

Tobacco bill decrees no smoking in homes

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DANGEROUS: The new Tobacco Bill aims to clamp down severely on the places in which people can smoke. Pictures: Christian Hartmann/Reuters

Durban -Smokers who puff away in the presence of their domestic workers or gardeners could be fined - or jailed even - if they light up in their own homes.

This is one of the provisions in the latest Tobacco Bill which also stipulates that you may not smoke in your home if you use it for teaching, tutoring or commercial childcare.

The South African Domestic Service and Allied Workers' Union (Sadsawu) told the Daily News this week that the issue was complicated and that their members would find it hard to have this enforced because many of them felt intimidated by their employers.

"It's very difficult to address a person in their own home because you are working there," said Myrtle Witbooi, the union's general secretary. She said the relationship between a domestic and her employer should be based on "mutual respect". However, domestic workers would often be told that smoking was not allowed in the house because the people who lived in it did not want to be subjected to smoke, but those homeowners would then light up inside without any regard for the employee.

"It's a very difficult situation because the woman working for you still feels much smaller than you. She still feels intimidated and won't be able to object," said Witbooi.

However, the Control of Tobacco Products and Electronic Delivery Systems Bill of 2018 stipulates that it is not a condition of employment that any employee is required to work in any part of the workplace where smoking is permitted by law.

It also states that employees are not required to sign any indemnity for working in any portion of the workplace where smoking is permitted by law.

The Health Department's Popo Maja said: "The bill seeks to ensure that employees are treated equally, including those working in private spaces. A private space used as a workplace will be regulated like other workplaces."

Maja said employees had the right to object without fear of retaliation if they were exposed to smoke. Currently workers were already empowered to stand up for their rights if they refused to be exposed to tobacco smoke.

"The bill is just making a policy statement. The regulations will be developed to unpack the intention of the clause," he said.

The Health Department's website stated that the bill addressed key areas relating to indoor public areas, display of tobacco products at the point of sale, use of electronic devices and the introduction of plain packaging of tobacco products.

Peter Ucko, chief executive of the Tobacco, Alcohol and Gambling Advisory, Advocacy and Action Group, told the Daily News that while they supported the bill in principle, it needed some correction and improvement in wording.

He believed that it could be strengthened even further and described fears about possible job losses and impact on the economy as "the usual emotional, unsubstantiated industry nonsense".

While domestic workers did have recourse, they were always vulnerable, said Ucko. He said the section dealing with domestic employment had to be "tightened" because smoking should not be allowed at any time, even when domestic workers were not on duty, because they would still be exposed to "residual third-hand smoke".

Leon Louw, the non-smoking chief executive of the Free Market Foundation, described the bill as "simplistic, crude, draconian Nazi nonsense" which would strip South Africans of all civil liberties. He said the provisions were no longer about taking care of people's health but about auditing their lifestyles.

"If the state decides that drinking is healthier than being a teetotaler, will they then make drinking compulsory?" he asked.

The department states that the bill would bring South Africa's law in line with the World Health Organisation (WHO) framework.

Louw said according to the WHO, being sedentary was "the new tobacco" and so the South African government would probably ban "comfortable chairs and reality shows next".

The bill is open for public comment until August 8.

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