

Australian Capital Territory

Health Legislation Amendment Act 2022

A2022-24

Contents

 Page

[Part 1 Preliminary 2](#_Toc120804756)

 [1 Name of Act 2](#_Toc120804757)

 [2 Commencement 2](#_Toc120804758)

 [3 Legislation amended 2](#_Toc120804759)

[Part 2 Medicines, Poisons and Therapeutic Goods Act 2008 3](#_Toc120804760)

 [4 Application of Commonwealth therapeutic goods laws to ACT
New section 157 (3) 3](#_Toc120804761)

[Part 3 Tobacco and Other Smoking Products Act 1927 4](#_Toc120804762)

 [5 What is a compliance test?
Section 42B (1) (a) 4](#_Toc120804763)

 [6 Section 42B (1) (b) 4](#_Toc120804764)

 [7 Approval of compliance testing programs
Section 42C (2) (a) 4](#_Toc120804765)

 [8 No vending machines authorised
Section 49A 5](#_Toc120804766)

 [9 Retail tobacconist must obtain smoking products from licensed wholesaler
New section 67 (4) and (5) 5](#_Toc120804767)

[Part 4 Transplantation and Anatomy Act 1978 6](#_Toc120804768)

 [10 Disclosure of information
New section 49 (4) (aa) 6](#_Toc120804769)

 [11 Section 49 (4) (c) 6](#_Toc120804770)

 [12 New section 49 (5) and (6) 6](#_Toc120804771)



Australian Capital Territory

Health Legislation Amendment Act 2022

A2022-24

An Act to amend legislation about health, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Health Legislation Amendment Act 2022*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](http://www.legislation.act.gov.au/a/2001-14), s 75 (1)).

3 Legislation amended

This Act amends the following legislation:

 [Medicines, Poisons and Therapeutic Goods Act 2008](http://www.legislation.act.gov.au/a/2008-26)

 [*Tobacco and Other Smoking Products Act 1927*](https://www.legislation.act.gov.au/a/1927-14/)

 [Transplantation and Anatomy Act 1978](http://www.legislation.act.gov.au/a/1978-44).

Part 2 Medicines, Poisons and Therapeutic Goods Act 2008

4 Application of Commonwealth therapeutic goods laws to ACT
New section 157 (3)

after the note, insert

 (3) The Commonwealth therapeutic goods laws also apply as if they extended to—

 (a) an act done or omitted to be done by a person who is not a corporation; and

 (b) an act done or omitted to be done in the course of trade or commerce within the limits of the Territory.

Part 3 Tobacco and Other Smoking Products Act 1927

5 What is a compliance test?
Section 42B (1) (a)

omit

tobacco products

substitute

smoking products

6 Section 42B (1) (b)

omit

tobacco product

substitute

smoking product

7 Approval of compliance testing programs
Section 42C (2) (a)

omit

tobacco products

substitute

smoking products

8 No vending machines authorised
Section 49A

omit

tobacco products

substitute

smoking products

9 Retail tobacconist must obtain smoking products from licensed wholesaler
New section 67 (4) and (5)

insert

 (4) Subsection (1) does not apply if the holder of a retail tobacconist’s licence—

 (a) operates a community pharmacy; and

 (b) obtains a personal vaporiser or personal vaporiser related product—

 (i) that is a medicine; and

 (ii) from someone who is not the holder of a wholesale tobacco merchant’s licence.

Note The defendant has an evidential burden in relation to the matters mentioned in s (4) (see [Criminal Code](http://www.legislation.act.gov.au/a/2002-51), s 58).

 (5) In this section:

community pharmacy—see the [Medicines, Poisons and Therapeutic Goods Act 2008](http://www.legislation.act.gov.au/a/2008-26), dictionary.

medicine—see the [Medicines, Poisons and Therapeutic Goods Act 2008](http://www.legislation.act.gov.au/a/2008-26), section 11.

Part 4 Transplantation and Anatomy Act 1978

10 Disclosure of information
New section 49 (4) (aa)

insert

 (aa) to a next of kin of a deceased person for the purposes of the [Births, Deaths and Marriages Registration Act 1997](http://www.legislation.act.gov.au/a/1997-112), section 38A (3); or

11 Section 49 (4) (c)

substitute

 (c) with the consent of—

 (i) the person to whom the information relates (the ***relevant person***); or

 (ii) if the relevant person is a child or young person—a person with parental responsibility for the relevant person; or

 (iii) if the relevant person is a legally incompetent person—a guardian of, or power of attorney for, the relevant person; or

 (iv) if the relevant person is a deceased person to whom subsection (1) (a) applies—the relevant person’s next of kin or legal personal representative; or

12 New section 49 (5) and (6)

insert

 (5) For subsection (4) (c), the definition of ***next of kin*** in the dictionary does not apply.

 (6) In this section:

***legally incompetent person*** means a person who is subject to—

an enduring power of attorney that has become operative; or

a guardianship order.

***person with parental responsibility***, for a child or young person, means a parent or someone else with parental responsibility for the child or young person under the [Children and Young People Act 2008](https://legislation.act.gov.au/a/2008-19/), division 1.3.2.

Endnotes

1 Presentation speech

 Presentation speech made in the Legislative Assembly on 4 May 2022.

2 Notification

 Notified under the [Legislation Act](http://www.legislation.act.gov.au/a/2001-14) on 9 December 2022.

3 Republications of amended laws

 For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au/).

I certify that the above is a true copy of the Health Legislation Amendment Bill 2022, which was passed by the Legislative Assembly on 24 November 2022.

Clerk of the Legislative Assembly

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