



Australian Capital Territory

# **Tobacco and Other Smoking Products Act 1927**

**A1927-14**

**Republication No 39**

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Last amendment made by [A2025-36](#)

## About this republication

### The republished law

This is a republication of the *Tobacco and Other Smoking Products Act 1927* (including any amendment made under the [Legislation Act 2001](#), part 11.3 (Editorial changes)) as in force on 16 December 2025. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 16 December 2025.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

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- authorised republications to which the [Legislation Act 2001](#) applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The [Legislation Act 2001](#), part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see [Legislation Act 2001](#), s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the [Legislation Act 2001](#), section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see [Legislation Act 2001](#), s 133).



Australian Capital Territory

# Tobacco and Other Smoking Products Act 1927

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Australian Capital Territory

# **Tobacco and Other Smoking Products Act 1927**

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An Act about tobacco and smoking products

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Tobacco and Other Smoking Products Act 1927*.

### 2 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition ‘*price ticket*—see section 4.’ means that the term ‘price ticket’ is defined in that section.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

### 2A Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See [Legislation Act 2001](#), s 127 (1), (4) and (5) for the legal status of notes.

### 3 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

#### 3A Meaning of *smoking product*

In this Act:

*smoking product* means any of the following:

- (a) a tobacco product;
- (b) a herbal product;
- (c) a personal vaporiser or a personal vaporiser related product;
- (d) a vaping good other than a therapeutic vaping good.

#### 3B Meaning of *personal vaporiser* and *personal vaporiser related product*

(1) In this Act:

*personal vaporiser* means—

- (a) a device that—
  - (i) is made for the purpose or apparent purpose of delivering a substance into a person's body when the person inhales through the device; and
  - (ii) has a cartridge or container to store a substance; or

- (b) a device prescribed by regulation.

***personal vaporiser related product*** means a device or other product that is—

- (a) made for the purpose or apparent purpose of being part of a personal vaporiser; or
  - (b) made for the purpose or apparent purpose of being used in connection with a personal vaporiser; or
  - (c) prescribed by regulation.
- (2) However, a ***personal vaporiser*** or a ***personal vaporiser related product*** does not include the following:
- (a) a device designed to be used to deliver oxygen into an individual's body;
  - (b) a drug pipe;
  - (c) a vaping good;
  - (d) a device or other product prescribed by regulation.
- (3) In this section:

***drug pipe***—see the [Criminal Code](#), section 621A (2).

### **3C Meaning of *therapeutic vaping good* and *vaping good***

- (1) In this Act:

***therapeutic vaping good*** means a vaping good supplied in a way that is consistent with the [Therapeutic Goods Act 1989](#) (Cwlth).

***vaping good***—see the [Therapeutic Goods Act 1989](#) (Cwlth), section 41P (1), definition of ***vaping goods***.

- (2) However, a ***vaping good*** does not include the following:
- (a) a device designed to be used to deliver oxygen into an individual's body;

- (b) a drug pipe.
- (3) Despite subsections (1) and (2), a regulation may prescribe that a device or other product—
  - (a) is a vaping good; or
  - (b) is not a vaping good.
- (4) In this section:  
*drug pipe*—see the [Criminal Code](#), section 621A (2).

### **3D Meaning of *prohibited smoking product***

- (1) In this Act:  
*prohibited smoking product* means—
  - (a) a vaping good other than a therapeutic vaping good; or
  - (b) a tobacco product that does not comply with—
    - (i) a requirement under the [Public Health \(Tobacco and Other Products\) Act 2023](#) (Cwlth) relating to the packaging, naming, appearance, physical features or content of a tobacco product; or
    - (ii) a requirement under another law of the Commonwealth relating to tobacco products that is prescribed by regulation; or
  - (c) a smoking product prescribed by regulation.
- (2) A regulation may prescribe a smoking product as a prohibited smoking product only if 1 or both of the following apply:
  - (a) the product, or the smoke of the product, has a distinctive fruity, sweet or confectionary-like character;
  - (b) the product, or the product's package or packaging, may be attractive to children.

- (3) In this section:  
*smoke* includes vapour.

#### **4        *Meaning of price ticket***

- (1) In this Act:  
*price ticket*, for a product line, means a label that—
- (a) includes no information other than any or all of the following:
    - (i) the name of the product line;
    - (ii) a bar code or similar identifying code;
    - (iii) the price of an item of the product line;
    - (iv) the price of a carton of the product line; and
  - (b) is not larger than 15cm<sup>2</sup>; and
  - (c) contains only text; and
  - (d) is in Times New Roman type, no character of which is more than 12 points in size; and
  - (e) otherwise complies with this Act.

*Note*        A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (2) In this section:  
*carton* means a package containing packages of a smoking product, or a package designed to contain packages of a smoking product, but does not include a package containing individually-wrapped cigars (unless the package contains a further package or packages of the cigars).

*text* includes a code mentioned in subsection (1) (a) (ii).

**5 Meaning of *sell***

In this Act:

*sell* includes—

- (a) offer for sale; and
- (b) expose for sale; and
- (c) barter (or offer or expose for barter); and
- (d) exchange (or offer or expose for exchange); and
- (e) supply for value (or offer or expose for supply for value); and
- (f) supply for free (or offer or expose for supply for free), to gain or maintain custom, or otherwise for commercial gain.

**6 Meaning of *smoking advertisement***

- (1) In this Act:

*smoking advertisement* means writing, sound or a picture, symbol, light or other visible device, object or sign (or a combination of 2 or more of these) that a reasonable person would consider publicises, or otherwise promotes—

- (a) the purchase or use of a smoking product; or
  - (b) a trademark or brand name, or part of a trademark or brand name, of a smoking product.
- (2) A *smoking advertisement* may be constituted by an incidental or accidental accompaniment to any other written, aural, pictorial, symbolic or visible matter.

**7 Publication of name of manufacturer etc**

- (1) For this Act, the publication of the name of a manufacturer, distributor or retailer of smoking products—
- (a) is not, of itself, a smoking advertisement; and

- (b) is not taken, of itself, to publicise or promote—
  - (i) a smoking product, or the purchase or use of a smoking product; or
  - (ii) a trademark or brand name of a smoking product; or
  - (iii) the name or interests of a manufacturer or distributor of a smoking product in association with a smoking product.
- (2) However, the publication of the name of a manufacturer, distributor or retailer of smoking products in association with the publication of other material may be either or both of the following:
  - (a) a smoking advertisement;
  - (b) taken to be publicity or promotion as mentioned in subsection (1) (b).



## Part 2                      Points of sale

### 8                      Numbers of points of sale

- (1) An occupier of a retail outlet on unlicensed premises commits an offence if the occupier provides more than 1 point of sale at the outlet.

Maximum penalty: 50 penalty units.

- (2) An occupier of a retail outlet on licensed premises commits an offence if the occupier provides more than 5 points of sale at the outlet.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

- (4) In this section:

*licensed premises* means premises for which an on licence, a general licence or a club licence is in force under the [Liquor Act 2010](#).

*unlicensed premises* means premises other than licensed premises.

### 9                      Location of smoking products

- (1) A smoking product for sale at a retail or wholesale outlet must be located—

- (a) at a point of sale for the outlet; and
- (b) on the seller's side of the point of sale, not less than 1m away from any part of the customer service area in relation to the point of sale.

- (2) A price ticket for a product line for sale (or usually available for sale) at a point of sale at a retail or wholesale outlet must be located not less than 1m away from any part of the customer service area in relation to the point of sale.

- (3) An occupier of a retail or wholesale outlet commits an offence if the occupier contravenes subsection (1) or (2).

Maximum penalty: 50 penalty units.

- (4) An offence against this section is a strict liability offence.

## **10 Storage of smoking products at points of sale**

- (1) A smoking product at a point of sale for a retail or wholesale outlet must be stored out of view of the outlet's customers.

- (2) An occupier of a retail or wholesale outlet commits an offence if the occupier contravenes subsection (1).

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

## **11 Other location and storage requirements by regulation**

An occupier of a retail or wholesale outlet must comply with any additional requirements in relation to the location or storage of smoking products that are prescribed by regulation.

## Part 3                      Supply of smoking products

### 14                      Supply of smoking product to under 18 year olds

- (1) A person commits an offence if the person—
- (a) sells a smoking product to a person who is under 18 years old; and
  - (b) is reckless about whether the person to whom the smoking product is sold is under 18 years old.

Maximum penalty: 200 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that—
- (a) immediately before the smoking product was sold to the person, the defendant (or an employee or agent of the defendant) (the *seller*) asked the person to show the seller a document of identification; and
  - (b) the person showed the seller a document of identification; and
  - (c) the seller had no reasonable grounds for believing that the document was not a genuine document of identification of the person.

*Note*                      The defendant has a legal burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 59).

- (3) A person commits an offence if the person uses someone else's document of identification, or a forged document of identification, for the purpose of obtaining a smoking product.

Maximum penalty: 10 penalty units.

- (4) A person may refuse to sell a smoking product to someone else, or to permit someone else to obtain a smoking product, if—
- (a) the person is not satisfied that the other person is at least 18 years old; or
  - (b) the person considers that the product is sought for use by a person under 18 years old; or
  - (c) the person considers that any identification shown by the other person is not genuine, or has been tampered with.
- (5) Subsection (4) does not limit the circumstances in which a person may refuse to sell a smoking product, or refuse to permit someone else to obtain a smoking product.
- (6) In this section:
- document of identification***, of a person, means—
- (a) a document that—
    - (i) is—
      - (A) an Australian driver licence or foreign driver licence; or
      - (B) a proof of identity card issued under the [Liquor Act 2010](#), section 210 (Proof of identity cards), or a corresponding document issued under the law of a State; or
      - (C) a passport; and
    - (ii) contains a photograph that could reasonably be taken to be the person; and
    - (iii) indicates that the person to whom the document was issued is at least 18 years old; or

- (b) any other document prescribed by regulation.

*Note* A document may be in electronic form (see [Legislation Act](#), dict, pt 1, def *document*).

***foreign driver licence*** means a licence to drive a motor vehicle (however described) issued under the law of an external Territory or a foreign country.

**15 Purchase of smoking products for use by under 18 year olds**

A person commits an offence if the person purchases a smoking product for use by a person under 18 years old.

Maximum penalty: 50 penalty units.

**16 Prohibition on sale of smoking products by vending machine**

- (1) A person commits an offence if—
- (a) the person places a vending machine on premises; and
  - (b) the vending machine is used, or is available for use, by members of the public.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—
- (a) the person occupies premises where there is a vending machine; and
  - (b) the vending machine is used, or is available for use, by members of the public.

Maximum penalty: 50 penalty units.

**17 Tobacco for non-smoking purposes**

A person commits an offence if the person manufactures or sells a tobacco product that is not a product prepared for smoking.

Maximum penalty: 50 penalty units.

**18 Food and toys resembling or promoting smoking products**

(1) A person commits an offence if the person—

- (a) sells or imports food or a toy; and
- (b) the food or toy, or its package or packaging, resembles—
  - (i) a smoking product; or
  - (ii) a smoking product package.

Maximum penalty: 50 penalty units.

(2) For subsection (1), food or a toy resembles a smoking product or a smoking product package if a reasonable person would believe that the resemblance exists, or is likely to exist.

(3) A person commits an offence if the person—

- (a) sells or imports food or a toy; and
- (b) the food or toy, or its package or packaging, publicises or otherwise promotes 1 or more of the following things:
  - (i) a smoking product, or the purchase or use of a smoking product;
  - (ii) a trademark or brand name, or part of a trademark or brand name, of a smoking product;

- (iii) the name or interests of a manufacturer or distributor of a smoking product in association, directly or indirectly, with the smoking product.

Maximum penalty: 50 penalty units.

- (4) For subsection (3), food or a toy, or its package or packaging, publicises or otherwise promotes a thing mentioned in subsection (3) (b) if a reasonable person would believe that the food, toy, package or packaging publicises or promotes, or is likely to publicise or promote, the thing.

## **18A Declared smoking products**

- (1) The Minister may declare that food or a toy, or its package or packaging, is a *declared smoking product*.
- (2) The Minister must not make a declaration under subsection (1) unless satisfied that the food or toy, or its package or packaging—
  - (a) resembles a smoking product; or
  - (b) resembles a smoking product package; or
  - (c) may publicise or otherwise promote—
    - (i) a smoking product, or the purchase or use of a smoking product; or
    - (ii) a trademark or brand name, or part of a trademark or brand name, of a smoking product; or
    - (iii) the name or interests of a manufacturer or distributor of a smoking product in association, directly or indirectly, with the smoking product.
- (3) A declaration is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

**18B Prohibition on sale or import of declared smoking product**

- (1) A person commits an offence if the person sells or imports a declared smoking product.

Maximum penalty: 50 penalty units.

- (2) In this section:

*declared smoking product*—see section 18A (1).

**19 Sale of cigarettes**

- (1) A person commits an offence if the person sells cigarettes (including cigarettes made from a herbal product) in a quantity of less than 20.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if the person sells cigarettes (including cigarettes made from a herbal product) in a package designed—

- (a) to hold less than 20 cigarettes; or
- (b) to be, or be readily able to be, divided into portions each of which contains less than 20 cigarettes.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

**20 Display of smoking products**

An occupier of a retail or wholesale outlet commits an offence if the occupier displays to customers at the outlet a smoking product within, or adjacent to, the outlet.

Maximum penalty: 50 penalty units.



**22 Prohibition on sale of prohibited smoking product**

- (1) A person commits an offence if the person sells a prohibited smoking product.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

## Part 4                      Advertising, promotion and sponsorship

### 23                      Prohibited smoking advertising

- (1) A person commits an offence if the person—
- (a) sells a film, videotape, DVD or other video recording, or an audio recording, that contains a smoking advertisement; and
  - (b) is reckless about whether the film, videotape, DVD or other video recording, or audio recording, contains a smoking advertisement.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if the person—
- (a) distributes to the public any unsolicited document that contains a smoking advertisement; and
  - (b) is reckless about whether the document contains a smoking advertisement.

Maximum penalty: 50 penalty units.

**Examples—unsolicited documents—par (a)**

- 1 leaflet
- 2 handbill

- (3) A person commits an offence if the person—
- (a) places, displays or broadcasts a smoking advertisement (including a smoking advertisement for a tobacco product at or on a place where tobacco products are for sale); and
  - (b) is reckless about whether the advertisement is visible or audible in or from a public place.

Maximum penalty: 50 penalty units.

- (4) This section does not apply in relation to—
- (a) a smoking advertisement that is an accidental or incidental accompaniment to a film, videotape, DVD or other video recording, or an audio recording; or
  - (b) a single price ticket at a point of sale for each product line for sale (or usually available for sale) at the point of sale; or
  - (c) a personal use advertisement; or
  - (d) a smoking advertisement that is displayed at a point of sale if the advertisement—
    - (i) is to the effect that smoking products are offered for sale to people who are 18 years old or older; and
    - (ii) is the only smoking advertisement (other than a price ticket mentioned in paragraph (b)) displayed at the point of sale; and
    - (iii) does not contain a trademark or brand name, or part of a trademark or brand name, of a smoking product; and
    - (iv) does not contain the name of a manufacturer or distributor of a smoking product; and
    - (v) is not larger than A5 paper size (148mm x 210mm); or
  - (e) a document ordinarily used in the course of business.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (4) (see [Criminal Code](#), s 58).

- (5) In this section:

***personal use advertisement*** means the placement, display or broadcast of a smoking advertisement, or of an object displaying a smoking advertisement, in the course of the personal use of the advertisement or object, unless the placement, display or broadcast—

- (a) is for a direct or indirect financial benefit; or

- (b) is undertaken in the course of a business that involves the sale of smoking products or the management of a retail outlet.

**Example—personal use**

The wearing of a T-shirt displaying a smoking advertisement by a person who is not paid to wear the T-shirt.

**public place** means a place to which the public or a section of the public has access, whether—

- (a) by payment, membership of a body or otherwise; or  
(b) by entitlement or permission.

**Examples—public places**

- 1 business premises, including professional, trade and commercial premises and wholesale outlets
- 2 a cinema or theatre
- 3 a club, hotel or motel
- 4 a community centre, hall or public library
- 5 government premises
- 6 a hostel or nursing home
- 7 a place of worship
- 8 a public transportation vehicle (including, a bus, taxi or boat)
- 9 a restaurant or cafeteria
- 10 a school, college or university
- 11 a shopping centre, mall or plaza
- 12 sporting or recreational premises.

## 24 Removal of smoking advertisements

- (1) If an authorised officer believes on reasonable grounds that a person has contravened section 23 (3), the officer may give the person a written notice requiring the relevant smoking advertisement to be removed, or obscured, in a specified way, within 3 days after the notice is given.

- (2) A notice must include the following statements:
- (a) a statement to the effect that the person may be prosecuted for an offence against section 23 (3) (Prohibited smoking advertising) if the notice is contravened;
  - (b) a statement to the effect that the person may also be prosecuted for an offence under subsection (3) for each day during any part of which the contravention continues.
- (3) A person commits an offence if the person contravenes a notice under subsection (1).
- Maximum penalty (for each day): 5 penalty units.
- Note* See the [Legislation Act](#), s 193 (Continuing offences).
- (4) Conviction for an offence against subsection (3) in relation to a notice about a contravention of section 23 (3) does not prevent conviction for an offence against section 23 (3) in respect of the contravention.
- (5) Proceedings against a person for an offence against section 23 (3)—
- (a) must not be commenced unless a notice is given to the person under subsection (1); and
  - (b) must not be commenced until after the period specified in the notice; and
  - (c) must not be commenced if the relevant smoking advertisement is removed or obscured in accordance with that notice.
- (6) If a person is convicted of an offence against section 23 (3), the court, in addition to imposing any other penalty, may order that the relevant smoking advertisement be removed, or obscured, by the Territory.
- (7) If a smoking advertisement is removed, or obscured, in accordance with an order under subsection (6), the person convicted of the relevant offence must pay the Territory the reasonable costs incurred in removing or obscuring the advertisement.

**25 Smoking product promotions**

- (1) A person commits an offence if—
- (a) the person sells or distributes an object or entitlement; and
  - (b) the object or entitlement promotes 1 or more of the following things:
    - (i) a smoking product, or the purchase or use of a smoking product;
    - (ii) a trademark or brand name, or part of a trademark or brand name, of a smoking product;
    - (iii) the name or interests of a manufacturer or distributor of a smoking product in association, directly or indirectly, with the smoking product.

Maximum penalty: 50 penalty units.

- (2) For subsection (1), an object or entitlement sold or distributed by a person promotes a thing mentioned in subsection (1)(b) if a reasonable person would believe that the object or entitlement promotes, or is likely to promote, the thing.
- (3) In applying this section in relation to an object that is a sound recording, a video recording or a computer storage device, a reference to the promotion of a thing is a reference to the promotion of the thing by aural or visible material that the object is reasonably capable of producing, or of causing to be produced, in its normal use.
- (4) In this section:

***entitlement*** means an entitlement to goods or services, or to a reduced price for goods or services.

***object*** does not include a smoking product.

**25A Prohibition of smoking product sales contributing to customer reward scheme**

- (1) A person commits an offence, if in direct or indirect association with the sale of a smoking product, the person provides, or offers to provide, any of the following benefits:
- (a) a prize, gift or discount;
  - (b) a voucher, ticket or other thing that allows a person access to a prize, gift or discount;
  - (c) points or credit in a customer reward scheme that allows a person to qualify for a thing mentioned in paragraph (a) or (b) by accumulating a number of points, or credit, in association with purchases.

Maximum penalty: 50 penalty units.

**Example—par (b)**

discount petrol vouchers offered by a supermarket chain

**Example—par (c)**

a shopping rewards program offered by a group of participating businesses, members of which accumulate points by making purchases at those businesses, and redeem the points for rewards

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that it was not reasonably practicable to identify that the sale of the smoking product was associated with the provision of, or offer to provide, the benefit.

*Note* The defendant has a legal burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 59).

**26 Smoking product giveaways**

- (1) A person commits an offence if—
- (a) the person supplies a smoking product for free; and

(b) the supply promotes the sale of any smoking product for value.

Maximum penalty: 50 penalty units.

(2) For subsection (1), the supply by a person of a smoking product for free promotes the sale of a smoking product for value if a reasonable person would believe that the supply promotes, or is likely to promote, the sale.

(3) In this section:

*promote* includes induce.

*supply* includes offer or expose.

## **27 Competitions that promote smoking products etc**

(1) A person commits an offence if the person—

(a) conducts a competition; and

(b) the competition promotes 1 or more of the following things:

(i) a smoking product, or the purchase or use of a smoking product;

(ii) a trademark or brand name, or part of a trademark or brand name, of a smoking product;

(iii) the name or interests of a manufacturer or distributor of a smoking product in association, directly or indirectly, with the smoking product.

Maximum penalty: 50 penalty units.

(2) For subsection (1), a competition conducted by a person promotes a thing mentioned in subsection (1) (b) if a reasonable person would believe that the competition promotes, or is likely to promote, the thing.

(3) A person commits an offence if the person—

(a) conducts a competition; and



- (b) the competition has a direct or indirect association with the sale or consumption of a smoking product, or of smoking products generally.

Maximum penalty: 50 penalty units.

- (4) For subsection (3), a competition conducted by a person has a direct or indirect association with a thing mentioned in subsection (3) (b) if a reasonable person would believe that the competition has, or would have, a direct or indirect association with the thing.

## **28 Prohibition of sponsorships**

- (1) A person commits an offence if—
  - (a) the person promotes or agrees to promote, under a contract, agreement, undertaking or understanding, whether or not legally binding—
    - (i) a smoking product, or the use of a smoking product; or
    - (ii) a trademark or brand name, or part of a trademark or brand name, of a smoking product; or
    - (iii) the name or interests of a manufacturer or distributor of a smoking product in association, directly or indirectly, with the smoking product; and
  - (b) the person does so in exchange for a sponsorship, gift, prize, scholarship or similar benefit given or agreed to be given by someone else.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—
  - (a) the person gives or agrees to give, under a contract, agreement, undertaking or understanding, whether or not legally binding, a sponsorship, gift, prize, scholarship or similar benefit; and

- (b) the person does so in exchange for the promotion of, or an agreement to promote, a thing mentioned in subsection (1) (a).

Maximum penalty: 50 penalty units.

- (3) This section does not apply in relation to a scholarship given, or agreed to be given, by a manufacturer or distributor of a smoking product to an employee, or a family member of an employee, of the manufacturer or distributor.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

- (4) In this section:

***family member***, of a person, means—

- (a) the person's domestic partner; or
- (b) a parent, step-parent or grandparent of the person; or
- (c) a child, stepchild or grandchild of the person; or
- (d) a brother, sister, stepbrother or stepsister of the person.

## **Part 6                      Enforcement**

### **Division 6.1              Preliminary**

#### **31              Definitions—pt 6**

In this part:

***connected***—an activity or thing is ***connected*** with an offence if—

- (a) the offence has been committed in relation to it; or
- (b) it will provide evidence of the commission of the offence; or
- (c) it was used, or is being used, or is intended to be used, to commit the offence.

***occupier***, of premises, includes—

- (a) a person an authorised officer believes on reasonable grounds is an occupier of the premises; and
- (b) a person apparently in charge of the premises.

***offence*** includes an offence that there are reasonable grounds for believing has been, is being, or will be, committed.

***warrant*** means a warrant issued under division 6.3.

#### **32              Authorised officers**

- (1) The director-general may appoint a public servant as an authorised officer.

*Note 1* For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

- (2) The following are also authorised officers:
  - (a) the commissioner;

- (b) a public health officer under the *Public Health Act 1997*;
- (c) a police officer;
- (d) an investigator under the *Fair Trading (Australian Consumer Law) Act 1992*.

**33      Exercise of powers by authorised officers who are police officers**

The powers conferred by this part on an authorised officer who is a police officer are additional to the powers the officer may exercise in their capacity as a police officer.

**34      Identity cards**

- (1) The director-general must give an identity card to an authorised officer appointed under section 32 (1).
- (2) The identity card must show—
  - (a) the authorised officer’s name or a unique identification number; and
  - (b) a statement that the person is an authorised officer; and
  - (c) a recent photograph of the officer; and
  - (d) the card’s date of issue and expiry; and
  - (e) anything else prescribed by regulation.
- (3) A person must return their identity card to the director-general within 7 days after the day the person stops being an authorised officer.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.
- (5) Subsection (3) does not apply to a person if their identity card is—
  - (a) lost or stolen; or

- (b) destroyed by someone else.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (5) (see [Criminal Code](#), s 58).

### **35 Requirements before certain powers can be exercised**

- (1) This section applies to the exercise of any of the following powers by an authorised officer:
  - (a) giving a direction under section 36 (1) (Direction to give name and address);
  - (b) entering premises under section 37 (1) (b) or (c) (Powers of authorised officer to enter premises);
  - (c) giving a direction under section 39 (1) (e) (General powers on entry to premises).
- (2) Before exercising the power, the authorised officer must—
  - (a) either—
    - (i) show their identity card to the affected person; or
    - (ii) if the authorised officer intends to exercise the power other than in person—give the affected person other evidence of the authorised officer’s identity; and
  - (b) tell the affected person the reason for exercising the power; and
  - (c) tell the affected person about—
    - (i) for a direction under section 36 (1)—section 36 (3); or
    - (ii) for a direction under section 39 (1) (e)—section 39 (2).

**Example—exercise of powers other than in person**

an authorised officer emails a person asking for consent to enter and search the person’s premises using a remote-controlled surveillance device

- (3) The authorised officer must ensure the matters mentioned in subsection (2) are communicated in a way that the authorised officer believes the affected person is likely to understand.

- (4) In this section:

*affected person*, in relation to the exercise of a power under this part, means—

- (a) the individual affected by the exercise of the power; or
- (b) if the person is not an individual—an employee, officer or agent of the person affected by the exercise of the power.

*identity card* means—

- (a) in relation to an authorised officer appointed under section 32 (1)—the identity card given under section 34 (1); or
- (b) in relation to a public health officer under the *Public Health Act 1997*—the identity card issued to the officer under that Act; or
- (c) in relation to a police officer—evidence that they are a police officer; or
- (d) in relation to an investigator under the *Fair Trading (Australian Consumer Law) Act 1992*—the identity card issued to the investigator under that Act.

## **Division 6.2                      Powers to obtain information and enter premises**

### **36                      Direction to give name and address**

- (1) An authorised officer may direct a person to state the person's name and home address if the authorised officer believes on reasonable grounds that the person—
- (a) is involved in the commission of an offence against this Act; or

- (b) may be able to assist in the investigation of an offence against this Act.
- (2) If the authorised officer believes on reasonable grounds that information given in response to a direction under subsection (1) is false or misleading, the authorised officer may direct the person to produce evidence of the correctness of the information within a stated reasonable period.
- (3) A person must comply with a direction given to the person under this section.  
Maximum penalty: 5 penalty units.
- (4) An offence against this section is a strict liability offence.
- (5) Subsection (3) does not apply to a person unless the authorised officer complies with section 35 (Requirements before certain powers can be exercised).

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (5) (see [Criminal Code](#), s 58).

## **37 Powers of authorised officer to enter premises**

- (1) For this Act, an authorised officer may—
  - (a) at any reasonable time, enter premises that the public is entitled to use or that are open to the public (whether or not on payment of money); or
  - (b) at any time, enter premises with the occupier's consent; or
  - (c) at any reasonable time, enter premises if the authorised officer believes on reasonable grounds that—
    - (i) an offence against this Act is being, or is likely to be, or has just been, committed on the premises; and

- (ii) the risk to a person, the environment or public health resulting from the offence is so serious and urgent that immediate entry to the premises without the authority of a warrant is necessary; or
- (d) enter premises with a warrant.
- (2) However, subsection (1) (a) and (c) do not authorise entry into a part of the premises that is being used only for residential purposes.
- (3) For the purpose of seeking consent to enter a building or other structure on the premises, an authorised officer may, without the occupier's consent, enter any land that forms part of the premises.
- (4) To remove any doubt, an authorised officer may enter premises under subsection (1) without payment of an entry fee or other charge.
- (5) An authorised officer may enter the premises with 1 or more people who, in the opinion of the authorised officer, have knowledge or skills that could assist the authorised officer to carry out their functions.
- (6) An authorised officer may enter premises with necessary force, in accordance with a warrant.

### **38      Obtaining consent to entry**

- (1) For section 37 (1) (b), an authorised officer must—
  - (a) before asking the occupier for consent—tell the occupier—
    - (i) the purpose of the proposed entry; and
    - (ii) the reason for, and identity of, any other person accompanying the authorised officer; and
    - (iii) that anything found and seized under this part may be used as evidence in court; and
    - (iv) that consent may be refused; and



- (b) if the occupier consents to the entry—give the occupier a written record confirming—
  - (i) the matters mentioned in paragraph (a); and
  - (ii) that the occupier was told about those matters; and
  - (iii) the time and date when the consent was given.
- (2) A court must find that the occupier did not consent if—
  - (a) a question arises in a proceeding before the court about whether the occupier consented to the authorised officer entering the premises under this part; and
  - (b) a record mentioned in subsection (1) (b) is not produced in evidence; and
  - (c) it is not proved that the occupier consented to the entry.

### **39 General powers on entry to premises**

- (1) An authorised officer who enters premises under this part may do 1 or more of the following in relation to the premises or anything at the premises:
  - (a) examine anything;
  - (b) take a measurement or conduct a test;
  - (c) take a sample;
  - (d) take images, make audio or video recordings or any other kind of record;
  - (e) if reasonably required for an authorised officer to exercise a power under this part, direct the occupier or anyone at the premises to do 1 or more of the following:
    - (i) give information, a document or other thing (including information, a document or thing that is not at the premises);

- (ii) produce a document or other thing (including a document or other thing that is not at the premises);
- (iii) answer a question;
- (iv) give the authorised officer reasonable help to exercise a power under this part.

*Note* The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

- (2) A person must take all reasonable steps to comply with a direction given under subsection (1) (e).

Maximum penalty: 50 penalty units.

- (3) Subsection (2) does not apply in relation to a direction given to a person under subsection (1) (e) unless the authorised officer complies with section 35 (Requirements before certain powers can be exercised).

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

## **Division 6.3                      Warrants**

### **40                      Application for warrant**

- (1) An authorised officer may apply to a magistrate for a warrant to enter premises and exercise the authorised officer's powers under this part.
- (2) The application must—
  - (a) be sworn; and
  - (b) state the grounds on which the warrant is sought.
- (3) However, if the authorised officer considers it necessary because of urgent or other special circumstances, the authorised officer may—
  - (a) prepare a written application stating the grounds on which the warrant is sought; and

- (b) apply to the magistrate for the warrant other than in person before the written application is sworn.
- (4) The magistrate may refuse to consider an application under this section until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

#### **41 Decision on application for warrant**

- (1) If an application for a warrant is made under section 40, the magistrate may issue the warrant only if satisfied there are reasonable grounds for suspecting—
  - (a) there is a particular thing or activity connected with an offence against this Act; and
  - (b) the thing or activity—
    - (i) is, or is being engaged in, at the premises; or
    - (ii) may be, or may be engaged in, at the premises within the next 14 days.
- (2) The warrant must include the following information:
  - (a) a statement that an authorised officer may, with any necessary assistance or force, enter the premises and exercise the authorised officer's powers under this part;
  - (b) details of the offence for which the warrant is issued;
  - (c) the things that may be seized under the warrant;
  - (d) the hours when the premises may be entered;
  - (e) the date, within 14 days after the day of the warrant's issue, when the warrant ends.

#### **41A Warrant issued on remote application**

- (1) A magistrate may issue a warrant on application under section 40 (3) by—
  - (a) if practicable—immediately giving a written copy of the warrant to the authorised officer; or
  - (b) if not practicable—telling the authorised officer the following:
    - (i) the information mentioned in section 41 (2);
    - (ii) the date and time the warrant is issued.
- (2) If the magistrate issues a warrant under subsection (1) (b), the authorised officer must complete a form of warrant (the **warrant form**) stating—
  - (a) the magistrate's name; and
  - (b) the date and time the magistrate issued the warrant; and
  - (c) the information mentioned in section 41 (2).
- (3) The written copy of the warrant, or the warrant form properly completed by the authorised officer, authorises the entry and exercise of the authorised officer's powers under this part.
- (4) The authorised officer must, as soon as reasonably practicable—
  - (a) swear the application; and
  - (b) give the magistrate—
    - (i) the sworn application; and
    - (ii) if the authorised officer completed a warrant form—the warrant form.
- (5) On receiving the documents mentioned in subsection (4) (b), the magistrate must attach them to the warrant.

- (6) A court must find that a power exercised by an authorised officer was not authorised by a warrant under this section if—
- (a) a question arises in a proceeding before the court about whether the exercise of the power was authorised by a warrant; and
  - (b) the warrant is not produced in evidence; and
  - (c) it is not proved that the exercise of the power was authorised by a warrant under this section.

**41B      Announcement before entry under warrant**

- (1) Before anyone enters premises under a warrant, an authorised officer must—
- (a) announce that they are authorised to enter the premises; and
  - (b) give anyone at the premises an opportunity to allow entry to the premises; and
  - (c) if the occupier is present at the premises—identify themselves to the occupier.
- (2) The authorised officer is not required to comply with subsection (1) if they believe on reasonable grounds that immediate entry to the premises is required to ensure—
- (a) the safety of anyone (including themselves or any person assisting them); or
  - (b) that the effective execution of the warrant is not frustrated.

**41C      Warrant etc to be given to occupier**

If the occupier of premises is present at the premises while a warrant is being executed, the authorised officer must give the occupier—

- (a) a copy of—
  - (i) the warrant; or

- (ii) if section 41A (1) (b) applies—the warrant form mentioned in section 41A (2); and
- (b) a document setting out the occupier's rights and obligations.

#### **41D Occupier entitled to watch search etc**

- (1) If the occupier of premises is present at the premises while a warrant is being executed, the occupier is entitled to watch the authorised officer, and any person assisting the officer, conduct any search and exercise any other power authorised by the warrant.
- (2) However, the occupier is not entitled to watch the authorised officer or a person assisting the officer exercise the powers if—
  - (a) to do so would interfere with the powers being exercised; or
  - (b) the occupier is under arrest and allowing them to watch the powers being exercised would interfere with the objective of the warrant.
- (3) This section does not prevent a person from exercising powers under this part in 2 or more areas of the premises at the same time.

### **Division 6.4 Power to seize things**

#### **41E Authorised officer may seize things at premises**

- (1) An authorised officer who enters premises under this part—
  - (a) may seize anything at the premises if satisfied on reasonable grounds that—
    - (i) the thing is connected with an offence against this Act; and
    - (ii) the seizure is necessary to prevent the thing from being—
      - (A) concealed, lost or stolen; or
      - (B) used to commit, continue or repeat the offence; and

- (b) if the premises were entered with the occupier's consent—may also seize anything at the premises if seizure of the thing is consistent with the purpose of the entry told to the occupier when seeking the occupier's consent; and
  - (c) if the premises were entered under a warrant—may also seize anything at the premises that the authorised officer is authorised to seize under the warrant.
- (2) Having seized a thing, the authorised officer may—
  - (a) remove the thing from the premises where it was seized to another place; or
  - (b) leave the thing at the premises where it is seized and restrict access to it.

*Note* If an authorised officer seizes a thing, the authorised officer must give a receipt for it to the person from whom it was seized (see s 41H).

- (3) If access to a seized thing is restricted under subsection (2), the authorised officer must secure, in a conspicuous place at the premises, a notice identifying that the thing is seized.

#### **41F Owner etc may access seized things**

A person who would, apart from the seizure, be entitled to inspect a thing seized under this division may—

- (a) inspect the thing; and
- (b) make a visual recording of the thing; and
- (c) if the thing is a document—take extracts from, or make copies of, the thing.

#### **41G Person must not interfere with seized things**

- (1) A person commits an offence if—
  - (a) a thing has been seized under this division; and

- (b) the person interferes with the thing or anything containing the thing; and
- (c) the person does not have the approval of an authorised officer to interfere with the thing.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

#### **41H Authorised officer must give receipt for seized things**

- (1) If an authorised officer seizes a thing under this division, they must—
  - (a) as soon as practicable after seizing the thing, give the person from whom the thing was seized a receipt for the thing; or
  - (b) if complying with paragraph (a) is not practicable—secure a receipt for the thing in a conspicuous place at the premises where the thing was seized.
- (2) A receipt must include the following information:
  - (a) a description of the thing seized;
  - (b) the reason the thing was seized;
  - (c) the authorised officer's name and how they can be contacted;
  - (d) if the thing is moved from the premises where it was seized—where the thing will be taken.

#### **41I Return of seized things**

- (1) If a thing is seized under this division—
  - (a) the thing must be returned to its owner; or
  - (b) reasonable compensation must be paid to the owner by the Territory for the loss of the thing.



- (2) However, the thing is not required to be returned and reasonable compensation is not required to be paid if—
- (a) both of the following apply:
    - (i) a prosecution for an offence connected with the thing (a **relevant offence**) is started against the owner within the 1-year period;
    - (ii) the proceeding (including any appeal) is finalised and the owner is convicted or found guilty of the offence; or
  - (b) an infringement notice for a relevant offence is served on the owner within the 1-year period and—
    - (i) the owner gives notice disputing liability for the offence in accordance with the *Magistrates Court Act 1930*, section 132; and
    - (ii) an information is laid in the Magistrates Court against the owner within 60 days after the day the notice is given; and
    - (iii) the proceeding (including any appeal) is finalised and the owner is convicted or found guilty of the offence; or
  - (c) an infringement notice for a relevant offence is served on the owner within the 1-year period and—
    - (i) the infringement notice penalty for the offence is paid; and
    - (ii) the infringement notice is not withdrawn; or
  - (d) possession of the thing by the owner would be an offence; or
  - (e) a court makes an order under a territory law that the thing is forfeited to the Territory or must otherwise be dealt with.

- (3) Also, the thing is not required to be returned and reasonable compensation is not required to be paid if the director-general is satisfied that—
  - (a) the owner of the thing cannot be found after making reasonable inquiries (given the thing's apparent value); or
  - (b) the thing cannot be returned to its owner after making reasonable efforts (given the thing's apparent value).
- (4) If subsection (2) (a) to (d) or subsection (3) applies—
  - (a) the thing is forfeited to the Territory; and
  - (b) the director-general may direct that the thing be sold, destroyed or otherwise disposed of.
- (5) In this section:  
*1-year period*, in relation to a seized thing, means a period of 12 months beginning on the day after the day the thing was seized.

#### **41J Order disallowing seizure**

- (1) If a thing is seized under this division, a person claiming to be entitled to the thing may apply to the Magistrates Court for an order disallowing the seizure.
- (2) The application—
  - (a) must be made not later than 10 days after the day the thing is seized; and
  - (b) must not be heard unless the applicant has served a copy of the application on the director-general.
- (3) The director-general is entitled to appear as a respondent at the hearing of the application.

- (4) The court must make an order disallowing the seizure if satisfied—
  - (a) the applicant would, apart from the seizure, be entitled to the return of the seized thing; and
  - (b) the thing is not connected with an offence against this Act; and
  - (c) possession of the thing by the person would not be an offence.
- (5) The court may also make an order disallowing the seizure if satisfied there are exceptional circumstances justifying the making of the order.
- (6) If the court makes an order disallowing the seizure, the court may make 1 or more of the following ancillary orders:
  - (a) an order directing the director-general to return the thing to the applicant or to someone else who appears to be entitled to it;
  - (b) if the thing cannot be returned or has depreciated in value because of the disallowed seizure—an order directing the Territory to pay reasonable compensation;
  - (c) an order about costs in relation to the application.

#### **41K      Costs of disposal of forfeited things**

- (1) This section applies if—
  - (a) a person is convicted or found guilty of an offence against this Act in relation to something forfeited to the Territory under this division; and
  - (b) the thing is connected with an offence against this Act; and
  - (c) the person was the owner of the thing immediately before its forfeiture.
- (2) Costs incurred by or on behalf of the Territory in relation to the lawful disposal of the thing (including storage costs) are a debt owing to the Territory by the person.

## **Division 6.5                      Miscellaneous**

### **41L                      Damage etc to be minimised**

- (1) In the exercise, or purported exercise, of a function under this part, an authorised officer must take reasonable steps to ensure that they, and any person assisting them, cause as little inconvenience, detriment or damage as possible.
- (2) If an authorised officer, or a person assisting them, damages anything in the exercise or purported exercise of a function under this part, the authorised officer must give written notice of the details of the damage to the person they believe on reasonable grounds is the owner of the thing.
- (3) If the damage occurs on premises entered under this part in the absence of the occupier, the notice may be given by securing it in a conspicuous place at the premises.

### **42                      Compensation for exercise of enforcement powers**

- (1) A person may claim compensation from the Territory if the person suffers loss or expense because of the exercise, or purported exercise, of a function under this part by—
  - (a) an authorised officer; or
  - (b) a person assisting an authorised officer.
- (2) Compensation may be claimed and ordered in a proceeding for—
  - (a) compensation brought in a court of competent jurisdiction; or
  - (b) an offence against this Act brought against the person making the claim for compensation.
- (3) A court may order the payment of reasonable compensation for the loss or expense only if satisfied it is just to make the order in the circumstances of the particular case.

- (4) A regulation may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.

## Part 6A Tobacco compliance testing

### 42A Definitions—pt 6A

In this part:

***approved procedures*** means procedures approved under section 42D (1) for carrying out an approved program of compliance testing.

***approved program*** means a program of compliance testing approved under section 42C (1).

***authorised officer*** does not include a police officer.

***compliance test***—see section 42B.

***conduct***—see the [Criminal Code](#), section 13.

***engage in conduct***—see the [Criminal Code](#), section 13.

***purchase assistant***—see section 42B (1) (a).

***young person*** means a child who is 15 years old or older.

### 42B What is a compliance test?

(1) ***A compliance test***—

- (a) involves a young person (a ***purchase assistant***), under the supervision of an authorised officer, purchasing, or trying to purchase, smoking products from tobacco licence-holders; and
- (b) is carried out to obtain evidence that may lead to the prosecution of a person, or other action being taken against a person, for an offence against section 14 (Supply of smoking product to under 18 year olds) in relation to a smoking product; and

**Example of other action**

disciplinary action under division 7.3 against a tobacco licence-holder

- (c) may involve the purchase assistant and the authorised officer engaging in conduct that would, apart from section 42F (Lawfulness of compliance testing), be an offence against a territory law.
- (2) In this section:
  - tobacco licence*—see section 43.
  - tobacco licence-holder* means someone who holds a tobacco licence.

#### **42C Approval of compliance testing programs**

- (1) The Minister may approve a program of compliance testing.
- (2) However, the Minister must not approve a program of compliance testing unless—
  - (a) the Minister is satisfied that the program is necessary to deter the sale of smoking products to children in the area where the program will operate; and
  - (b) the program states the area where the program will operate and when the program begins and ends; and
  - (c) the program is not longer than 3 months; and
  - (d) the Minister has approved procedures under section 42D.

##### **Examples of considerations for par (a)**

- 1 evidence of sales to children in the area where the program will operate
- 2 the success of other enforcement methods
- 3 the results of previous compliance tests in the area where the program will operate
- 4 the period since compliance testing was previously carried out in the area where the program will operate

**42D Approval of compliance testing procedures**

- (1) The Minister may approve procedures for carrying out approved programs of compliance testing.
- (2) The Minister must not approve procedures under subsection (1) unless satisfied that the procedures—
  - (a) provide that, in carrying out a compliance test, a purchase assistant's welfare is paramount; and
  - (b) appropriately protect a purchase assistant's health and safety; and
  - (c) allow a purchase assistant to stop taking part in a compliance test at any time during the test; and
  - (d) ensure that, as far as practicable, a purchase assistant's identity is protected during a compliance test; and
  - (e) require a purchase assistant to be, as far as practicable, indistinguishable from other purchasers and to look like a young person; and
  - (f) require a purchase assistant not to lie to anyone about how old the assistant is during a compliance test; and
  - (g) only allow a compliance test to take place during normal business hours or at any other time when the premises where the test takes place is being used in relation to the seller's normal business; and
  - (h) comply with anything else prescribed by regulation.
- (3) An approval under subsection (1) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).



**42E Carrying out of compliance testing**

- (1) An authorised officer may carry out a compliance test in accordance with an approved program and the approved procedures.
- (2) An authorised officer may use a young person as a purchase assistant in a compliance test only if the young person, and at least 1 person who has parental responsibility under the *Children and Young People Act 2008*, division 1.3.2 for the young person, have given informed consent to the young person being a purchase assistant.

*Note* If 2 or more people share parental responsibility for a child or young person, any of them may discharge the responsibility (see *Children and Young People Act 2008*, s 18 (2)).

- (3) Each consent under subsection (2) must be in writing.
- (4) In this section:

***informed consent***, by a person, means consent given by the person after the following matters have been explained to the person:

- (a) a purchase assistant's role in a compliance test, including the assistant's role in any prosecution of a person for an offence against section 14 (Supply of smoking product to under 18 year olds);
- (b) the effect of section 42F and section 42G (Indemnification of authorised officers and purchase assistants);
- (c) anything else required by the approved procedures.

**42F Lawfulness of compliance testing**

- (1) Despite any other territory law, conduct engaged in honestly by an authorised officer is not unlawful, and is not an offence by the officer, if the conduct is engaged in for the purpose of carrying out a compliance test in accordance with an approved program and the approved procedures.

- (2) Despite any other territory law, conduct engaged in honestly by a purchase assistant is not unlawful, and is not an offence by the assistant, if—
- (a) the conduct is engaged in for the purpose of carrying out a compliance test; and
  - (b) the assistant acts in accordance, or substantially in accordance, with the instructions (if any) of an authorised officer supervising the compliance test.
- (3) However, this section does not—
- (a) authorise a purchase assistant to enter or be in a place that it would be otherwise unlawful for the assistant to enter or be in; or
  - (b) prevent action being taken against an authorised officer under the *Public Sector Management Act 1994* in relation to a failure by the authorised officer or a purchase assistant to comply with approved procedures.

**Example for par (a)**

a gaming area under the *Gaming Machine Act 2004*

**42G Indemnification of authorised officers and purchase assistants**

- (1) An authorised officer is not civilly liable for conduct engaged in for the purpose of carrying out a compliance test in accordance with an approved program and the approved procedures.
- (2) A purchase assistant is not civilly liable for conduct engaged in for the purpose of carrying out a compliance test if the assistant acts in accordance, or substantially in accordance, with the instructions of an authorised officer for the test.

- (3) However, this section does not prevent action being taken against an authorised officer under the *Public Sector Management Act 1994* in relation to a failure of the authorised officer or a purchase assistant to comply with approved procedures.
- (4) Any liability that would, apart from this section, attach to an authorised officer or purchase assistant attaches instead to the Territory.

## Part 7                      Licences

### Division 7.1              Interpretation

#### 43              Definitions for pt 7

In this part:

*licensee* means the holder for the time being of a tobacco licence.

*retail tobacconist's licence* means a retail tobacconist's licence granted under section 47.

*tobacco licence* means a retail tobacconist's licence or a wholesale tobacco merchant's licence.

*tobacco retailing*—see section 44.

*tobacco wholesaling*—see section 45.

*wholesale tobacco merchant's licence* means a wholesale tobacco merchant's licence granted under section 47.

#### 44              Meaning of *tobacco retailing*

(1) In this part:

*tobacco retailing* means the business of selling smoking products by retail.

(2) For the definition of *tobacco retailing*, each of the following facts or circumstances is immaterial:

- (a) that the smoking products are sold alone or in conjunction with any other merchandise;
- (b) that the business is carried on as part of, or in conjunction with, any other business.

## **45        *Meaning of tobacco wholesaling***

- (1) In this part:

*tobacco wholesaling* means the business of selling smoking products for the purpose of resale or wholesale, and includes any supply of smoking products by way of wholesale to a person or premises within the Territory.

- (2) For the definition of *tobacco wholesaling*, each of the following facts or circumstances is immaterial:
- (a) that the smoking products are sold alone or in conjunction with any other merchandise;
  - (b) that the business is carried on as part of, or in conjunction with, any other business;
  - (c) that any relevant contract is made outside the Territory or governed by a law other than a law of the Territory;
  - (d) that the wholesaler is located or registered, or carries on business (wholly or in part), outside the Territory;
  - (e) that the wholesaler, or another person, has transported the smoking products from outside the Territory.

## **46        *Liability of employer for acts of employee***

In this part, if an employee of a person (the *employer*)—

- (a) sells smoking products; or
- (b) carries on the business of selling smoking products;

in the course of their employment, the employer is taken to sell smoking products or to carry on the business of selling smoking products (as the case may be), but the employee is not liable for an offence under this part by reason only of having done so.

## Division 7.2                      Licences

### 47                      Application for, and grant of, tobacco licence

- (1) A person may apply to the commissioner for a wholesale tobacco merchant's licence or a retail tobacconist's licence.

*Note*                      A fee may be determined under s 70 (Determination of fees) for this section.

- (2) The applicant must give the commissioner any additional information or documents that the commissioner, in writing, requires the applicant to give to decide the application or for the administration of this Act.
- (3) Subject to section 50, the commissioner must, if the applicant has complied with this Act, grant to the applicant the licence applied for.
- (4) A licence must state the premises that are to be used in relation to the business in relation to which the licence is granted.
- (5) A licence operates as follows:
- (a) a wholesale tobacco merchant's licence authorises the licensee to carry on tobacco wholesaling at the premises, or each of the premises, specified in the licence;
  - (b) a retail tobacconist's licence authorises the licensee to carry on tobacco retailing at the premises, or each of the premises, specified in the licence.
- (6) If the holder or any of the holders of a tobacco licence asks the commissioner in writing to amend the details of the premises stated in the licence, the commissioner must amend the details.

*Note*                      A fee may be determined under s 70 (Determination of fees) for this section.

- (7) A licence cannot be transferred.

## **48 Conditions of tobacco licence**

- (1) The commissioner may specify, in a particular tobacco licence, any conditions to which the licence is subject.
- (2) In particular, the conditions may include, for a retail tobacconist's licence in respect of premises—
  - (a) subject to section 8 (Numbers of points of sale), the maximum number of points of sale permitted on the premises; and
  - (b) the permissible locations, on those premises, of the points of sale.
- (3) If section 50 (2) (b) applies in respect of an applicant, the commissioner may, instead of refusing under that paragraph to grant a tobacco licence to the applicant, issue the licence subject to the condition that the applicant must undertake, within the specified time, a specified approved training program in relation to the obligations under this Act of a licensee.
- (4) The commissioner may, by notice in writing served on a licensee—
  - (a) specify conditions or further conditions to which the licence is subject; or
  - (b) vary or cancel any conditions specified in the licence.

## **49 Duration of tobacco licence**

- (1) A tobacco licence commences on the date specified in the licence as its commencement date.
- (2) Subject to this Act, a tobacco licence (including a renewed licence) remains in force until the end of 31 August next following the grant of the licence.

**49A No vending machines authorised**

The commissioner must not grant or renew a tobacco licence that would authorise the use of a vending machine for the sale of smoking products.

**50 Refusal to grant or renew tobacco licence**

- (1) The commissioner must not grant or renew a tobacco licence if the commissioner is satisfied, on reasonable grounds, that—
  - (a) if the applicant holds another licence—the licence applied for would authorise the sale of smoking products at premises while, under a variation of the other licence under section 58 (2) (a), the sale of smoking products at the premises has been prohibited.
  - (b) the applicant holds another licence that is currently suspended under section 58 (2) (b); or
  - (c) the applicant is disqualified under section 58 from holding a tobacco licence (other than a disqualification relating to particular premises); or
  - (d) the licence would be a licence for particular premises and the applicant is disqualified under section 58 from holding a licence for those premises.
- (2) The commissioner may refuse to grant or renew a tobacco licence to an applicant if the commissioner is satisfied, on reasonable grounds, that—
  - (a) the applicant does not sufficiently understand the obligations under this Act of a licensee; or
  - (b) within the period of 2 years immediately preceding the date when the application is made, 2 offences relating to the sale or supply of smoking products to a person under the age of 18 have been found proved, in the Territory or elsewhere, in respect of the applicant; or



- (c) the ACAT would have grounds, if the applicant already held a licence, for cancelling the licence.
- (3) For subsection (2) (b), it is immaterial that a conviction was not recorded against the applicant in respect of any offence mentioned in the paragraph.
- (4) In subsections (1), (2) and (3), a reference to an applicant for a licence includes—
  - (a) if the applicant is a corporation—a reference to any director, secretary or other officer of the corporation; and
  - (b) in any case—a reference to any person who would be concerned in the direction, management or control of the business that would use, or operate under, the licence.
- (5) If the commissioner refuses to grant or renew a tobacco licence under this section, the commissioner must refund to the applicant any fee paid in relation to the application.

## **51       Renewal of tobacco licence**

- (1) Subject to section 50 and this section, the commissioner must renew a current tobacco licence on the application of the licensee.

*Note*       A fee may be determined under s 70 (Determination of fees) for this section.

- (2) The licensee must give the commissioner any additional information or documents that the commissioner, in writing, requires the licensee to give to decide the application or for the administration of this Act.
- (3) The licensee must give the application, and any additional information or documents, to the commissioner at least 7 days before the licence is to expire.
- (4) If the commissioner refuses to renew a tobacco licence, the commissioner must refund any fee paid for a renewal.

**53 Register of tobacco licences**

- (1) The commissioner must keep a register containing particulars of—
  - (a) the name of each licensee; and
  - (b) the number allotted to each licence; and
  - (c) the prescribed particulars (if any).
- (2) The commissioner must make the register available for public inspection at the office of the commissioner during the times when the office is open to the public.

**54 Surrender and termination of tobacco licence**

- (1) A holder of a tobacco licence may, at any time, by notice in writing to the commissioner, surrender their licence, and the licence then ceases to be in force.
- (2) A licence ceases to be in force if the amount of a fee for the grant or renewal of the licence that is due and payable remains unpaid.

**Division 7.3 Occupational discipline—licensees**

**55 Meaning of *licensee*—div 7.3**

In this division:

*licensee* means—

- (a) a licensee; or
- (b) a person who was, but is no longer, a licensee.

**56 Grounds for occupational discipline**

Each of the following is a *ground for occupational discipline* in relation to a licensee:

- (a) the licensee has contravened or is contravening this Act;

- (b) the licensee has contravened or is contravening a condition of a tobacco licence held by the licensee;
  - (c) a tobacco licence was granted to the person in error;
  - (d) a tobacco licence was granted to the person in consequence of a false statement made, or misleading information given, by or on behalf of the person;
  - (e) the person who holds a tobacco licence has been convicted of an offence under this part;
  - (f) if the licensee is an individual—
    - (i) the licensee is convicted, or found guilty, in Australia of an offence punishable by imprisonment for at least 1 year; or
    - (ii) the licensee is convicted, or found guilty, outside Australia of an offence that, if it had been committed in the ACT, would be punishable by imprisonment for at least 1 year; or
    - (iii) the licensee becomes bankrupt or personally insolvent;
- Note*     **Bankrupt or personally insolvent**—see the [Legislation Act](#), dictionary, pt 1.
- (g) if the licensee is a corporation—the licensee is being wound up.

## **57     Application to ACAT for occupational discipline**

If the commissioner believes on reasonable grounds that a ground for occupational discipline exists in relation to a licensee, the commissioner may apply to the ACAT for an occupational discipline order in relation to the licensee.

## **58 Orders for occupational discipline**

- (1) This section applies if the ACAT may make an occupational discipline order in relation to a licensee.

*Note* The [ACT Civil and Administrative Tribunal Act 2008](#), s 65 sets out when the ACAT may make an order.

- (2) In addition to any other occupational discipline order the ACAT may make, the ACAT may make 1 or more of the following orders for occupational discipline in relation to the licensee:

- (a) direct the commissioner to vary a tobacco licence held by the person with effect for a stated period of not longer than 5 years—
  - (i) to impose more stringent requirements than otherwise apply under this Act in relation to a point of sale, a price ticket or smoking advertising on or adjacent to 1 or more of the premises stated in the licence; or
  - (ii) to impose a condition prohibiting smoking advertising on or adjacent to 1 or more of the premises stated in the licence; or
  - (iii) to impose conditions relating to the sale of smoking products to people under 18 years old; or
  - (iv) to impose a condition prohibiting the sale of smoking products at 1 or more of the premises stated in the licence;
- (b) if the ACAT suspends a licensee's licence—suspend any other tobacco licence held by the licensee for a stated period of not longer than 3 months;

- (c) if the ACAT cancels a licensee's licence—disqualify the person from holding a tobacco licence, or from holding a tobacco licence for stated premises, for a stated period of not longer than 5 years.

*Note* The [ACT Civil and Administrative Tribunal Act 2008](#), s 66 sets out other occupational discipline orders the ACAT may make.

- (3) If the only ground for occupational discipline in relation to a licensee is the ground under section 56 (c) (which is about a licence granted to a person in error), the ACAT must only cancel the licence to which the section relates.
- (4) If a person is convicted of an offence against this Act for the 2nd time within 2 years (whether or not the convictions are for offences against the same provision of this Act), the ACAT must—
  - (a) cancel each tobacco licence held by the person; and
  - (b) disqualify the person from holding a tobacco licence for 5 years after notice of the cancellation is given to the person.

## **Division 7.4                      Offences**

### **59                      Failure to return tobacco licence**

- (1) A licensee commits an offence if—
  - (a) the commissioner varies the licensee's licence; and
  - (b) the commissioner gives the licensee notice of the variation; and
  - (c) the licensee does not return the licence to the commissioner within 14 days after the day the licensee is given the notice.

Maximum penalty: 5 penalty units.

- (2) A licensee commits an offence if—
- (a) the ACAT suspends or cancels the licensee's licence; and
  - (b) the ACAT gives the licensee notice of the suspension or cancellation; and
  - (c) the licensee does not return the licence to the commissioner within 14 days after the day the licensee is given the notice.

Maximum penalty: 5 penalty units.

- (3) An offence against this section is a strict liability offence.

## **60 Disqualification**

- (1) A person commits an offence if the person—
- (a) is disqualified under division 7.3 (Disciplinary action) from holding a tobacco licence for a stated period; and
  - (b) is involved in the direction, management or control of a tobacco retailing business during the period.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person commits an offence if the person—
- (a) is disqualified under division 7.3 from holding a tobacco licence for particular premises for a stated period; and
  - (b) is involved in the direction, management or control of a tobacco retailing business at the premises during the period.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**61        Selling smoking products without, or in contravention of, tobacco licence**

- (1) A person commits an offence if the person—
  - (a) is not a licensee; and
  - (b) sells a smoking product.Maximum penalty: 50 penalty units.
- (2) A licensee commits an offence if the licensee contravenes a condition of the licensee's licence.  
Maximum penalty: 50 penalty units.
- (3) An offence against subsection (2) is a strict liability offence.

**62        Tobacco wholesaling—offences**

- (1) A person commits an offence if the person—
  - (a) carries on tobacco wholesaling; and
  - (b) is not the holder of a wholesale tobacco merchant's licence.Maximum penalty: 100 penalty units.
- (2) A person commits an offence if the person—
  - (a) carries on tobacco wholesaling; and
  - (b) sells smoking products to someone who is not a licensee.Maximum penalty: 100 penalty units.
- (3) It is a defence to a prosecution for an offence against subsection (2) if the defendant proves that—
  - (a) under the contract of sale, the smoking products were to be delivered by the seller to the buyer outside the ACT, and that no part of the smoking products has been delivered by the seller to the buyer in the ACT; or

- (b) if the contract did not state that the smoking products were to be delivered outside the ACT, the parties intended the smoking products to be delivered outside the ACT, and that no part of the smoking products has been delivered by the seller to the buyer in the ACT; or
- (c) the defendant believed on reasonable grounds that the person to whom the smoking product was sold was a licensee.

*Note* The defendant has a legal burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 59).

- (4) A person commits an offence if the person—
  - (a) is not the holder of a wholesale tobacco merchant's licence; and
  - (b) sells a smoking product to someone else for sale in a vending machine.

Maximum penalty: 100 penalty units.

## **63 Tobacco retailing—offences**

- (1) A person commits an offence if the person—
  - (a) carries on tobacco retailing; and
  - (b) is not the holder of a retail tobacconist's licence.

Maximum penalty: 50 penalty units.

- (2) The holder of a retail tobacconist's licence commits an offence if—
  - (a) the holder carries on the business of selling smoking products at premises; and
  - (b) the premises are not stated in the licence as premises that are to be used in relation to the business.

Maximum penalty: 50 penalty units.

- (3) An offence against subsection (2) is a strict liability offence.



## **64 Display of licence details**

- (1) The holder of a wholesale tobacco merchant's licence commits an offence if the holder fails to display a licence details notice in a prominent place at each premises at which the holder carries on business as the holder of the licence.

Maximum penalty: 5 penalty units.

- (2) The holder of a retail tobacconist's licence commits an offence if the holder—

- (a) carries on business as the holder of the licence at premises; and
- (b) fails to display a licence details notice at or in close proximity to the point of sale (or, if there is more than 1 point of sale, 1 of the points of sale) at the premises.

Maximum penalty: 5 penalty units.

- (3) An offence against this section is a strict liability offence.

- (4) In this section:

*licence details notice*, in relation to the holder of a licence, means a notice stating—

- (a) the holder's name; and
- (b) the licence number.

## **65 Licensee stops carrying on business**

- (1) A licensee commits an offence if the licensee—

- (a) stops carrying on business under the licence; and
- (b) fails to tell the commissioner, in writing, that the licensee has stopped carrying on business under the licence as soon as practicable, but not later than 7 days, after the day the person stops carrying on business.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

**66            Endorsement on wholesale tobacco merchant's invoices**

- (1) The holder of a wholesale tobacco merchant's licence commits an offence if—
- (a) the holder issues an invoice in relation to the sale of a smoking product; and
  - (b) the invoice does not state, in upper case letters, 'SOLD BY LICENSED ACT WHOLESALER'.

Maximum penalty: 5 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person commits an offence if the person—
- (a) is not the holder of a wholesale tobacco merchant's licence; and
  - (b) issues an invoice in relation to the sale of a smoking product that indicates (expressly or impliedly) that the person holds the licence.

Maximum penalty: 50 penalty units.

**67            Retail tobacconist must obtain smoking products from licensed wholesaler**

- (1) The holder of a retail tobacconist's licence commits an offence if the holder obtains a smoking product from someone who is not the holder of a wholesale tobacco merchant's licence.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that the defendant obtained the smoking product for a purpose other than retail sale.

*Note* The defendant has a legal burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 59).

## **Division 7.5 Notification and review of decisions**

### **68 Meaning of *reviewable decision*—div 7.5**

In this division:

*reviewable decision* means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

### **69 Reviewable decision notices**

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity mentioned in schedule 1, column 4 in relation to the decision.

*Note 1* The person must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see [ACT Civil and Administrative Tribunal Act 2008](#), s 67A).

*Note 2* The requirements for reviewable decision notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

### **69A Applications for review**

The following may apply to the ACAT for review of a reviewable decision:

- (a) an entity mentioned in schedule 1, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

*Note* If a form is approved under the [ACT Civil and Administrative Tribunal Act 2008](#) for the application, the form must be used.

## Division 7.6                      Miscellaneous

### 70                      Determination of fees

- (1) The Minister must determine—
  - (a) the fee payable annually for the grant or renewal of a wholesale tobacco merchant's licence; and
  - (b) the fee payable annually for the grant or renewal of a retail tobacconist's licence.

- (2) The Minister may determine fees for this Act (including this part).

*Note*        The [Legislation Act 2001](#) contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (3) The Minister may determine the fee payable for a retail tobacconist's licence by reference to the number of premises, or points of sale, specified in the licence.

- (4) A determination is a disallowable instrument.

*Note*        A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act 2001](#).

### 71                      Recovery of unpaid fees from unlicensed people

- (1) If a person was required by this part to hold a tobacco licence in respect of any period, but did not do so, the person is liable to pay to the commissioner an amount equal to the fee that would have been payable for the licence had they applied for or held the licence.
- (2) The commissioner may assess the amount of the fee as if the person had applied for the licence, even though the commissioner may have made or purported to have made such an assessment.
- (3) Notice of the assessment under this section must be served by the commissioner on the person.
- (4) Any amount assessed under this section that is unpaid is a debt due to the Territory.

- (5) Proceedings may not be commenced for the purpose of recovering an amount assessed under this section until the expiration of 1 month after service of notice of the assessment under subsection (3).
- (6) A certificate purporting to be signed by the commissioner and stating that a specified amount is the amount assessed under this section in respect of a specified person is evidence of the matters so certified.

## Part 8 Miscellaneous

### 72 Acts and omissions of representatives

- (1) In this section:

**person** means an individual.

*Note* See the [Criminal Code](#), pt 2.5 for provisions about corporate criminal responsibility.

**representative**, of a person, means an employee or agent of the person.

**state of mind**, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
  - (b) the person's reasons for the intention, opinion, belief or purpose.
- (2) This section applies to a prosecution for any offence against this Act.
- (3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—
- (a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is also taken to have been done or omitted to be done by the person.
- (5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.

- (6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

### **73 Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the [Legislation Act 2001](#).

- (2) The regulations may prescribe the records a licensee or a person involved in the direction, management or control of a tobacco retailing or wholesaling business must keep in relation to the purchase or sale of smoking products.
- (3) A regulation may prescribe requirements that must be complied with in relation to the location or storage of smoking products.
- (4) The regulations may apply, adopt or incorporate, entirely or in part and with or without changes, a publication (including an Act or regulation of another jurisdiction), as in force at a stated time or from time to time.
- (5) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 20 penalty units for offences against the regulations.

## Schedule 1      Reviewable decisions

(see div 7.5)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	48 (1)	state conditions to which licence is subject	licensee
2	50	refuse to grant or renew licence	applicant for licence or renewal
3	51	refuse to renew licence	applicant for renewal



## Dictionary

(see s 2)

*Note 1* The [Legislation Act 2001](#) contains definitions and other provisions relevant to this Act.

*Note 2* In particular, the [Legislation Act 2001](#), dict, pt 1, defines the following terms:

- ACAT
- Australian driver licence
- bankrupt or personally insolvent
- child
- contravene
- document
- domestic partner (see s 169 (1))
- exercise
- external territory
- found guilty (of an offence)
- function
- home address
- occupational discipline order
- police officer
- public health officer
- reviewable decision notice.

***approved procedures***, for part 6A (Tobacco compliance testing)—see section 42A.

***approved program***, for part 6A (Tobacco compliance testing)—see section 42A.

***authorised officer***—

- (a) means an authorised officer under section 32; but
- (b) for part 6A (Tobacco compliance testing)—see section 42A.

***cigar***—

- (a) means a roll of cut tobacco for smoking that is enclosed in tobacco leaf or the leaf of another plant; and
- (b) includes any other smoking product prescribed as a cigar under the regulations.

***commissioner*** means the commissioner for fair trading.

***compliance test***, for part 6A (Tobacco compliance testing)—see section 42B.

***conduct***, for part 6A (Tobacco compliance testing)—see the [Criminal Code](#), section 13.

***connected***, for part 6 (Enforcement)—see section 31.

***engage in conduct***, for part 6A (Tobacco compliance testing)—see the [Criminal Code](#), section 13.

***food*** includes confectionery.

***ground for occupational discipline***, for division 7.3 (Occupational discipline—licensees)—see section 56.

***herbal product***—

- (a) means a product prepared for smoking that contains a herb or other plant matter; but
- (b) does not contain tobacco or a controlled drug within the meaning of the [Criminal Code](#), chapter 6 (Serious drug offences).

***immediate package***, of a smoking product, means a package containing the product—

- (a) in the case of a smoking product other than cigars—not including a package containing a further package or packages of the product; and

- (b) in the case of cigars—
  - (i) including a package constituted by the individual wrapping of a cigar, and a package containing individually-wrapped or unwrapped cigars; but
  - (ii) not including any other package containing a further package or packages of cigars (whether wrapped or unwrapped).

***import*** means import into the ACT for sale.

***licensee***—

- (a) for part 7 (Licences)—see section 43; and
- (b) for division 7.3 (Occupational discipline—licensees)—see section 55.

***occupier***, of premises—

- (a) for this Act generally—means a person having the management or control, or otherwise being in charge, of the premises; and
- (b) for part 6 (Enforcement)—see section 31.

***offence***, for part 6 (Enforcement)—see section 31.

***personal vaporiser***—see section 3B.

***personal vaporiser related product***—see section 3B.

***point of sale*** means a place, identified in accordance with the regulations (if any), where smoking products are sold within a retail outlet or wholesale outlet.

***premises*** includes a vehicle, vessel or aircraft, and a permanent or temporary structure.

***price ticket***—see section 4.

***product line*** means a kind of smoking product distinguishable from other kinds by 1 or more of the following characteristics:

- (a) brand;

- (b) flavour (including menthol flavour);
- (c) nicotine or tar content;
- (d) the number of items in the immediate package in which it is sold;
- (e) for cigars—by the fact that the cigars of the type in question are sold individually (whether or not cigars of the same type are also sold, packaged in multiples, in a different product line).

***prohibited smoking product***—see section 3D.

***purchase assistant***, for part 6A (Tobacco compliance testing)—see section 42B (1) (a).

***retail outlet*** means premises where smoking products are available for sale by retail.

***retail tobacconist's licence***, for part 7 (Licences)—see section 43.

***reviewable decision***, for division 7.5 (Notification and review of decisions)—see section 68.

***sell***—see section 5.

***smoking advertisement***—see section 6.

***smoking product***—see section 3A.

***smoking product package*** means a package that—

- (a) is of a kind commonly used for smoking products; or
- (b) includes a symbol, design or words that indicate that the package contains a smoking product, or a particular product line of a smoking product.

***therapeutic vaping good***—see section 3C.

***tobacco licence***, for part 7 (Licences)—see section 43.

***tobacco product*** means tobacco, or something containing tobacco, prepared for human consumption (including a cigarette or cigar).

***tobacco retailing***, for part 7 (Licences)—see section 44.

***tobacco wholesaling***, for part 7 (Licences)—see section 45.

***vaping good***—see section 3C.

***vending machine*** means a machine or device from which smoking products can be obtained, including by 1 or more of the following:

- (a) electronic funds transfer;
- (b) inserting money, a token or another object.

**Example—other objects—par (b)**

- 1 credit card
- 2 debit card
- 3 key

***warrant***, for part 6 (Enforcement)—see section 31.

***wholesale outlet*** means premises where smoking products are available for sale exclusively by wholesale.

***wholesale tobacco merchant's licence***, for part 7 (Licences)—see section 43.

***young person***, for part 6A (Tobacco compliance testing)—see section 42A.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the [Legislation Act 2001](#), part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

This Act was originally a Commonwealth ordinance—the *Tobacco Ordinance 1927* No 14 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* A1989-21, s 5 on 11 May 1989 (self-government day). The Act was later renamed by the *Smoke-Free Legislation Amendment Act 2016* A2016-20 (see amdt 1.3).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 25).

#### Legislation before becoming Territory enactment

##### **Tobacco and Other Smoking Products Act 1927 A1927-14**

notified 23 June 1927

commenced 23 June 1927

as amended by

##### ***Tobacco Ordinance 1936* Ord1936-10**

notified 2 April 1936

commenced 2 April 1936

##### ***Tobacco Ordinance 1937* Ord1937-19**

notified 16 December 1937

commenced 16 December 1937

##### ***Ordinances Revision Ordinance 1937* Ord1937-27**

notified 23 December 1937

commenced 23 December 1937

##### ***Tobacco Ordinance 1957* Ord1957-10**

notified 31 October 1957

commenced 31 October 1957

## Endnotes

### **Ordinances Revision (Decimal Currency) Ordinance 1966 Ord1966-19**

notified 23 December 1966

commenced 23 December 1966

### **Legislation after becoming Territory enactment**

#### **Tobacco (Amendment) Act 1990 A1990-39**

notified 7 November 1990 (Gaz 1990 No S76)

s 1, s 2 commenced 7 November 1990 (s 2 (1))

s 5 (in pt) commenced 1 March 1991 (s 2 (2) and Gaz 1991 No S10)

remainder commenced 1 January 1991 (s 2 (2) and Gaz 1990 No S94)

#### **Acts Revision (Position of Crown) Act 1993 A1993-44 sch 2**

notified 27 August 1993 (Gaz 1993 No S165)

commenced 27 August 1993 (s 2)

#### **Tobacco (Amendment) Act 1993 A1993-98**

notified 24 December 1993 (Gaz 1993 No S267)

commenced 24 December 1993 (s 2)

#### **Public Health (Miscellaneous Provisions) Act 1997 A1997-70 sch 1**

notified 9 October 1997 (Gaz 1997 No S300)

ss 1-3 commenced 9 October 1997 (s 2 (1))

sch 1 commenced 13 August 1998 (s 2 (2), s 43 (1) and Gaz 1998 No S185)

#### **Statute Law Revision (Penalties) Act 1998 A1998-54 sch**

notified 27 November 1998 (Gaz 1998 No S207)

s 1, s 2 commenced 27 November 1998 (s 2 (1))

sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

#### **Tobacco (Amendment) Act 1999 A1999-57**

notified 10 November 1999 (Gaz 1999 No 45)

ss 1-3 and s 17 commenced 10 November 1999 (s 2 (1))

s 13 commenced 10 November 2000 (s 2 (4))

remainder commenced 10 May 2000 (s 2 (3) and IA s 10E)

#### **Tobacco Amendment Act 2000 A2000-16**

notified 20 April 2000 (Gaz 2000 No 16)

s 1, s 2 commenced 20 April 2000 (s 2 (1))

s 7 commenced 1 September 2000 (s 2 (2))

remainder commenced 1 July 2000 (s 2 (3))



**Smoking Products Legislation Amendment Act 2000 A2000-53 pt 2 and sch 1**

notified 5 October 2000 (Gaz 2000 No 40)  
s 9, s 10 commenced 11 November 2000 (s 2 (2))  
pt 2 remainder and sch 1 commenced 5 October 2000 (s 2 (1))

**Legislation (Consequential Amendments) Act 2001 A2001-44 pt 383**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 383 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

**Tobacco Amendment Act 2001 A2001-68**

notified 10 September 2001 (Gaz 2001 No S66)  
s 1, s 2 commenced 10 September 2001 (IA s 10B)  
remainder commenced 17 September 2001 (s 2)

**Legislation Amendment Act 2002 A2002-11 pt 2.47**

notified LR 27 May 2002  
s 1, s 2 commenced 27 May 2002 (LA s 75)  
pt 2.47 commenced 28 May 2002 (s 2 (1))

**Statute Law Amendment Act 2002 A2002-30 pt 3.82**

notified LR 16 September 2002  
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))  
amdt 3.906 taken to have commenced 5 October 2000 (s 2 (2))  
pt 3.82 remainder commenced 17 September 2002 (s 2 (1))

**Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 1 pt 1.36, sch 2 pt 2.90**

notified LR 26 March 2004  
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))  
sch 1 pt 1.36, sch 2 pt 2.90 commenced 9 April 2004 (s 2 (1))

**Tobacco (Vending Machine Ban) Amendment Act 2004 A2004-49 pt 2**

notified LR 16 August 2004  
s 1, s 2 commenced 16 August 2004 (LA s 75 (1))  
s 14 commenced 17 August 2004 (s 2 (1))  
pt 2 remainder commenced 1 September 2006 (s 2 (2))

## Endnotes

3 Legislation history

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### **Justice and Community Safety Legislation Amendment Act 2005**

#### **A2005-5 pt 15**

notified LR 23 February 2005  
s 1, s 2 commenced 23 February 2005 (LA s 75 (1))  
pt 15 commenced 6 March 2005 (s 2 (1) and see [Criminal Code \(Serious Drug Offences\) Amendment Act 2004](#) A2004-56, s 2 and LA s 79)

### **Casino Control Act 2006 A2006-2 sch 1 pt 1.6**

notified LR 22 February 2006  
s 1, s 2 commenced 22 February 2006 (LA s 75 (1))  
sch 1 pt 1.6 commenced 1 May 2006 (s 2 and [CN2006-6](#))

### **Tobacco (Compliance Testing) Amendment Act 2006 A2006-41**

notified LR 24 October 2006  
s 1, s 2 commenced 24 October 2006 (LA s 75 (1))  
remainder commenced 25 October 2006 (s 2)

### **Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.99**

notified LR 22 March 2007  
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))  
sch 3 pt 3.99 commenced 12 April 2007 (s 2 (1))

### **Children and Young People (Consequential Amendments) Act 2008**

#### **A2008-20 sch 3 pt 3.20**

notified LR 17 July 2008  
s 1, s 2 commenced 17 July 2008 (LA s 75 (1))  
s 3 commenced 18 July 2008 (s 2 (1))  
sch 3 pt 3.20 commenced 27 October 2008 (s 2 (4) and see [Children and Young People Act 2008](#) A2008-19, s 2 and [CN2008-13](#))

### **ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 A2008-36 sch 1 pt 1.50**

notified LR 4 September 2008  
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))  
sch 1 pt 1.50 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008](#) A2008-35, s 2 (1) and [CN2009-2](#))

**ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.98**

notified LR 4 September 2008  
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))  
sch 1 pt 1.98 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008](#) A2008-35, s 2 (1) and [CN2009-2](#))

**Tobacco Amendment Act 2008 A2008-50**

notified LR 15 September 2008  
s 1, s 2 commenced 15 September 2008 (LA s 75 (1))  
s 3 commenced 16 September 2008 (LA s 75AA)  
ss 16-18, s 22 commenced 16 September 2008 (s 2 (1))  
remainder commenced 28 February 2009 (s 2 (2) and [CN2009-1](#))

**Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.75**

notified LR 26 November 2009  
s 1, s 2 commenced 26 November 2009 (LA s 75 (1))  
sch 3 pt 3.75 commenced 17 December 2009 (s 2)

**Liquor (Consequential Amendments) Act 2010 A2010-43 sch 1 pt 1.22**

notified LR 8 November 2010  
s 1, s 2 commenced 8 November 2010 (LA s 75 (1))  
sch 1 pt 1.22 commenced 1 December 2010 (s 2 (4) and see [Liquor Act 2010](#) A2010-35, s 2 (3) (as am by [A2010-43](#) amdt 1.19) and [CN2010-14](#))

**Public Sector Management Amendment Act 2011 A2011-1 s 82**

notified LR 23 February 2011  
s 1, s 2 commenced 23 February 2011 (LA s 75 (1))  
s 82 commenced 18 April 2011 (s 2 and [CN2011-5](#))

**Justice and Community Safety Legislation Amendment Act 2011 A2011-16 sch 1 pt 1.11**

notified LR 17 May 2011  
s 1, s 2 commenced 17 May 2011 (LA s 75 (a))  
sch 1 pt 1.11 commenced 17 November 2011 (s 2 and LA s 79)

**Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.154**

notified LR 30 June 2011  
s 1, s 2 commenced 30 June 2011 (LA s 75 (1))  
sch 1 pt 1.154 commenced 1 July 2011 (s 2 (1))

## Endnotes

**Statute Law Amendment Act 2011 (No 3) A2011-52 sch 1 pt 1.7, sch 3 pt 3.52**

notified LR 28 November 2011  
s 1, s 2 commenced 28 November 2011 (LA s 75 (1))  
sch 1 pt 1.7, sch 3 pt 3.52 commenced 12 December 2011 (s 2)

**Statute Law Amendment Act 2012 A2012-21 sch 3 pt 3.48**

notified LR 22 May 2012  
s 1, s 2 commenced 22 May 2012 (LA s 75 (1))  
sch 3 pt 3.48 commenced 5 June 2012 (s 2 (1))

**Red Tape Reduction Legislation Amendment Act 2014 A2014-47 pt 17**

notified LR 6 November 2014  
s 1, s 2 commenced 6 November 2014 (LA s 75 (1))  
pt 17 commenced 7 November 2014 (s 2)

**Annual Reports (Government Agencies) Amendment Act 2015 A2015-16 sch 1 pt 1.22**

notified LR 27 May 2015  
s 1, s 2 commenced 27 May 2015 (LA s 75 (1))  
sch 1 pt 1.22 commenced 3 June 2015 (s 2)

**Justice Legislation Amendment Act 2016 A2016-7 sch 1 pt 1.11**

notified LR 29 February 2016  
s 1, s 2 commenced 29 February 2016 (LA s 75 (1))  
sch 1 pt 1.11 commenced 29 August 2016 (s 2 and LA s 79)

**Smoke-Free Legislation Amendment Act 2016 A2016-20 pt 4**

notified LR 13 April 2016  
s 1, s 2 commenced 13 April 2016 (LA s 75 (1))  
pt 4 commenced 1 August 2016 (s 2 and [CN2016-13](#))

**Red Tape Reduction Legislation Amendment Act 2018 A2018-33 pt 12**

notified LR 25 September 2018  
s 1, s 2 commenced 25 September 2018 (LA s 75 (1))  
pt 12 commenced 2 October 2018 (s 2 (1))

**Statute Law Amendment Act 2021 A2021-12 sch 3 pt 3.58**

notified LR 9 June 2021  
s 1, s 2 commenced 9 June 2021 (LA s 75 (1))  
sch 3 pt 3.58 commenced 23 June 2021 (s 2 (1))

**Health Legislation Amendment Act 2022 A2022-24 pt 3**

notified LR 9 December 2022

s 1, s 2 commenced 9 December 2022 (LA s 75 (1))

pt 3 commenced 10 December 2022 (s 2)

**Tobacco and Other Smoking Products (Vaping Goods) Amendment Act 2025 A2025-8**

notified LR 17 April 2025

s 1, s 2 commenced 17 April 2025 (LA s 75 (1))

remainder commenced 18 April 2025 (s 2)

**Statute Law Amendment Act 2025 A2025-29 sch 4 pt 4.175**

notified LR 6 November 2025

s 1, s 2 commenced 6 November 2025 (LA s 75 (1))

sch 4 pt 4.175 awaiting commencement

**Tobacco and Other Smoking Products Amendment Act 2025 A2025-36**

notified LR 15 December 2025

s 1, s 2 commenced 15 December 2025 (LA s 75 (1))

remainder commenced 16 December 2025 (s 2)

## Endnotes

4 Amendment history

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### 4 Amendment history

#### Title

title sub [A2000-53](#) s 4

#### Preliminary

pt 1 hdg (prev pt 1) ins [A1990-39](#)  
renum [A2000-16](#) s 6 sch 2

#### Name of Act

s 1 sub [A2000-53](#) amdt 1.1; [A2016-20](#) s 26

#### Dictionary

s 2 hdg sub [A2000-53](#) amdt 1.2  
s 2 orig s 2 om [Ord1957-10](#) s 2  
ins [A1990-39](#) s 5  
om [A1993-44](#) sch 2  
(prev s 3) om [Ord1957-10](#) s 2  
ins [A1990-39](#) s 5  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.3; [A2001-44](#) amdt 1.4023  
defs reloc to dict [A2002-30](#) amdt 3.904  
sub [A2002-30](#) amdt 3.905  
am [A2008-50](#) s 4  
def **functions** ins [A1999-57](#) s 4  
am [A2000-53](#) amdt 1.4  
om [A2002-30](#) amdt 3.903  
def **group licence** ins [A1999-57](#) s 4  
om [A2000-16](#) sch 3  
def **licence** om [Ord1957-10](#) s 2  
def **newspaper** ins [A1990-39](#) s 5  
om [A2000-53](#) amdt 1.7  
def **shop** ins [Ord1936-10](#) s 2  
om [Ord1957-10](#) s 2  
def **shopkeeper** ins [Ord1937-19](#) s 2  
om [Ord1957-10](#) s 2  
def **smoking** ins [A1990-39](#) s 5  
om [A2000-53](#) amdt 1.7  
def **the commission** om [Ord1957-10](#) s 2  
def **the schedule** om [Ord1957-10](#) s 2  
def **this Act** ins [A1999-57](#) s 4  
om [A2001-44](#) amdt 1.4024  
def **tobacco advertisement** ins [A1990-39](#) s 5  
sub [A1999-57](#) s 4  
am [A2000-16](#) sch 3  
om [A2000-53](#) s 5

def **tobacco licence** ins [A1999-57](#) s 4  
 sub [A2000-16](#) sch 3  
 om [A2000-53](#) amdt 1.7  
 def **tobacco retailing business** ins [A1999-57](#) s 4  
 om [A2000-53](#) amdt 1.7

**Notes**

s 2A ins [A2002-30](#) amdt 3.905

**Offences against Act—application of Criminal Code etc**

s 2B ins [A2004-49](#) s 5  
 om [A2008-50](#) s 5

**Offences against Act—application of Criminal Code etc**

s 3 hdg sub [A2000-53](#) amdt 1.8  
 s 3 (prev s 3A) ins [A1999-57](#) s 5  
 renum [A2000-16](#) s 6 sch 1  
 om [A2008-50](#) s 6  
 ins [A2008-50](#) s 5

**Meaning of *smoking product***

s 3A ins [A2016-20](#) s 27  
 am [A2025-8](#) s 5

**Meaning of *personal vaporiser* and *personal vaporiser related product***

s 3B ins [A2016-20](#) s 27  
 sub [A2025-8](#) s 6

**Meaning of *therapeutic vaping good* and *vaping good***

s 3C ins [A2025-8](#) s 6

**Meaning of *prohibited smoking product***

s 3D ins [A2025-8](#) s 6  
 am [A2025-36](#) s 4; pars renum R39 LA

**Meaning of *price ticket***

s 4 hdg sub [A2000-53](#) amdt 1.8  
 s 4 (prev s 3B) ins [A1999-57](#) s 5  
 renum [A2000-16](#) s 6 sch 1  
 sub [A2008-50](#) s 6  
 am [A2011-52](#) amdt 3.191

**Meaning of *sell***

s 5 hdg sub [A2000-53](#) amdt 1.8  
 s 5 (prev s 3C) ins [A1999-57](#) s 5  
 renum [A2000-16](#) s 6 sch 1

**Meaning of *smoking advertisement***

s 6 hdg sub [A2000-53](#) s 6, amdt 1.8  
 s 6 (prev s 3D) ins [A1999-57](#) s 5  
 renum [A2000-16](#) s 6 sch 1  
 am [A2000-53](#) s 6

## Endnotes

### 4 Amendment history

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#### **Publications of name of manufacturer etc**

s 7 hdg sub [A2000-53](#) amdt 1.8  
s 7 (prev s 3E) ins [A1999-57](#) s 5  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.74, amdt 1.76, amdt 1.77; [A2008-50](#) s 7

#### **Points of sale**

pt 2 hdg (prev pt 1A hdg) ins [A1999-57](#) s 5  
renum [A2000-16](#) s 6 sch 2  
sub [A2008-50](#) s 8

#### **Numbers of points of sale**

s 8 (prev s 3F) ins [A1999-57](#) s 5  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdts 1.74-1.77  
sub [A2008-50](#) s 8  
am [A2010-43](#) amdt 1.69

#### **Location of smoking products**

s 9 (prev s 3G) ins [A1999-57](#) s 5  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.76, amdt 1.77  
sub [A2008-50](#) s 8

#### **Storage of smoking products at points of sale**

s 10 (prev s 3H) ins [A1999-57](#) s 5  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) s 7, amdt 1.9, amdt 1.10  
sub [A2008-50](#) s 8

#### **Other location and storage requirements by regulation**

s 11 (prev s 3J) ins [A1999-57](#) s 5  
renum [A2000-16](#) s 6 sch 1  
sub [A2008-50](#) s 8

#### **Location of display**

s 12 (prev s 3K) ins [A1999-57](#) s 5  
am [A2000-16](#) s 8 sch 3  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.11, amdt 1.12, amdt 1.77; [A2004-49](#) s 6  
om [A2008-50](#) s 8

#### **Sale of tobacco etc by shopkeeper**

s 12A ins [Ord1937-19](#)  
om [Ord1957-10](#)

#### **Prior notice of proposed disciplinary action**

s 12C ins [A1999-57](#) s 18  
om [A2000-16](#) s 8 sch 3



**Disciplinary action**

s 12D ins [A1999-57](#) s 18  
om [A2000-16](#) s 8 sch 3

**Disqualification**

s 12E ins [A1999-57](#) s 18  
om [A2000-16](#) s 8 sch 3

**Review of decisions**

s 12T ins [A1999-57](#) s 18  
om [A2000-16](#) s 8 sch 3

**Notification of decisions**

s 12U ins [A1999-57](#) s 18  
om [A2000-16](#) s 8 sch 3

**Other display requirements by regulation**

s 13 orig s 13 om [Ord1957-10](#)  
(prev s 3L) ins [A1999-57](#) s 5  
renum [A2000-16](#) s 6 sch 1  
om [A2008-50](#) s 8

**Supply of smoking products**

pt 3 hdg (prev pt 2 hdg) ins [A1990-39](#)  
renum [A2000-16](#) s 6 sch 2  
sub [A2000-53](#) amdt 1.13

**Supply of smoking product to under 18 year olds**

s 14 hdg sub [A2002-30](#) amdt 3.906  
s 14 orig s 14 sub [Ord1936-10](#)  
om [Ord1957-10](#)  
ins [A1990-39](#)  
om [A1998-54](#)  
(prev s 4) sub [Ord1936-10](#)  
am [Ord1937-19](#)  
om [Ord1957-10](#)  
ins [A1990-39](#)  
am [A1998-54](#)  
sub [A1999-57](#) s 6  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdts 1.14-1.17, amdt 1.76; [A2004-49](#) s 7;  
ss renum R12 LA (see [A2004-49](#) s 8); [A2008-50](#) s 9,  
amdt 1.1; [A2010-43](#) amdt 1.70; [A2016-7](#) amdt 1.24;  
[A2018-33](#) s 114; [A2025-8](#) amdt 2.5

## Endnotes

### 4 Amendment history

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#### **Purchase of smoking products for use by under 18 year olds**

s 15 hdg sub [A2000-53](#) s 3 sch 1  
s 15 orig s 15 ins [Ord1936-10](#)  
om [Ord1957-10](#)  
(prev s 5) om [Ord1936-10](#)  
ins [A1990-39](#)  
am [A1998-54](#); [A1999-57](#) s 7  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.18  
sub [A2008-50](#) amdt 1.2

#### **Prohibition on sale of smoking products by vending machine**

s 16 orig s 16 ins [Ord1936-10](#)  
om [Ord1957-10](#)  
(prev s 6) am [Ord1936-10](#)  
om [Ord1957-10](#)  
ins [A1990-39](#)  
am [A1998-54](#); [A1999-57](#) s 8; [A2000-16](#) s 8 sch 3  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.19, amdt 1.20; [A2006-2](#) amdt 1.20  
sub [A2004-49](#) s 9

#### **Tobacco for non-smoking purposes**

s 17 hdg sub [A2000-53](#) amdt 1.21  
s 17 orig s 17 ins [Ord1936-10](#)  
om [Ord1957-10](#)  
(prev s 7) om [Ord1957-10](#)  
ins [A1990-39](#)  
am [A1998-54](#); [A1999-57](#) s 9  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.78  
sub [A2008-50](#) amdt 1.3

#### **Food and toys resembling or promoting smoking products**

s 18 hdg sub [A2000-53](#) amdt 1.21  
s 18 orig s 18 ins [Ord1936-10](#)  
om [Ord1957-10](#)  
(prev s 8) am [Ord1936-10](#)  
om [Ord1957-10](#)  
ins [A1990-39](#)  
am [A1998-54](#)  
sub [A1999-57](#) s 10  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.22, amdt 1.23, amdt 1.76, amdt 1.78  
sub [A2008-50](#) amdt 1.3

#### **Declared smoking products**

s 18A ins [A2008-50](#) amdt 1.4

**Prohibition on sale or import of declared smoking product**

s 18B ins [A2008-50](#) amdt 1.4

**Sale of cigarettes**

s 19 (prev s 9) am [Ord1936-10](#)  
om [Ord1957-10](#)  
ins [A1990-39](#)  
am [A1998-54](#); [A1999-57](#) s 11  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) s 8, amdt 1.78  
sub [A2008-50](#) s 10

**Display of smoking products**

s 20 hdg sub [A2000-53](#) amdt 1.24  
s 20 (prev s 9A) ins [A1999-57](#) s 12  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.76, amdt 1.78  
sub [A2008-50](#) s 10

**Prohibited smoking products**

s 21 (prev s 9B) ins [A1999-57](#) s 13  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) s 9  
sub [A2008-50](#) s 10  
om [A2025-8](#) s 7

**Prohibition on sale of prohibited smoking product**

s 22 (prev s 9C) ins [A1999-57](#)  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) s 10  
sub [A2001-68](#) s 5  
am [A2004-49](#) s 10  
sub [A2008-50](#) s 10  
am [A2025-8](#) s 8; [A2025-36](#) s 5

**Administrative review**

pt 3C hdg ins [A1999-57](#) s 18  
om [A2000-16](#) s 8 sch 3

**Advertising, promotion and sponsorship**

pt 4 hdg (prev pt 3 hdg) ins [A1990-39](#)  
sub [A1999-57](#) s 14  
renum [A2000-16](#) s 6 sch 2

## Endnotes

### 4 Amendment history

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#### **Prohibited smoking advertising**

s 23 hdg sub [A2000-53](#) amdt 1.24  
s 23 (prev s 10) am [Ord1966-19](#)  
sub [A1990-39](#)  
am [A1993-98](#); [A1998-54](#); [A1999-57](#) s 15  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.25, amdt 1.26, amdts 1.74-1.78;  
[A2001-44](#) amdts 1.4025-1.4027; [A2004-49](#) s 11  
sub [A2008-50](#) s 11  
am [A2025-8](#) amdt 2.6

#### **Removal of smoking advertisements**

s 24 hdg sub [A2000-53](#) amdt 1.27  
s 24 (prev s 11) am [Ord1936-10](#)  
om [Ord1957-10](#)  
ins [A1990-39](#)  
am [A1993-98](#); [A1997-70](#); [A1999-57](#) s 16; [A2000-16](#) s 8 sch 3  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.28, amdt 1.74, amdt 1.75; [A2008-50](#)  
s 12, amdt 1.5; [A2012-21](#) amdt 3.184

#### **Smoking product promotions**

s 25 hdg sub [A2000-53](#) amdt 1.29  
s 25 (prev s 11A) ins [A1999-57](#) s 17  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdts 1.76-1.78  
sub [A2008-50](#) s 13

#### **Prohibition of smoking product sales contributing to customer reward scheme**

s 25A ins [A2008-50](#) s 13  
am [A2025-8](#) amdt 2.7

#### **Smoking product giveaways**

s 26 hdg sub [A2000-53](#) amdt 1.29  
s 26 (prev s 11B) ins [A1999-57](#) s 17  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.76, amdt 1.78  
sub [A2008-50](#) amdt 1.6

#### **Competitions that promote smoking products etc**

s 27 hdg sub [A2000-53](#) amdt 1.29  
s 27 (prev s 11C) ins [A1999-57](#) s 17  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdts 1.76-1.78  
sub [A2008-50](#) amdt 1.6

**Prohibition of sponsorships**

s 28 (prev s 12) om [Ord1957-10](#)  
ins [A1990-39](#)  
am [A1993-98](#); [A1998-54](#)  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.30, amdt 1.76, amdt 1.78; [A2001-44](#)  
amds 1.4028-1.4030  
sub [A2008-50](#) s 14  
am [A2025-8](#) amdt 2.8

**Registrar and deputy registrars**

pt 5 hdg (prev pt 3A hdg) ins [A1999-57](#) s 18  
sub as pt 5 hdg [A2000-16](#) s 8 sch 3  
om [A2011-16](#) amdt 1.40

**Registrar of tobacco**

s 29 (prev s 12A) ins [A1999-57](#) s 18  
am [A2000-16](#) s 8 sch 3  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.31  
sub [A2007-3](#) amdt 3.495  
(2)-(4) exp 12 April 2008 (s 29 (4) (LA s 88 declaration applies))  
am [A2011-22](#) amdt 1.441  
om [A2011-16](#) amdt 1.40

**Deputy registrars of tobacco**

s 30 (prev s 12B) ins [A1999-57](#) s 18  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.31  
sub [A2007-3](#) amdt 3.495  
(3)-(5) exp 12 April 2008 (s 30 (5) (LA s 88 declaration applies))  
am [A2011-22](#) amdt 1.441  
om [A2011-16](#) amdt 1.40

**Enforcement**

pt 6 hdg (prev pt 3B hdg) ins [A1999-57](#) s 18  
renum [A2000-16](#) s 6 sch 2

**Preliminary**

div 6.1 hdg ins [A2025-36](#) s 6

**Definitions—pt 6**

s 31 (prev s 12F) ins [A1999-57](#) s 18  
renum [A2000-16](#) s 6 sch 1  
sub [A2025-36](#) s 6  
def **connected** sub [A2025-36](#) s 6  
def **occupier** sub [A2025-36](#) s 6

## Endnotes

### 4 Amendment history

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def **offence** sub [A2025-36](#) s 6  
def **warrant** ins [A2025-36](#) s 6

#### **Authorised officers**

s 32 (prev s 12G) ins [A1999-57](#) s 18  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.31, amdt 1.32  
sub [A2007-3](#) amdt 3.496  
(3)-(5) exp 12 April 2008 (s 32 (5) (LA s 88 declaration applies))  
am [A2011-22](#) amdt 1.441; [A2011-16](#) amdt 1.41, amdt 1.46

#### **Exercise of powers by authorised officers who are police officers**

s 33 (prev s 12H) ins [A1999-57](#) s 18  
renum [A2000-16](#) s 6 sch 1  
am [A2025-8](#) amdt 2.9

#### **Identity cards**

s 34 (prev s 12J) ins [A1999-57](#) s 18  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.33  
sub [A2008-50](#) amdt 1.7  
(5)-(7) exp 28 February 2009 (s 34 (7) (LA s 88 declaration applies))  
am [A2011-22](#) amdt 1.441; [A2011-16](#) amdt 1.42, amdt 1.43;  
ss renum R28 LA  
sub [A2025-36](#) s 7

#### **Requirements before certain powers can be exercised**

s 35 (prev s 12K) ins [A1999-57](#) s 18  
am [A2000-16](#) s 8 sch 3  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.77; [A2025-8](#) amdt 2.9  
sub [A2025-36](#) s 7

#### **Powers to obtain information and enter premises**

div 6.2 hdg ins [A2025-36](#) s 7

#### **Direction to give name and address**

s 36 (prev s 12L) ins [A1999-57](#) s 18  
am [A2000-16](#) s 8 sch 3  
renum [A2000-16](#) s 6 sch 1  
am [A2012-21](#) amdt 3.184; [A2025-8](#) amdt 2.9, amdt 2.10  
sub [A2025-36](#) s 7

#### **Powers of authorised officer to enter premises**

s 37 (prev s 12M) ins [A1999-57](#) s 18  
am [A2000-16](#) s 8 sch 3  
renum [A2000-16](#) s 6 sch 1

am [A2008-50](#) amdt 1.8; [A2025-8](#) amdt 2.11  
sub [A2025-36](#) s 7

#### **Obtaining consent to entry**

s 38 (prev s 12N) ins [A1999-57](#) s 18  
am [A2000-16](#) s 8 sch 3  
renum [A2000-16](#) s 6 sch 1  
am [A2002-11](#) amdt 2.94, amdt 2.95; ss renum R6 LA  
(see [A2002-11](#) amdt 2.96); [A2025-8](#) amdt 2.11, amdt 2.12  
sub [A2025-36](#) s 7

#### **General powers on entry to premises**

s 39 (prev s 12P) ins [A1999-57](#) s 18  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.34  
sub [A2008-50](#) amdt 1.9  
am [A2009-49](#) amdt 3.192; [A2025-8](#) amdt 2.13  
sub [A2025-36](#) s 7

#### **Warrants**

div 6.3 hdg ins [A2025-36](#) s 7

#### **Application for warrant**

s 40 (prev s 12Q) ins [A1999-57](#) s 18  
am [A2000-16](#) s 8 sch 3  
renum [A2000-16](#) s 6 sch 1  
am [A2012-21](#) amdt 3.184  
sub [A2025-36](#) s 7

#### **Decision on application for warrant**

s 41 hdg sub [A2004-15](#) amdt 2.189  
s 41 (prev s 12R) ins [A1999-57](#) s 18  
am [A2000-16](#) s 8 sch 3  
renum [A2000-16](#) s 6 sch 1  
am [A2000-53](#) amdt 1.35, amdt 1.36; [A2004-15](#) amdt 2.190,  
amdt 2.191  
om [A2008-50](#) amdt 1.10  
ins [A2025-36](#) s 7

#### **Warrant issued on remote application**

s 41A ins [A2025-36](#) s 7

#### **Announcement before entry under warrant**

s 41B ins [A2025-36](#) s 7

#### **Warrant etc to be given to occupier**

s 41C ins [A2025-36](#) s 7

#### **Occupier entitled to watch search etc**

s 41D ins [A2025-36](#) s 7

## Endnotes

### 4 Amendment history

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#### **Power to seize things**

div 6.4 hdg ins [A2025-36](#) s 7

#### **Authorised officer may seize things at premises**

s 41E ins [A2025-36](#) s 7

#### **Owner etc may access seized things**

s 41F ins [A2025-36](#) s 7

#### **Person must not interfere with seized things**

s 41G ins [A2025-36](#) s 7

#### **Authorised officer must give receipt for seized things**

s 41H ins [A2025-36](#) s 7

#### **Return of seized things**

s 41I ins [A2025-36](#) s 7

#### **Order disallowing seizure**

s 41J ins [A2025-36](#) s 7

#### **Costs of disposal of forfeited things**

s 41K ins [A2025-36](#) s 7

#### **Miscellaneous**

div 6.5 hdg ins [A2025-36](#) s 7

#### **Damage etc to be minimised**

s 41L ins [A2025-36](#) s 7

#### **Compensation for exercise of enforcement powers**

s 42 (prev s 12S) ins [A1999-57](#) s 18  
am [A2000-16](#) s 8 sch 3  
renum [A2000-16](#) s 6 sch 1  
am [A2012-21](#) amdt 3.184  
sub [A2025-36](#) s 7

#### **Tobacco compliance testing**

pt 6A hdg ins [A2006-41](#) s 4

#### **Definitions—pt 6A**

s 42A ins [A2006-41](#) s 4  
def **approved procedures** ins [A2006-41](#) s 4  
def **approved program** ins [A2006-41](#) s 4  
def **authorised officer** ins [A2006-41](#) s 4  
def **conduct** ins [A2006-41](#) s 4  
def **compliance test** ins [A2006-41](#) s 4  
def **engage in conduct** ins [A2006-41](#) s 4  
def **purchase assistant** ins [A2006-41](#) s 4  
def **young person** ins [A2006-41](#) s 4



**What is a *compliance test*?**

s 42B ins [A2006-41](#) s 4  
am [A2022-24](#) s 5, s 6

**Approval of compliance testing programs**

s 42C ins [A2006-41](#) s 4  
am [A2022-24](#) s 7

**Approval of compliance testing procedures**

s 42D ins [A2006-41](#) s 4

**Carrying out of compliance testing**

s 42E ins [A2006-41](#) s 4  
am [A2008-20](#) amdt 3.44, amdt 3.45

**Lawfulness of compliance testing**

s 42F ins [A2006-41](#) s 4  
am [A2011-1](#) s 82

**Indemnification of authorised officers and purchase assistants**

s 42G ins [A2006-41](#) s 4  
am [A2011-1](#) s 82

**Annual report about compliance testing**

s 42H ins [A2006-41](#) s 4  
am [A2011-22](#) amdt 1.441  
om [A2015-16](#) amdt 1.27

**Licences**

pt 7 hdg ins [A2000-16](#) s 4

**Interpretation**

div 7.1 hdg (prev pt 7 div 1 hdg) ins [A2000-16](#) s 4  
sub [A2000-53](#) amdt 1.37

**Definitions for pt 7**

s 43 ins [A2000-16](#) s 4  
sub [A2000-53](#) amdt 1.38  
def ***approved form*** om [A2001-44](#) amdt 1.4031  
def ***determined fee*** om [A2001-44](#) amdt 1.4031

**Meaning of *tobacco retailing***

s 44 orig s 44 ins [A2000-16](#) s 4  
om [A2000-53](#) s 3 sch 1  
(prev s 43A) ins [A2000-53](#) amdt 1.38  
renum R4 LRA (see [A2000-53](#) s 11)  
am [A2004-49](#) s 12

**Meaning of *tobacco wholesaling***

s 45 (prev s 43B) ins [A2000-53](#) amdt 1.38  
renum R4 LRA (see [A2000-53](#) s 11)

## Endnotes

### 4 Amendment history

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#### **Liability of employer for acts of employee**

s 46 (prev s 43C) ins [A2000-53](#) amdt 1.38  
renum R4 LRA (see [A2000-53](#) s 11)  
am [A2025-8](#) amdt 2.13

#### **Licences**

div 7.2 hdg (prev pt 7 div 2 hdg) ins [A2000-16](#) s 4  
sub [A2000-53](#) amdt 1.39

#### **Application for, and grant of, tobacco licence**

s 47 (prev s 45) ins [A2000-16](#) s 4  
renum R4 LRA (see [A2000-53](#) s 11)  
am [A2001-44](#) amdt 1.4032-1.4036; ss renum R5 LA  
(see [A2001-44](#) amdt 1.4037); [A2011-16](#) amdt 1.46; [A2021-12](#)  
amdt 3.171

#### **Conditions of tobacco licence**

s 48 (prev s 46) ins [A2000-16](#) s 4  
am [A2000-53](#) amdt 1.40, amdt 1.14, amdt 1.77  
renum R4 LRA (see [A2000-53](#) s 11)  
am [A2008-50](#) s 15; [A2011-16](#) amdt 1.46

#### **Duration of tobacco licence**

s 49 (prev s 47) ins [A2000-16](#) s 4  
am [A2000-53](#) amdt 1.42  
renum R4 LRA (see [A2000-53](#) s 11)  
am [A2008-50](#) s 16

#### **No vending machines authorised**

s 49A ins [A2004-49](#) s 13  
am [A2008-50](#) s 17; [A2011-16](#) amdt 1.46; [A2022-24](#) s 8

#### **2005/2006 licences—no vending machines authorised**

s 49B ins [A2004-49](#) s 14  
exp 1 September 2006 (s 49B (2))

#### **Refusal to grant or renew tobacco licence**

s 50 hdg (prev s 48 hdg) sub [A2000-53](#) amdt 1.43  
renum [A2000-53](#) s 11  
s 50 (prev s 48) ins [A2000-16](#) s 4  
am [A2000-53](#) amdt 1.44-1.47  
renum R4 LRA (see [A2000-53](#) s 11)  
am [A2004-49](#) s 15; pars renum R12 LA (see [A2004-49](#) s 16);  
[A2008-36](#) amdt 1.633, amdt 1.634; [A2011-16](#) amdt 1.46

#### **Renewal of tobacco licence**

s 51 (prev s 49) ins [A2000-16](#) s 4  
am [A2000-53](#) amdt 1.48  
renum R4 LRA (see [A2000-53](#) s 11)  
am [A2001-44](#) amdt 1.4038, amdt 1.4039; [A2002-30](#)  
amdt 3.907; [A2011-16](#) amdt 1.46; [A2021-12](#) amdt 3.171

**Revival of expired retail tobacconist's licences**

s 52 (prev s 50) ins [A2000-16](#) s 4  
 renum R4 LRA (see [A2000-53](#) s 11)  
 am [A2002-30](#) amdt 3.907  
 om [A2008-50](#) s 18

**Register of tobacco licences**

s 53 (prev s 51) ins [A2000-16](#) s 4  
 renum R4 LRA (see [A2000-53](#) s 11)  
 am [A2011-16](#) amdt 1.46

**Surrender and termination of tobacco licence**

s 54 (prev s 52) ins [A2000-16](#) s 4  
 am [A2000-53](#) amdt 1.77  
 renum R4 LRA (see [A2000-53](#) s 11)  
 am [A2011-16](#) amdt 1.46; [A2025-8](#) amdt 2.13

**Occupational discipline—licensees**

div 7.3 hdg (prev pt 7 div 3 hdg) ins [A2000-16](#) s 4  
 sub [A2000-53](#) amdt 1.49; [A2008-36](#) amdt 1.635

**Meaning of licensee—div 7.3**

s 55 (prev s 53) ins [A2000-16](#) s 4  
 renum R4 LRA (see [A2000-53](#) s 11)  
 sub [A2008-36](#) amdt 1.635

**Grounds for occupational discipline**

s 56 (prev s 54) ins [A2000-16](#) s 4  
 am [A2000-53](#) amdts 1.50-1.54  
 renum R4 LRA (see [A2000-53](#) s 11)  
 am [A2006-2](#) amdt 1.21; [A2004-49](#) ss 17-19, s 21, s 22;  
 pars renum R12 LA (see [A2004-49](#) s 20)  
 sub [A2008-36](#) amdt 1.635  
 am [A2011-52](#) amdt 1.11

**Application to ACAT for occupational discipline**

s 57 (prev s 55) ins [A2000-16](#) s 4  
 renum R4 LRA (see [A2000-53](#) s 11)  
 sub [A2008-36](#) amdt 1.635  
 am [A2011-16](#) amdt 1.46

**Orders for occupational discipline**

s 58 hdg (prev s 56 hdg) sub [A2000-53](#) amdt 1.56  
 renum R4 LRA (see [A2000-53](#) s 11)  
 s 58 (prev s 56) ins [A2000-16](#) s 4  
 renum R4 LRA (see [A2000-53](#) s 11)  
 om [A2004-49](#) s 23  
 ins [A2008-36](#) amdt 1.635  
 am [A2008-37](#) amdt 1.480; [A2008-50](#) s 19; [A2011-16](#)  
 amdt 1.46; [A2012-21](#) amdt 3.185, amdt 3.186

## Endnotes

### 4 Amendment history

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#### **Offences**

div 7.4 hdg (prev pt 7 div 4 hdg) ins [A2000-16](#) s 4  
sub [A2000-53](#) amdt 1.55; [A2008-50](#) amdt 1.11

#### **Failure to return tobacco licence**

s 59 (prev s 57) ins [A2000-16](#) s 4  
am [A2000-53](#) amdt 1.57, amdt 1.77  
renum R4 LRA (see [A2000-53](#) s 11)  
sub [A2008-50](#) amdt 1.11  
am [A2011-16](#) amdt 1.46; [A2011-52](#) amdt 3.192; [A2012-21](#)  
amdt 3.187

#### **Disqualification**

s 60 (prev s 58) ins [A2000-16](#) s 4  
am [A2000-53](#) amdt 1.58, amdt 1.77  
renum R4 LRA (see [A2000-53](#) s 11)  
sub [A2008-50](#) amdt 1.11

#### **Selling smoking products without, or in contravention of, tobacco licence**

s 61 hdg (prev s 59 hdg) sub [A2000-53](#) amdt 1.59  
renum R4 LRA (see [A2000-53](#) s 11)  
s 61 (prev s 59) ins [A2000-16](#) s 4  
am [A2000-53](#) amdt 1.77  
renum R4 LRA (see [A2000-53](#) s 11)  
sub [A2008-50](#) amdt 1.11

#### **Tobacco wholesaling—offences**

s 62 (prev s 60) ins [A2000-16](#) s 4  
am [A2000-53](#) amdt 1.60, amdt 1.77  
renum R4 LRA (see [A2000-53](#) s 11)  
sub [A2008-50](#) amdt 1.11  
am [A2025-8](#) amdt 2.14

#### **Tobacco retailing—offences**

s 63 (prev s 61) ins [A2000-16](#) s 4  
am [A2000-53](#) amdt 1.61  
renum R4 LRA (see [A2000-53](#) s 11)  
am [A2004-49](#) s 24; pars renum [A2004-49](#) s 25  
sub [A2008-50](#) amdt 1.11

#### **Display of licence details**

s 64 (prev s 62) ins [A2000-16](#) s 4  
am [A2000-53](#) amdt 1.62, amdt 1.77  
renum R4 LRA (see [A2000-53](#) s 11)  
am [A2004-49](#) s 26  
sub [A2008-50](#) amdt 1.11  
am [A2014-47](#) s 31

**Licensee stops carrying on business**

s 65 (prev s 63) ins [A2000-16](#) s 4  
 renum R4 LRA (see [A2000-53](#) s 11)  
 sub [A2008-50](#) amdt 1.11  
 am [A2011-16](#) amdt 1.46

**Endorsement on wholesale tobacco merchant's invoices**

s 66 hdg (prev s 64 hdg) sub [A2000-53](#) amdt 1.63  
 renum R4 LRA (see [A2000-53](#) s 11)  
 s 66 (prev s 64) ins [A2000-16](#) s 4  
 am [A2000-53](#) amdt 1.64, amdt 1.77  
 renum R4 LRA (see [A2000-53](#) s 11)  
 sub [A2008-50](#) amdt 1.11

**Retail tobacconist must only obtain smoking products from licensed wholesaler**

s 67 hdg (prev s 64A hdg) sub [A2000-53](#) amdt 1.65  
 renum R4 LRA (see [A2000-53](#) s 11)  
 s 67 (prev s 64A) ins [A2000-16](#) s 4  
 renum R4 LRA (see [A2000-53](#) s 11)  
 sub [A2008-50](#) amdt 1.11  
 am [A2022-24](#) s 9; [A2025-8](#) s 9, amdt 2.15

**Notification and review of decisions**

div 7.5 hdg (prev pt 7 div 5 hdg) ins [A2000-16](#) s 4  
 sub [A2000-53](#) amdt 1.66; [A2008-36](#) amdt 1.636

**Meaning of reviewable decision—div 7.5**

s 68 (prev s 65) ins [A2000-16](#) s 4  
 renum R4 LRA (see [A2000-53](#) s 11)  
 am [A2004-49](#) s 27; pars renum R12 LA (see [A2004-49](#) s 28)  
 sub [A2008-36](#) amdt 1.636

**Reviewable decision notices**

s 69 (prev s 66) ins [A2000-16](#) s 4  
 am [A2000-53](#) amdt 1.67  
 renum R4 LRA (see [A2000-53](#) s 11)  
 sub [A2008-36](#) amdt 1.636

**Applications for review**

s 69A ins [A2008-36](#) amdt 1.636

**Miscellaneous**

div 7.6 hdg (prev pt 7 div 6 hdg) ins [A2000-16](#) s 4  
 sub [A2000-53](#) amdt 1.68

## Endnotes

### 4 Amendment history

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#### Determination of fees

- s 70 hdg (prev s 67 hdg) renum R4 LRA (see [A2000-53](#) s 11)  
sub [A2001-44](#) amdt 1.4040  
s 70 (prev s 67) ins [A2000-16](#) s 4  
am [A2000-53](#) amdt 1.69  
renum R4 LRA (see [A2000-53](#) s 11)  
am [A2001-44](#) amdt 1.4041, amdt 1.4042; ss renum R5 LA  
(see [A2001-44](#) amdt 1.4043); [A2011-52](#) amdt 3.193

#### Recovery of unpaid fees from unlicensed people

- s 71 hdg sub [A2025-8](#) amdt 2.16  
s 71 (prev s 68) ins [A2000-16](#) s 4  
renum R4 LRA (see [A2000-53](#) s 11)  
am [A2011-16](#) amdt 1.46; [A2012-21](#) amdt 3.188; [A2025-8](#)  
amdt 2.17

#### Miscellaneous

- pt 8 hdg (prev pt 4 hdg) ins [A1990-39](#)  
renum [A2000-16](#) s 6 sch 2

#### Acts and omissions of representatives

- s 72 (prev s 13 and then s 69) ins [A1990-39](#)  
renum as s 69 [A2000-16](#) s 6 sch 1  
renum as s 72 R4 LRA (see [A2000-53](#) s 11)  
sub [A2004-15](#) amdt 1.40

#### Approved forms

- s 72A ins [A2001-44](#) amdt 1.4044  
am [A2007-3](#) amdt 3.497; [A2011-52](#) amdt 3.193  
om [A2021-12](#) amdt 3.172

#### Regulation-making power

- s 73 hdg (prev s 70 hdg) sub [A2000-53](#) amdt 1.70  
renum R4 LRA (see [A2000-53](#) s 11)  
s 73 (prev s 15 and then s 70) am [A2000-53](#) amdt 1.71, amdt 1.72  
renum as s 70 [A2000-16](#) s 6 sch 1  
renum as s 73 R4 LRA (see [A2000-53](#) s 11)  
am [A2001-44](#) amdts 1.4045-1.4047; [A2008-50](#) s 20, s 21;  
ss renum R21 LA

#### Transitional

- pt 9 hdg ins [A2000-53](#) amdt 1.73  
exp 1 September 2001 (s 75 (1))

#### Licences under the Tobacco Licensing Act

- s 74 (prev s 71) ins [A2000-53](#) amdt 1.73  
renum R4 LRA (see [A2000-53](#) s 11)  
exp 1 September 2001 (s 75 (1))

**Expiry of part**

s 75 (prev s 72) ins [A2000-53](#) amdt 1.73  
renum R4 LRA (see [A2000-53](#) s 11)  
exp 1 September 2001 (s 75 (1))

**Transitional—repeal of s 52**

s 100 ins [A2008-50](#) s 22  
exp 30 November 2008 (s 100 (5))

**Transitional—application of new point of sale display provisions to tobacconists**

s 101 ins [A2008-50](#) s 23  
exp 1 January 2011 (s 101 (5))

**The schedule**

sch am [Ord1937-19](#)  
om [Ord1957-10](#)

**Reviewable decisions**

sch 1 ins [A2008-36](#) amdt 1.637

**Dictionary**

dict ins [A2002-30](#) amdt 3.908  
am [A2008-36](#) amdt 1.638; [A2008-50](#) s 24, amdt 1.12;  
[A2009-49](#) amdt 3.193; [A2011-52](#) amdt 1.12; [A2012-21](#)  
amdt 3.189; [A2018-33](#) s 115  
def **approved procedures** ins [A2006-41](#) s 5  
def **approved program** ins [A2006-41](#) s 5  
def **authorised officer** ins [A1999-57](#) s 4  
am [A2000-16](#) sch 3  
reloc from s 2 [A2002-30](#) amdt 3.904  
sub [A2006-41](#) s 6  
def **carton** ins [A1999-57](#) s 4  
am [A2000-53](#) amdt 1.76  
reloc from s 2 [A2002-30](#) amdt 3.904  
om [A2011-52](#) amdt 3.194  
def **cigar** ins [A1999-57](#) s 4  
am [A2000-53](#) amdt 1.76  
reloc from s 2 [A2002-30](#) amdt 3.904  
def **commissioner** ins [A2011-16](#) amdt 1.44  
def **compliance test** ins [A2006-41](#) s 7  
def **conduct** ins [A2006-41](#) s 7  
def **connected** ins [A2007-3](#) amdt 3.499  
def **deputy registrar** ins [A1999-57](#) s 4  
sub [A2000-16](#) sch 3  
reloc from s 2 [A2002-30](#) amdt 3.904  
om [A2011-16](#) amdt 1.45

## Endnotes

4 Amendment history

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def **display** ins [A1999-57](#) s 4  
am [A2000-53](#) amdt 1.76  
reloc from s 2 [A2002-30](#) amdt 3.904  
om [A2008-50](#) s 25

def **drug** ins [A2000-53](#) s 5  
reloc from s 2 [A2002-30](#) amdt 3.904  
sub [A2005-5](#) s 49  
om [A2008-50](#) s 25

def **engage in conduct** ins [A2006-41](#) s 7

def **food** ins [A2008-50](#) amdt 1.13

def **ground for occupational discipline** ins [A2008-36](#)  
amdt 1.639  
sub [A2012-21](#) amdt 3.190

def **herbal product** ins [A2000-53](#) s 5  
reloc from s 2 [A2002-30](#) amdt 3.904  
sub [A2008-50](#) s 26; [A2012-21](#) amdt 3.191

def **identity card** ins [A1999-57](#) s 4  
am [A2000-16](#) sch 3  
reloc from s 2 [A2002-30](#) amdt 3.904  
am [A2007-3](#) amdt 3.498; [A2012-21](#) amdt 3.192  
om [A2025-36](#) s 8

def **immediate package** ins [A1999-57](#) s 4  
am [A2000-53](#) amdt 1.76  
reloc from s 2 [A2002-30](#) amdt 3.904

def **import** ins [A2008-50](#) amdt 1.13

def **licensee** ins [A2007-3](#) amdt 3.499  
sub [A2008-36](#) amdt 1.640

def **occupier** ins [A1999-57](#) s 4  
reloc from s 2 [A2002-30](#) amdt 3.904  
sub [A2007-3](#) amdt 3.500

def **offence** ins [A2007-3](#) amdt 3.501

def **package** ins [A1999-57](#) s 4  
am [A2000-53](#) amdt 1.74  
reloc from s 2 [A2002-30](#) amdt 3.904  
om [A2008-50](#) s 27

def **personal vapouriser** ins [A2016-20](#) s 28

def **personal vapouriser related product** ins [A2016-20](#) s 28

def **point of sale** ins [A1999-57](#) s 4  
am [A2000-53](#) amdt 1.77  
sub [A2001-68](#) s 4  
reloc from s 2 [A2002-30](#) amdt 3.904  
sub [A2004-49](#) s 29

def **point of sale display** ins [A1999-57](#) s 4  
am [A2000-16](#) sch 3; [A2000-53](#) amdt 1.76  
reloc from s 2 [A2002-30](#) amdt 3.904  
om [A2008-50](#) s 27



def **premises** ins [A1999-57](#) s 4  
 reloc from s 2 [A2002-30](#) amdt 3.904

def **price ticket** ins [A1999-57](#) s 4  
 am [A2000-16](#) sch 3  
 reloc from s 2 [A2002-30](#) amdt 3.904  
 sub [A2008-50](#) s 28

def **product information notice** ins [A1999-57](#) s 4  
 am [A2000-16](#) sch 3  
 reloc from s 2 [A2002-30](#) amdt 3.904  
 om [A2008-50](#) s 29

def **product line** ins [A1999-57](#) s 4  
 am [A2000-53](#) amdt 1.5, amdt 1.76  
 reloc from s 2 [A2002-30](#) amdt 3.904

def **prohibited smoking product** ins [A2025-8](#) s 10

def **public place** ins [A1990-39](#) s 5  
 sub [A1999-57](#) s 4  
 reloc from s 2 [A2002-30](#) amdt 3.904  
 om [A2008-50](#) s 30

def **purchase assistant** ins [A2006-41](#) s 7

def **registrar** ins [Ord1936-10](#) s 2  
 om [Ord1957-10](#) s 2  
 ins [A1999-57](#) s 4  
 sub [A2000-16](#) sch 3  
 reloc from s 2 [A2002-30](#) amdt 3.904  
 om [A2011-16](#) amdt 1.45

def **retail outlet** ins [A1999-57](#) s 4  
 am [A2000-53](#) amdt 1.77  
 reloc from s 2 [A2002-30](#) amdt 3.904

def **retail tobacconist's licence** ins [A2007-3](#) amdt 3.501

def **reviewable decision** ins [A2008-36](#) amdt 1.641

def **sell** ins [A1990-39](#) s 5  
 sub [A1999-57](#) s 4  
 am [A2000-16](#) sch 3  
 reloc from s 2 [A2002-30](#) amdt 3.904

def **smoking advertisement** ins [A2000-53](#) s 5  
 reloc from s 2 [A2002-30](#) amdt 3.904

def **smoking product** ins [A2000-53](#) s 5  
 reloc from s 2 [A2002-30](#) amdt 3.904  
 sub [A2016-20](#) s 29

def **smoking product package** ins [A2008-50](#) amdt 1.13

def **theatre** ins [A1990-39](#) s 5  
 reloc from s 2 [A2002-30](#) amdt 3.904  
 om [A2008-50](#) s 31

def **therapeutic vaping good** ins [A2025-8](#) s 10

def **tobacco licence** ins [A2007-3](#) amdt 3.501

## Endnotes

### 4 Amendment history

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def **tobacco product** ins [A1990-39](#) s 5  
sub [A2000-53](#) s 2  
reloc from s 2 [A2002-30](#) amdt 3.904  
def **tobacco retailing** ins [A2007-3](#) amdt 3.501  
def **tobacco wholesaling** ins [A2007-3](#) amdt 3.501  
def **vaping good** ins [A2025-8](#) s 10  
def **vending machine** ins [A1990-39](#) s 5  
sub [A2000-53](#) amdt 1.6  
reloc from s 2 [A2002-30](#) amdt 3.904  
sub [A2004-49](#) s 30; [A2008-50](#) s 32  
def **warrant** ins [A2025-36](#) s 9  
def **wholesale outlet** ins [A1999-57](#) s 4  
am [A2000-53](#) amdt 1.77  
reloc from s 2 [A2002-30](#) amdt 3.904  
def **wholesale tobacco merchant's licence** ins [A2007-3](#)  
amdt 3.501  
def **young person** ins [A2006-41](#) s 7

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	<a href="#">A1990-39</a>	31 July 1992
2	<a href="#">A1993-98</a>	31 December 1993
3	<a href="#">A2000-16</a>	1 July 2000
4	<a href="#">A2000-53</a>	20 November 2000
4 (RI)	<a href="#">A2000-53</a> ‡	1 October 2002
5	<a href="#">A2001-68</a>	6 November 2001
5 (RI)	<a href="#">A2001-68</a> ‡	1 October 2002
6	<a href="#">A2002-11</a>	30 May 2002
6 (RI)	<a href="#">A2002-11</a> ‡	1 October 2002
7	<a href="#">A2002-30</a>	1 October 2002
8	<a href="#">A2004-15</a>	9 April 2004
9	<a href="#">A2004-49</a>	17 August 2004
10*	<a href="#">A2005-5</a>	6 March 2005
11	<a href="#">A2006-2</a>	1 May 2006
12	<a href="#">A2006-2</a>	1 September 2006
13	<a href="#">A2006-2</a>	2 September 2006
14	<a href="#">A2006-41</a>	25 October 2006
15	<a href="#">A2007-3</a>	12 April 2007
16	<a href="#">A2007-3</a>	13 April 2008
17	<a href="#">A2008-50</a>	16 September 2008
18	<a href="#">A2008-50</a>	27 October 2008
19	<a href="#">A2008-50</a>	1 December 2008

## Endnotes

### 5 Earlier republications

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Republication No	Amendments to	Republication date
20	<a href="#">A2008-50</a>	2 February 2009
21	<a href="#">A2008-50</a>	28 February 2009
22	<a href="#">A2008-50</a>	1 March 2009
23	<a href="#">A2009-49</a>	17 December 2009
24	<a href="#">A2010-43</a>	1 December 2010
25	<a href="#">A2010-43</a>	2 January 2011
26	<a href="#">A2011-1</a>	18 April 2011
27	<a href="#">A2011-22</a>	1 July 2011
28	<a href="#">A2011-22</a>	17 November 2011
29	<a href="#">A2011-52</a>	12 December 2011
30	<a href="#">A2012-21</a>	5 June 2012
31	<a href="#">A2014-47</a>	7 November 2014
32	<a href="#">A2015-16</a>	3 June 2015
33	<a href="#">A2016-20</a>	1 August 2016
34	<a href="#">A2016-20</a>	29 August 2016
35	<a href="#">A2018-33</a>	2 October 2018
36	<a href="#">A2021-12</a>	23 June 2021
37	<a href="#">A2022-24</a>	10 December 2022
38	<a href="#">A2025-8</a>	18 April 2025

‡ includes retrospective amendment by [A2002-30](#)

**6 Renumbered provisions**

This Act was renumbered under the *Legislation (Republication) Act 1996* in R4 (see [A2000-16](#) s 6 and [A2000-53](#) s 11). Details of renumbered provisions are shown in endnote 4 (Amendment history). For a table showing the renumbered provisions, see R5 (RI).

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