



Australian Capital Territory

Tobacco and Other Smoking Products (Vaping Goods) Amendment Act 2025

A2025-8

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J2023-1278

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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Australian Capital Territory

Tobacco and Other Smoking Products (Vaping Goods) Amendment Act 2025

A2025-8

An Act to amend the *Tobacco and Other Smoking Products Act 1927*, and for other purposes

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

1 Name of Act

This Act is the *Tobacco and Other Smoking Products (Vaping Goods) Amendment Act 2025*.

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 *Tobacco and Other Smoking Products Act 1927*.

Note This Act also amends other legislation (see schs 1 and 2).

4 Legislation repealed

The *Tobacco (Prohibited Smoking Products) Declaration 2011 (No 1)* (NI2011-584) is repealed.

**5 Meaning of *smoking product*
Section 3A, definition of *smoking product*, new paragraph (d)**

insert

(d) a vaping good other than a therapeutic vaping good.

6 Section 3B*substitute***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 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.

**7 Prohibited smoking products
Section 21**

omit

**8 Prohibition on sale of prohibited smoking product
Section 22 (2)**

omit

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

omit

10 Dictionary, new definitions

insert

prohibited smoking product—see section 3D.

therapeutic vaping good—see section 3C.

vaping good—see section 3C.

Schedule 1 Consequential amendments

(see s 3)

Part 1.1 Drugs of Dependence Act 1989

[1.1] Section 171AB (4), definition of *smoke cannabis*, paragraph (b) (ii)

substitute

- (ii) a personal vaporiser or vaping good that contains cannabis and that is activated.

[1.2] Section 171AB (4), definition of *smoke cannabis*, new example

after 1st dot point, insert

- a vaping good

[1.3] Section 171AB (4), new definition of *vaping good*

insert

vaping good—see the [Tobacco and Other Smoking Products Act 1927](#), section 3C.

Part 1.2 Smoke-Free Public Places Act 2003

[1.4] Section 3, note 1

substitute

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.

For example, the signpost definition ‘*gaming area*—see the [Gaming Machine Act 2004](#), dictionary.’ means that the term ‘gaming area’ is defined in that dictionary and the definition applies to this Act.

[1.5] Section 5B

substitute

5B Meaning of *smoke*

- (1) For this Act, *smoke* means—
 - (a) smoke from an ignited tobacco product or herbal product; or
 - (b) vapour from an activated personal vaporiser or vaping good.
- (2) For this Act, a person *smokes* if the person—
 - (a) directly puffs, draws or inhales smoke or vapour, whether or not the person uses a device designed for the inhalation of smoke or vapour by a smoker; or
 - (b) holds or has control over a smoking product while it is ignited or activated.

Examples—devices—par (a)

- 1 a cigarette holder
- 2 a pipe (including a hookah, water pipe or bong)

- (3) However, a person does not *smoke* only because the person holds or has control over a smoking product if the person holds or has control over it for the purpose of extinguishing it, deactivating it or removing it from—

- (a) an enclosed public place; or
- (b) an outdoor eating or drinking place; or
- (c) an underage function.

- (4) In this section:

herbal product—see the *Tobacco and Other Smoking Products Act 1927*, dictionary.

personal vaporiser—see the *Tobacco and Other Smoking Products Act 1927*, section 3B.

smoking product means any of the following:

- (a) a tobacco product;
- (b) a herbal product;
- (c) a personal vaporiser;
- (d) a vaping good.

tobacco product—see the *Tobacco and Other Smoking Products Act 1927*, dictionary.

vaping good—see the *Tobacco and Other Smoking Products Act 1927*, section 3C.

[1.6] Dictionary, definitions of *personal vaporiser* and *smoking product*

omit

Part 1.3 Smoking in Cars with Children (Prohibition) Act 2011

[1.7] Section 6

substitute

6 Meaning of *smoke*

- (1) For this Act, *smoke* means—
 - (a) smoke from an ignited tobacco product or herbal product; or
 - (b) vapour from an activated personal vaporiser or vaping good.
- (2) For this Act, a person *smokes* if the person—
 - (a) directly puffs, draws or inhales smoke or vapour, whether or not the person uses a device designed for the inhalation of smoke or vapour by a smoker; or
 - (b) holds or has control over a smoking product while it is ignited or activated.

Examples—devices—par (a)

- 1 a cigarette holder
- 2 a pipe (including a hookah, water pipe or bong)

- (3) In this section:

herbal product—see the [Tobacco and Other Smoking Products Act 1927](#), dictionary.

personal vaporiser—see the [Tobacco and Other Smoking Products Act 1927](#), section 3B.

smoking product means any of the following:

- (a) a tobacco product;
- (b) a herbal product;

(c) a personal vaporiser;

(d) a vaping good.

tobacco product—see the *Tobacco and Other Smoking Products Act 1927*, dictionary.

vaping good—see the *Tobacco and Other Smoking Products Act 1927*, section 3C.

[1.8] Dictionary, definitions of *personal vaporiser* and *smoking product*

omit

Schedule 2 Technical amendments

(see s 3)

Part 2.1 Medicines, Poisons and Therapeutic Goods Act 2008

[2.1] Section 14, definition of *regulated therapeutic good*, paragraph (a) (iii)

omit

Explanatory note

This amendment omits reference to a therapeutic device as that term is no longer used by the [Therapeutic Goods Act 1989](#) (Cwlth).

[2.2] Section 15 (2)

substitute

- (2) For subsection (1), but subject to any modification prescribed by regulation, an amendment of a current poisons standard or a new poisons standard takes effect in accordance with the [Legislation Act 2003](#) (Cwlth), section 12.

Explanatory note

This amendment updates the way that the poisons standard takes effect in the ACT to reflect updates to the [Therapeutic Goods Act 1989](#) (Cwlth).

[2.3] Section 15 (3), definition of *current poisons standard*

omit

section 52A

insert

section 52A (1)

Explanatory note

This amendment updates a cross-reference.

[2.4] Section 108 (4)

omit

made of the medicines and poisons inspector under subsection (1)
if the inspector

substitute

under subsection (1) if the medicines and poisons inspector

Explanatory note

This amendment clarifies the wording of subsection (4) to avoid the impression that a medicines and poisons inspector could make a requirement of themselves under subsection (1).

Part 2.2 Tobacco and Other Smoking Products Act 1927

[2.5] Section 14 (2), new note

insert

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

Explanatory note

This amendment inserts a note in line with current legislative drafting practice.

[2.6] Section 23 (4), new note

insert

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

Explanatory note

This amendment inserts a note in line with current legislative drafting practice.

[2.7] Section 25A (2), new note

insert

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

Explanatory note

This amendment inserts a note in line with current legislative drafting practice.

[2.8] Section 28 (3), new note

insert

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

Explanatory note

This amendment inserts a note in line with current legislative drafting practice.

[2.9] Sections 33, 35 and 36

omit

his or her

substitute

their

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.10] Section 36 (1) and (2)

omit

he or she

substitute

they

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.11] Sections 37 and 38

omit

his or her

substitute

their

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.12] Section 38 (2) (b) and (3) (a)

omit

he or she need not comply with the requirement in relation to any information in respect of which he or she is entitled

substitute

they need not comply with the requirement in relation to any information in respect of which they are entitled

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.13] Sections 39, 46 and 54

omit

his or her

substitute

their

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.14] Section 62 (3), new note

insert

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

Explanatory note

This amendment inserts a note in line with current legislative drafting practice.

[2.15] Section 67 (3), new note

insert

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

Explanatory note

This amendment inserts a note in line with current legislative drafting practice.

[2.16] Section 71 heading

substitute

71 Recovery of unpaid fees from unlicensed people

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[2.17] Section 71 (1)

omit

he or she

substitute

they

Explanatory note

This amendment updates language in line with current legislative drafting practice.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 6 March 2025.

2 Notification

Notified under the [Legislation Act](#) on 17 April 2025.

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 Tobacco and Other Smoking Products (Vaping Goods) Amendment Bill 2025, which was passed by the Legislative Assembly on 8 April 2025.

Clerk of the Legislative Assembly

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