, asthma, cancer)	Lower risk of death and disability health, reduced health care costs
Women, including pregnant women.	Lower risk exposure to second hand tobacco smoke and chemicals/vapour from ENDS & ENNDS products, sudden infant death syndrome, improved health of babies.
Government	Savings in health care expenditure and the economy due to loss of productive labour force.
Business and citizens	Economic profit, labour productivity and reduced risk of fires. Notably about 6% of fires in South African informal settlements are caused by smoked cigarette butts.



List of cost bearers (groups that will bear the cost)	How will they incur / bear the cost
Hospitality industry	Revamp smoking areas for alternative use.
Small business	Reduced tobacco and related product sales over-time which will be replaced by an increase in sales of other alternative products the business decides to diversify with.
Manufacturers and distributors of cigarettes and other tobacco products	In 2018, BATSA estimated the cost of compliance with the introduction of Plain Packaging to be about R2.4 billion over two years. The tobacco industry is currently paying retail outlets to advertise tobacco products at POS. This marketing expenditure will fall away as the POS display bans become effective
Retailers, including supermarkets, forecourt retailers and small retail stores	Loss of revenue from POS marketing. However, the retailers will be able to make profit from other products that are sold within the business. Only Shell remains concerned with POS restrictions and the Plain Packaging. The retailers did not foresee any impact on employment.
Cigarette vending machine manufacturers, operators, and importers	Cost of diversification or technological adaptation or repurposing machines. Some vendors have diversified into other products, such as sweets and soft drinks. Some owners may need to sell machines to countries that still permit vending, however, transportation costs of the machines might initially be a concern.
ENDS & ENNDS manufacturers, importers, retailers, and wholesalers	To redesign current outlets/ kiosk. Rebranding of trucks currently used for marketing. Relabelling and repackaging of imported products.

***\*\*\*Whilst responses to the following section have been provided, comprehensive information will be furnished once the Bill has been submitted to Parliament as per guidance of The Presidency.***

2.5. Describe the costs and benefits of implementing the proposal to each of the groups identified above, using the following chart. Please do not leave out any of the groups mentioned, but you may add more groups if desirable. Quantify the costs and benefits as far as possible and appropriate. Add more lines to the chart if required.

*Note: “Implementation costs” refer to the burden of setting up new systems or other actions to comply with new legal requirements, for instance new registration or reporting requirements or by initiating changed behaviour. “Compliance costs” refers to on-going costs that may arise thereafter, for instance providing annual reports or other administrative actions. The costs and benefits from achieving the desired outcomes relate to whether the particular group is expected to gain or lose from the solution of the problem.*

*For instance, when the UIF was extended to domestic workers:*

- The implementation costs were that employers and the UIF had to set up new systems to register domestic workers.*
- The compliance costs were that employers had to pay regularly through the defined systems, and the UIF had to register the payments.*
- To understand the inherent costs requires understanding the problem being resolved. In the case of UIF for domestic workers, the main problem is that retrenchment by employers imposes costs on domestic workers and their families and on the state. The costs and benefits from the desired outcome are therefore: (a) domestic workers benefit from payments if they are retrenched, but pay part of the cost through levies; (b) employers pay for levies but benefit from greater social cohesion and reduced resistance to retrenchment since workers have a cushion; and (c) the state benefits because it does not have to pay itself for a safety net for retrenched workers and their families.*

<b>Group</b>	<b>Implementation costs</b>	<b>Compliance costs</b>	<b>Costs/benefits from achieving desired outcome</b>	<b>Comments</b>
NDOH and Provincial Health Departments	Education and awareness campaigns. Development of Information, Education and	Social Reengineering programme; Monitoring and Enforcement	<ul style="list-style-type: none"> <li>• Compliance with the amendments</li> <li>• Reduced public responses to misleading</li> </ul>	The cost for Government will be achieved within the existing budget.

Group	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
	<p>Communication (IEC).</p> <p>Development of training manuals.</p> <p>Training of Environmental Health Practitioners, Health Promotion Practitioners, and other compliance officers</p>		<p>descriptors and packaging</p> <ul style="list-style-type: none"> <li>• Reduced health and economic burden of tobacco related death and disease</li> <li>• Improved health outcomes</li> <li>• Reduced environmental harm associated with tobacco use</li> <li>• Promotion of health and prevention of marketing, especially to young people will be reduced</li> </ul>	
Tobacco Industry: Manufacturers and Retailers	Selling of vending machines or diversification of their use to sell alternative products.	<p>Plain packaging &amp; POS</p> <p>Adapt/revamp structures previously dedicated for smoking zones</p>	Improved health and personal savings to their employees	The Bill seeks to protect and promote the health of all South Africans, including the tobacco industry.
Hospitality Industry	Clean areas that were previously dedicated as smoking areas	<p>Adapt/revamp structures previously dedicated for smoking areas</p> <p>Develop stringent rules regarding implementation and enforcement of the new law so as to ensure customers comply.</p> <p>Communication and awareness costs of the new law to customers</p>	<p>Positive environmental/ aesthetic impact</p> <ul style="list-style-type: none"> <li>• Low biodegradability of cigarette butts which has adverse effects on the environment and the ecosystem</li> <li>• Attract new customers that</li> </ul>	

Group	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
			<p>were previously discouraged by a smoking environment</p> <ul style="list-style-type: none"> <li>• Reduced healthcare cost for staff and cleaning services especially dry cleaning.</li> </ul>	

2.6 Cost to government: Describe changes that the proposal will require and identify where the affected agencies will need additional resources

- a) Budgets, has it been included in the relevant Medium Term Expenditure Framework (MTEF) and
- b) Staffing and organisation in the government agencies that have to implement it (including the courts and police, where relevant). Has it been included in the relevant Human Resource Plan (HRP)

Tobacco control monitoring and compliance forms part of the functions of the Environmental Health Officer's work and additional staff maybe required to strengthen control efforts at ports of entry and within local authorities. However, monitoring systems being used are from different parts of government. Therefore, monitoring is not the responsibility of one department but a collective government responsibility.

2.7 Describe how the proposal minimises implementation and compliance costs for the affected groups both inside and outside of government.

**For groups outside of government (add more lines if required)**

Group	Nature of cost (from question 2.6)	What has been done to minimise the cost?
N/A		

**For government agencies and institutions:**

Agency/institution	Nature of cost (from question 2.6)	What has been done to minimise the cost?
N/A		

2.8 Managing Risk and Potential Dispute

a) Describe the main risks to the achievement of the desired outcomes of the proposal and/or to national aims that could arise from implementation of the proposal. Add more lines if required.

Describe measures taken to manage the identified risks. Add more rows if necessary.

*Mitigation measures means interventions designed to reduce the likelihood that the risk actually takes place.*

Identified risk	Mitigation measures
Uncoordinated implementation by government departments/ agencies in dealing with tobacco and related products	<ul style="list-style-type: none"> <li>- Establish a National Tobacco Control (NTC) coordinating mechanism for coordinated planning, implementation, monitoring and evaluation</li> <li>- Ongoing consultation and highlight the importance of the amendments</li> </ul>
Resistance by the tobacco and ENDS & ENNDS products companies; and others across the tobacco value chain to comply with prescribed regulatory measures	Intensify public awareness campaigns about the tobacco control law and benefits thereof. As soon as the public is made aware of the benefits to human health, economy, and environment. They will support and demand compliance.
Litigation against government	South Africa has limited domestic information on the new generation products which contain tobacco, this research and research on the impact of COVID-19 are underway to support already existing international evidence and best practices to support the implementation of local policy interventions. The Bill seeks to improve public health.
Potential loss of revenue in form of taxes in the short term	
<p><b>100% Smoke Free Areas – indoor, public places and certain outdoor areas</b></p> <p><b>Risks:</b> The tobacco and hospitality industries say this will reduce legal tobacco consumption, volumes will decline and this will cause harm on</p>	<ul style="list-style-type: none"> <li>- The industries have not provided evidence to substantiate this position.</li> <li>- Lessons learnt from other countries point instead to increased revenue for public places such as restaurants. There is no evidence pointing to the shutting down of hospitality places because of tobacco control laws.</li> </ul>

Identified risk	Mitigation measures
profit margins, resulting in retail business shutdown.	
<b>Legislating the Electronic Nicotine and Non-Nicotine Delivery Systems (ENDS &amp; ENNDS)</b> <b>Risks:</b> The industry says legislating these products will eliminate the entire sub-category and miss an opportunity on growth. As a result.	There is no evidence to the industry assertions. The Bill does not ban the sales of ENDS and ENNDS.

b) What kinds of dispute might arise in the course of implementing the proposal, whether (a) between government departments and government agencies/parastatals, (b) between government agencies/parastatals and non-state actors, or (c) between non-state actors? Please provide as complete a list as possible. What dispute-resolution mechanisms are expected to resolve the disputes? Please include all of the possible areas of dispute identified above. Add more lines if required.

Nature of possible dispute (from sub-section above)	Stakeholders involved	Proposed Dispute-resolution mechanism
Dissatisfaction with the outcome of certain outdoor smoking areas that will be determined.	Hospitality industry and tobacco consumers	<ul style="list-style-type: none"> <li>- Court and tribunal processes</li> <li>- Protection of Administrative Justice Act, 2000 processes</li> <li>- Public comment process on the draft regulations for the Act</li> <li>- Ongoing consultation and highlight the importance of the amendments</li> </ul>
Prohibition of selling of single stick cigarettes.	Small business and tobacco consumers.	<ul style="list-style-type: none"> <li>- Court and tribunal processes</li> <li>- Protection of Administrative Justice Act, 2000 processes</li> <li>- Public comment process on the draft regulations for the Act</li> <li>- Ongoing consultation and highlight the importance of the amendments</li> </ul>

## 2.9 Monitoring and Evaluation

It is important to note that tobacco control measures can only be achieved through inter-sectoral collaboration. The Department of Health as the implementing agency for tobacco control in the country will take leadership in consulting the key stakeholders in tobacco control, that is, government Departments and civil society to develop a costed multi-sectoral action plan on the

implementation of the Bill. A communications plan of the Bill will also be outlined. Monitoring and evaluation strategies will be predetermined for intended deliverables. Technical resources will be sourced to cost or do verification cost on implementation mandates on complex issues impacting either the industry or tobacco control entities. The costed plan will be available within 3 months from the date of tabling the Bill in parliament.

2.10 Please identify areas where additional research would improve understanding of then costs, benefit and/or of the legislation.

- Additional research on electronic delivery systems to enable greater insight and understanding on prevalence, behavioural aspects and trends on usage over time.
- Undertake an evaluation of the impact of the legislative measures on tobacco products and electronic delivery systems.

**PART THREE: SUMMARY AND CONCLUSIONS**

1. Briefly summarise the proposal in terms of (a) the problem being addressed and its main causes and (b) the measures proposed to resolve the problem.
  - a) The problem(s) being addressed in the Bill are detailed in Part One of this assessment under section 1.1 and 1.2;
  - b) In light of the legislative developments that have occurred for the past two decades; tax regimes; trend of increase in smoking prevalence and consumption statistics; public health dangers posed by smoking tobacco directly and indirectly through exposure to Second Hand Smoke, have necessitated for the current Tobacco Products Control Act (TPCA) to undergo a repeal process in order to address key areas pertaining to indoor public smoking areas; the display of tobacco products at point of sale; use of electronic devices and the introduction of plain packaging of tobacco products.
2. Identify the social groups that would benefit and those that would bear a cost, and describe how they would be affected. Add rows if required.

Groups	How they would be affected
<i>Beneficiaries</i>	
1. Tobacco consumers	Healthcare benefits and reduced costs; productivity, quality of life, better access to information, lower insurance premiums, and expenditure savings.
2. Children, youth, non-smokers.	Minimised addiction temptations, healthcare, limited exposure to second hand tobacco smoke and chemicals/vapour from ENDS & ENNDS products.

3. People with tobacco-related diseases (cardiovascular, lung, asthma, cancer)	Lower risk of death and disability health, reduced health care costs
4. Women, including pregnant women.	Lower risk exposure to second hand tobacco smoke and chemicals/vapour from ENDS & ENNDS products, sudden infant death syndrome, improved health of babies.
5. Government	Savings in health care expenditure and the economy due to loss of productive labour force.
6. Business and citizens	Economic profit, labour productivity and reduced risk of fires. Notably about 6% of fires in South African informal settlements are caused by smoked cigarette butts.
<b>Cost bearers</b>	
1. Hospitality industry	Revamp smoking areas for alternative use.
2. Small business	Reduced tobacco and related product sales over-time which will be replaced by an increase in sales of other alternative products the business decides to diversify with.
3. Manufacturers and distributors of cigarettes and other tobacco products	In 2018, BATSA estimated the cost of compliance with the introduction of Plain Packaging to be about R2.4 billion over two years. The tobacco industry is currently paying retail outlets to advertise tobacco products at POS. This marketing expenditure will fall away as the POS display bans become effective
4. Retailers, including supermarkets, forecourt retailers and small retail stores	Loss of revenue from POS marketing. However, the retailers will be able to make profit from other products that are sold within the business. Only Shell remains concerned with POS restrictions and the Plain Packaging. The retailers did not foresee any impact on employment.
5. Cigarette vending machine manufacturers, operators, and importers	Cost of diversification or technological adaptation or repurposing machines. Some vendors have diversified into other products, such as sweets and soft drinks. Some owners may need to sell machines to countries that still permit vending, however, transportation costs of the machines might initially be a concern.
6. ENDS & ENNDS manufacturers, importers, retailers, and wholesalers	To redesign current outlets/ kiosk. Rebranding of trucks currently used for marketing. Relabelling and repackaging of imported products.

3. What are the main risks from the proposal in terms of (a) undesired costs, (b) opposition by specified social groups, and (b) inadequate coordination between state agencies?

- Uncoordinated implementation by government departments/ agencies in dealing with tobacco and related products



- Resistance by the tobacco and ENDS & ENNDS products companies; and others across the tobacco value chain to comply with prescribed regulatory measures
- Litigation against government
- Potential loss of revenue in form of taxes in the short term

4. Summarise the cost to government in terms of (a) budgetary outlays and (b) institutional capacity.

Tobacco control monitoring and compliance forms part of the functions of the Environmental Health Officer’s work and additional staff maybe required to strengthen control efforts at ports of entry and within local authorities. However, monitoring systems being used are from different parts of government. Therefore, monitoring is not the responsibility of one department but a collective government responsibility.

5. Given the assessment of the costs, benefits and risks in the proposal, why should it be adopted?

The proposal seeks to reduce the use of tobacco and ENDS & ENNDS products which contribute to nicotine addiction. The Bill repeals the amended Tobacco Products Control Act 1993 to consolidate currently fragmented and limited legislation regulating tobacco products and e-cigarettes. As a result, respond to changes in the epidemiological, technological, and marketing environments.

6. Please provide two other options for resolving the problems identified if this proposal were not adopted.

<p><b>Option 1.</b></p>	<p><b><i>Maintain the status quo</i></b></p> <ul style="list-style-type: none"> <li>• No changes to the current legislation, therefore the Tobacco control legislation will remain as is currently</li> <li>• The emergence of new tobacco products, Electronic Delivery Systems (ENDS) and Electronic Non-Nicotine Delivery systems (ENNDS) is a public health concern.</li> <li>• Keeping the status quo as is would mean emerging tobacco products, ENDS and ENNDS will continue to be unregulated and flood the market.</li> <li>• Maintaining the status quo will lead to slower progression towards eliminating the harms from the use of tobacco products, ENDS and ENNDS.</li> </ul>
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<p><b>Option 2.</b></p>	<ul style="list-style-type: none"> <li>• <b><i>Address access, education, research and monitoring issues</i></b>  Establishing action plans for the implementation of robust education, communication and training activities  Strengthening enforcement at all levels, including schools  <i>Developing and disseminating appropriate measures to promote cessation of tobacco use and adequate treatment for tobacco dependence</i>  Constant monitoring of the health risks  Increased research output</li> <li>• Option 2 is proposed as it will contribute towards socio-economic growth and enabling the realisation of the National Health goals.</li> </ul> <p>**This option is not comprehensive and will not single-handedly achieve the desired outcomes</p>
<p><b>Option 3</b></p>	<p><b><i>The proposed Bill to repeal the current legislation (as outlined in this report)</i></b></p> <ul style="list-style-type: none"> <li>• The Bill proposes evidence-based measures that have proven to be effective in reducing consumption and access to tobacco and related products globally.</li> <li>• When consumption reduces, the health system will not be overburdened by people with tobacco related diseases which are totally preventable.</li> <li>• Passing the Bill will benefit the health budget because of savings made due to less tobacco related illnesses.</li> <li>• The national fiscus also benefits when consumption reduces due to less absenteeism in the workplace, increased productivity and reduced pre-mature deaths.</li> <li>• A Healthy Nation equals improved productivity and progress in the socio-economic development which enables achievement of the national development targets of South Africa</li> <li>• The proposed Tobacco Products Control (TPC) Bill, seeks to repeal the current Tobacco Control Act of 1993, as amended, and replace it with an amendment act aimed to strengthen tobacco control and align with the World Health Organization Framework Convention on Tobacco Control (WHO FCTC).</li> </ul>

7. What measures are proposed to reduce the costs, maximise the benefits, and mitigate the risks associated with the legislation?

- Establish a National Tobacco Control (NTC) coordinating mechanism for coordinated planning, implementation, monitoring and evaluation
- Ongoing consultation and highlight the importance of the amendments
- Intensify public awareness campaigns about the tobacco control law and benefits thereof. Once the public is made aware of the benefits to human health, economy, and environment. They will support and demand compliance.
- South Africa has limited domestic information on the new generation products which contain tobacco, this research and research on the impact of COVID-19 are underway to support already existing international evidence and best practices to support the implementation of local policy interventions. The Bill seeks to improve public health.

8. Is the proposal (mark one; answer all questions)

	Yes	No
a. Constitutional?	x	
b. Necessary to achieve the priorities of the state?	x	
c. As cost-effective as possible?	x	
d. Agreed and supported by the affected departments?	x <i>(Partially supported, with proposals that have mostly been adopted)</i>	

9. What is the impact of the Proposal to the following National Priorities?

National Priority	Impact
<ul style="list-style-type: none"> <li>• Economic transformation and job creation</li> </ul>	<ul style="list-style-type: none"> <li>• A switch in spending from the manufacture of labour non-intensive products such as cigarettes to products which require more labour will result in job creation. If consumption expenditure is switched from tobacco to other goods and services in the economy, the net employment effects will be positive. (Van der Merwe &amp; Abedian, 2017)</li> <li>• A family's limited income expenditure will be diverted from tobacco consumption to other basic needs which do not cause harm.</li> <li>• Even if the very best tobacco control policies are adopted, in the short-term, due to nicotine addiction and population growth, smoking rates will decline gradually, allowing for adjustment and reallocation of</li> </ul>

National Priority	Impact
	<p>resources towards other sectors. (Tobaccoconomics, 2018). Therefore, there will be little immediate impact on economic transformation and job creation.</p> <ul style="list-style-type: none"> <li>• Initial job losses and losses of revenue in small businesses, tobacco, and hospitality industries due to the switch in use of tobacco products is expected, but to pick up overtime.</li> <li>• Decreased tourism activities and number of people going to venues for business, entertainment and gambling</li> <li>• Expenses to modernise and/or export vending machines to countries where vending machine cigarette sales are allowed; sponsorship and/or support to BEE initiatives; rebranding</li> <li>• An increase in workforce productivity and economic growth due to improved health and reduced absenteeism.</li> <li>• A sharp decrease in provincial GGR tax revenue across the country.</li> <li>• The decrease in the burden of disease as a result of tobacco and the related product</li> <li>• Due to the harmful nature of tobacco and sustainability of job creation there is a needs for transformation from growing tobacco to other alternative agricultural products that will provide for new jobs and economic contribution.</li> <li>• Reducing tobacco consumption will lead to reduced tobacco-related morbidity and mortality, consequently contributing to higher productivity and economic growth.</li> <li>• Farmers currently engaged in tobacco leaf production will likely need to engage in alternative farming, which in the short-run may incur transition costs, but that may be more economically beneficial in the long-run.</li> </ul>
<ul style="list-style-type: none"> <li>• Education, skills and health</li> </ul>	<ul style="list-style-type: none"> <li>• Reduction in tobacco production and consumption will alleviate the burden on the healthcare system both in terms of cost and healthcare practitioners.</li> <li>• Children and the youth are still developing which makes them uniquely vulnerable to nicotine exposure which harms the brain and can reduce their attention span and learning.</li> </ul>

<b>National Priority</b>	<b>Impact</b>
<ul style="list-style-type: none"> <li>Consolidating the social wage through reliable and quality basic services</li> </ul>	<ul style="list-style-type: none"> <li>On average smokers spend about R300 a month on cigarettes. In 2016, the HSRC conducted a study which found that about 2.3 million smokers live in households that receive child support grants. Therefore, measures aimed at reducing tobacco production and consumption will support users and non-users to effectively use their financial resources as well as minimise the need to utilise healthcare services due to ill health.</li> </ul>
<ul style="list-style-type: none"> <li>Spatial integration, human settlements and local government</li> </ul>	N/A
<ul style="list-style-type: none"> <li>Social cohesion and safe communities</li> </ul>	N/A
<ul style="list-style-type: none"> <li>Building a capable, ethical and developmental state</li> </ul>	N/A
<ul style="list-style-type: none"> <li>A better Africa and world.</li> </ul>	N/A

*For the purpose of building a SEIAS body of knowledge please complete the following:*

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