



Australian Capital Territory

Health Legislation Amendment Act 2022

A2022-24

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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](#), s 75 (1)).

3 Legislation amended

This Act amends the following legislation:

- [Medicines, Poisons and Therapeutic Goods Act 2008](#)
- [Tobacco and Other Smoking Products Act 1927](#)
- [Transplantation and Anatomy Act 1978](#).

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](#), s 58).

- (5) In this section:

community pharmacy—see the [Medicines, Poisons and Therapeutic Goods Act 2008](#), dictionary.

medicine—see the [Medicines, Poisons and Therapeutic Goods Act 2008](#), 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*, 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—

- (a) an enduring power of attorney that has become operative; or
- (b) 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*, 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](#) on 9 December 2022.

3 Republications of amended laws

For the latest republication of amended laws, see 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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