

Title: Impact assessment of the effect of repealing the Smoke Free Sign Regulations (2007) IA No: 3085 Lead department or agency: DH Other departments or agencies:	Impact Assessment (IA)		
	Date: 12/04/2012		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Secondary legislation		
Contact for enquiries:			
Summary: Intervention and Options			RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£0.6m	£0.6m	-£0.077	Yes
			OUT

What is the problem under consideration? Why is government intervention necessary?

As part of the Government's Red Tape Challenge, businesses called for deregulation of the Smoke-Free Sign regulations, arguing that they are overly prescriptive and costly to comply with. Businesses responding to the Red Tape Challenge consider the ongoing cost of maintenance and replacement of multiple no-smoking signs to be unnecessarily high. They also consider the specific requirements to be inflexible and inappropriately intrusive in many cases, often compromising the character of the buildings on which they are placed.

What are the policy objectives and the intended effects?

The aim is to deregulate the legislative requirements for no-smoking signs, to reduce the current costs without increasing instances of smoking in breach of the smoke-free legislation. The aim is to amend the regulations to reduce the costs to businesses of maintaining signs and to allow signs to be in a format and location that is more acceptable to the businesses concerned, particularly to be more in keeping with the nature of historic buildings.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Two policy options have been considered:

1. Do nothing
2. Amend the regulations

Will the policy be reviewed? It will be reviewed. If applicable, set review date: Month/Year

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:

Ane D. Iton

Date: 11.06.2012

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: 0	High: 0	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0		0	0
High	0		0	0
Best Estimate	0		0	0

Description and scale of key monetised costs by 'main affected groups'

As this is the 'do nothing' option there are no key monetised costs

Other key non-monetised costs by 'main affected groups'

As this is the 'do nothing' option there are no key non-monetised costs

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0		0	0
High	0		0	0
Best Estimate	0		0	0

Description and scale of key monetised benefits by 'main affected groups'

As this is the 'do nothing' option there are no key monetised benefits

Other key non-monetised benefits by 'main affected groups'

As this is the 'do nothing' option there are no key non-monetised benefits

Key assumptions/sensitivities/risks

As this is the 'do nothing' option there are no key assumptions/sensitivities/risks

Discount rate (%)

N/A

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: 0	Net: 0	No	NA

Summary: Analysis & Evidence

Policy Option 2

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: 0.6	High: 1.9	Best Estimate: 0.6

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0.2	0	0.2

Description and scale of key monetised costs by 'main affected groups'

Although on grounds of proportionality it would be inappropriate to pursue an empirical investigation of costs for this measure, estimation on plausible assumptions is possible. On this basis, we've estimated that the familiarisation costs associated with the changes will be £0.2m for local authorities and the types of buildings most affected by the changes. This is a one off cost based on the total number of local authorities, places of worship, holiday parks and historic buildings.

Other key non-monetised costs by 'main affected groups'

Given that existing signs will still be compliant under these proposals, we do not envisage any other significant costs arising from the changes.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	0.1	0.8
High	0	0.2	2.1
Best Estimate	0	0.1	0.8

Description and scale of key monetised benefits by 'main affected groups'

We have calculated figures of £0.8m ('Low') and £2.1m ('high') as an indication of the likely benefit from lower sign replacement costs on buildings where the sign is fixed to the exterior of the premises. The figures are based on savings for churches and other places of worship, historic public buildings, camping caravan and holiday parks; these are the types of buildings where signs must be placed in exposed locations and are therefore most likely to benefit from the changes.

Other key non-monetised benefits by 'main affected groups'

The cost of furnishing new buildings will fall as fewer signs will need to be displayed at each premises. Although signs can be bought cheaply, the total benefit is likely to be large given the number of buildings that are affected.

The appearance of buildings will improve as signs are located more appropriately and designed to be more in keeping with the character of the buildings their placed on.

Key assumptions/sensitivities/risks	Discount rate (%)
<p>External signs need to be replaced every 4 years (high estimate) or 10 years (low estimate) due to weathering and erosion.</p> <p>In the illustrative example of familiarisation costs, one person spends 15 minutes at each premises and local authority familiarising themselves with the legislation.</p> <p>Period of analysis of costs and benefits is 10 years.</p>	3.5

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: 0.023 Benefits: 0.1 Net: 0.077	Yes	OUT

Evidence Base (for summary sheets)

Introduction / Background

1. As part of the Government's growth agenda, the Red Tape Challenge was launched in April 2011 to review the stock of more than 21,000 statutory instruments that currently affect businesses. The aim is to identify and revoke or amend current regulations to reduce burdens on business. Through a series of consultation periods for different themes on a dedicated public website, businesses and public can comment to highlight regulations that they think should change. Between the 6 May and 3 June 2011 the DCMS led the 'Hospitality, Food and Drink' theme which highlighted legislation relating to this sector. This included the regulations governing no-smoking signs as required under smoke free legislation.
2. These regulations attracted a significant number of complaints from business during the Red Tape Challenge. As confirmed in a DCMS press release on 28 September 2011, the Government agreed to amend the Smoke-free (Signs) Regulations 2007 relating to England which set out requirements for no-smoking signs to be displayed in smoke free premises and vehicles. Comments centred on three areas:
 - i. The regulations prescribe that signs are placed at the entrance to smoke free premises. This means that many signs are placed outdoors and are susceptible to weathering and needing to be replaced regularly.
 - ii. Many respondents considered the signs to be unsightly and inappropriate, compromising the appearance of the buildings on which they're placed. These include historic buildings, churches and hotels
 - iii. The prescriptive nature of the legislation means that the signs are an unnecessary cause of worry for those responsible for their display. There is no flexibility in the law to, for example, use a temporary home made sign whilst waiting for a more official one to be fitted.
3. The problems mentioned above fall more heavily on some stakeholders than others. Those that are able to use self adhesive stickers indoors, or on the inside of glass windows and doors, are able to meet the current legal requirements with minimal cost and effort. For those that cannot do this, or would rather not for aesthetic reasons, the costs are somewhat higher and they would benefit from relaxing the regulations.
4. Clearly, having adequate signs was vital to ensure effective implementation and compliance when the smoke free legislation was first introduced in 2007. The clarity and uniformity was a benefit at that stage. However, smoke free legislation has been in place for several years now. It is widely understood and complied with. The strict requirements of the smoke free sign regulations are arguably therefore no longer needed and are disproportionate.

Current Situation

5. Regulations were made under powers in the Health Act 2006 governing the display of No Smoking Signs to support the smoke free legislation introduced in 2007. The Smoke-free (Signs) Regulations 2007 require, in England, that signs displayed on smoke free premises should be at least A5 size, contain the standard no smoking symbol, and the text:

"No Smoking. It is against the law to smoke in these premises".

6. A sign must be displayed at each entrance to all smoke free premises. Signs must also be displayed in smoke-free vehicles including vehicles used for work and those used by the public such as buses and taxis. These do not need to display the text above but must contain the standard no smoking symbol.

Policy Objective

7. The goal of the changes is to allow more flexibility in meeting the requirement to display no smoking signs in smoke-free buildings and vehicles, without reducing the current high levels of compliance with the smoking ban. We hope that by relaxing the regulations, businesses' signage expenditure will fall and signs will become less of an eye sore.

Options

Option 1: Base-line option:

8. Under the status quo, the current problems would remain. We do not envisage that costs to businesses would rise beyond those currently incurred.
9. A preliminary survey of smoke free premises indicates that most of them use vinyl self-adhesive stickers attached to the inside of glass panels in the door or a window near the entrance. These can be bought cheaply for around £3.00 each. Since they are not exposed to the elements, they don't often need replacing.
10. Some premises use rigid plastic signs attached to the outside of the premises. These cost upwards of £6 plus fitting expenses. The Association of Licensed Multiple Retailers, a trade body, states that externally fitted signs have to be replaced every 3 to 4 years.

Option 2: Amending the regulations

11. Following the Red Tape Challenge consultation the Government announced their intention to amend the regulations relating to smoke free signs. We intend to retain the requirement in primary legislation for smoke free premises to display signs but to revoke substantial parts of the regulations, which set out the detailed requirements for the format, and location of signs. To provide equivalent provision for smoke free vehicles, we would need to retain regulations for them, but as for smoke free premises, we would remove the requirement for them to be in a specific format. These regulations are subject to the negative Parliamentary process.

Benefits and Costs of Amending the Regulations

12. Given that most buildings already display no-smoking signs and will not need or want to change their arrangements following the legislative changes, the impact of the proposals is likely to be limited. In view of this, on the grounds of proportionality, very limited resource could be justified to pursue empirical investigation of the costs and benefits. We made every effort to seek further information from the stakeholders who replied to the RTC but they were only able to provide a very limited amount of data and evidence. Although the likely impacts of the changes are mentioned below, they are not all quantified.

Benefits

Fewer signs displayed

1. Currently, at least one sign must be displayed at each entrance to a smoke free premises. Under the proposals only one per premises would be required. Although this is unlikely to benefit existing premises, (with the exception of those that need to maintain/replace signs – see below) the cost of opening a new public premises/workplace should fall. The total cost savings are difficult to quantify as they will depend on the number of public buildings and workplaces that are built in the future, and how many entrances they have.

Reduction in sign maintenance and replacement costs

2. Although the wording of the legislation is not prescriptive, the requirement to display a sign at each entrance is generally taken literally to mean on the door, or on the outside wall of the premises nearest the entrance. This means that, depending on the structure of the building, sometimes a sticker cannot be used and a more expensive plastic or metal sign must be fitted instead. If this is not in a sheltered place erosion may occur meaning the sign would need to be replaced every few years or so. Relaxing the rules on the placement of signs would help mitigate the weathering issue and reduce costs for businesses. Sectors likely to benefit most in this way include historic buildings and places of worship that do not have glass fitted in doors, and holiday parks that have a number of public outbuildings such as toilet and shower blocks. As an indication, we've calculated the value of cost savings for these buildings.
3. The number of historic public buildings in England under the management of the National Trust, the Historic Houses Association and English Heritage is approximately 1600. There are approximately 40,000 places of worship in the UK. PVC signs suitable for outdoor use cost around £6. We assume that fitting them costs £14 to cover parts and labour. Assuming these premises have to change one sign every 4 years (high estimate) or every 10 years (low estimate) changes to the regulations would result in a cost saving of £208,000 per year (high) or £83,200 per year (low).
4. There are approximately 2000 Campsites, Caravan Parks and Holiday Parks in England. Assuming each park displays 4 signs the estimated savings are £40,000 per year (high) and £16,000 per year (low) respectively.
5. The total savings for all these building types are therefore £248,000 per year (high) and £99,200 per year (low). We believe the low estimate to be the more likely option as signs for external display are made of durable materials that are unlikely to need replacing as often as 4 years - replacement every 10 years is more realistic. For the purposes of calculating the Net Present Value and Equivalent Annual Direct Benefit to Business in the Option 2 Summary Sheet (page 3), the low estimate is used along with a discount rate of 3.5%.

Aesthetic benefit

6. A number of stakeholders have complained about the detrimental aesthetic effect of displaying no smoking signs in the current prescribed format. Hotels, that must have a sign in each designated non-smoking room, are concerned that they detract from the décor. Organisations that represent and manage historic buildings such as the National Trust and the Historic Houses Association have commented that the current requirement

for signage compromises the character of their buildings. Although it is difficult to quantify, the proposals are likely to confer a benefit to premises such as these by allowing them to display signs that they feel are more in keeping with the décor, and locate them in more appropriate places.

Reduction in regulatory burden

7. Owners/ managers of public buildings have indicated that the relaxation of the legislation would benefit them by reducing the time they have to spend thinking and worrying about compliance. These benefits are difficult to quantify but are likely to be small given that compliant, durable signs are widely available.

Costs of Changing the Legislation

Changing signs on existing buildings

8. Given that existing signs will continue to be compliant under the proposed relaxation of the legislation, there will be no requirement for current premises and vehicles to change their present arrangements.

Familiarisation Costs

9. A number of stakeholders are likely to have to spend some time familiarising themselves with changes to the regulations. These include Local Authorities who enforce the legislation, manufacturers of signs, and businesses that must display them. Although, on grounds of proportionality, it would be inappropriate to pursue an empirical investigation of costs for this measure, estimation on plausible assumptions is possible. On this basis, we've estimated that the familiarisation costs associated with changing the regulations will be £0.2m for local authorities and the types of buildings most affected by the changes. This is a one off cost and is based on the total number of local authorities, places of worship, holiday parks and historic buildings in the UK.
10. If we assume it takes 15 minutes for one member of staff at each premises and each local authority to familiarise themselves with the legislation this represents a cost to each of roughly £4.00. We base this figure on a median hourly wage for full time workers of £12.56 (2011 ONS data) uprated by 30% to cover overheads. For the 152 local authorities and the 43600 places of worship, holiday parks and historic buildings in England this one off cost is approximately £0.2m. Obviously, the number of smoke free premises is considerably greater than 43600; the categories chosen are the ones that we feel, based on evidence gathered during the Red Tape Challenge, that are most likely to change their signs.
11. The estimate of the Equivalent Annual Direct Impact on Business is found at the bottom of the summary sheet for Option 2 (page 3). For the purposes of calculation, we assume the cost of capital to be 5% and for the impact of familiarisation with the changes to last 10 years.

DH Publicity Costs/Redrafting Guidance

12. The changes will need to be publicised and new guidance documents drafted. The one-off cost of new guidance and communications to local authorities and the public will be low and absorbed within existing funding arrangements. As the statutory requirements

will be much simpler, there will be a minimal ongoing time saving for officers carrying out inspection visits to premises and examining vehicles.

Costs to Sign manufacturers and Retailers

13. It is likely that the price of basic no smoking signs will fall as their size and complexity is reduced. This will lead to a loss of revenue for sign manufacturers and retailers assuming businesses choose to buy fewer simpler signs for each premises. However, there is no reason to question the normal assumption that resources will be redeployed to other productive uses - given that the shift in demand expected is small and likely to be gradual.

Lower compliance

14. It is possible that compliance with the smoking ban may fall if the no smoking signs displayed at premises are smaller, or there are fewer of them. More prosecutions and fines would raise costs to businesses and those enforcing the legislation. The current legislation was justified to ensure compliance when the smoking ban first came in. This having been achieved, the chance of a fall in compliance - and thus of consequential health risks - is very small, especially given that it's in managers interests to avoid prosecutions and fines.
15. It will be important for DH to maintain contact with Local Authorities to ensure we receive warning at an early stage if compliance with the smoking ban is slipping as a result of the changes.

Overall impact

16. Although we've not empirically analysed most of the costs and benefits of the proposed changes to the legislation, it's clear that the aesthetic benefits and cost savings will outweigh the limited negative impacts. The common sense case for relaxation is compelling and should not be inhibited by the remaining uncertainties.

Effect on micro businesses.

17. Micro businesses are not exempt from the current regulations and are likely to benefit, like larger firms, in the ways described above. Whilst the potential costs described above may also apply, these are likely to be insignificant.