

Tobacco Sales Licensing (Scotland) Bill Consultation Paper

January 2008

Introduction

The FSB is Scotland's largest direct member business organisation, representing 19,000 members. The FSB campaigns for an economic and social environment that allows businesses to grow and prosper. We are happy to participate in the consultation process surrounding the proposed *Tobacco Sales Licensing (Scotland) Bill*.

Response to Questions

1. The key concern that the FSB has about the stronger enforcement of a minimum age limit for the purchase of tobacco are the potential penalties for a generally responsible small business owner who got it wrong on perhaps one occasion during a spot check and did sell to someone who is underage. In addition, would a junior member of staff rather than the business owner be fined for selling tobacco to an under-age person?
2. The FSB would oppose the introduction of a positive licensing scheme as this would add to the regulatory burden and costs on small businesses.
3. The FSB would argue that the overwhelming majority of small shop owners are honest and responsible. The majority should not be punished for the actions of the minority of shop owners who sell tobacco products to underage persons. Indeed, there are moves to improve the situation voluntarily, such as the campaign launched by the Tobacco Alliance, called *Responsible Retailers*. This campaign seeks to promote the positive work undertaken by retailers who are committed to combating underage sales. There is also a scheme being run in the Angus Council area which is a code of practice for retailers when dealing with age restricted products. These sorts of voluntary good

practice schemes are more in line with how the FSB would like to see progress in this area.

4. As stated above, the FSB would not favour the introduction of any form of licensing scheme in this area.
5. The FSB is concerned that if introduced, this scheme would add to the regulatory burden faced by small businesses as well as increasing their costs.
6. As stated above, the FSB does not believe that such a licensing scheme should exist. However, should one be introduced at some point in the future, the FSB would strongly argue that the costs associated with such a scheme should not fall on small retailers.
7. An appropriate punishment for a retailer found to have sold or supplied tobacco to underage customers could be an official warning from the local authority.
8. The FSB feels that whatever the appeals process, the most important thing would be to make it as simple as possible, with as few legal costs as possible for small businesses.
9. If a retailer intentionally flouted the law by selling tobacco products to under-age customers it would seem appropriate for the retailer to be issued with a fixed penalty notice.
10. The FSB would like to reiterate our point that we are against such a scheme, but if such a scheme were introduced, it should be as simple and straightforward as possible to apply for and should cost small businesses as little as possible.
11. We can not identify any equal opportunities impacts arising from this proposal.

For further information on any of the points raised in this submission, please contact Eileen Calveley, Policy Manager, on eileen.calveley@fsb.org.uk or 0141 221 0775.