

Australian Capital Territory

# Tobacco (Compliance Testing Procedures) Approval 2007 (No 1)

Disallowable instrument DI2007–80

made under the

Tobacco Act 1927, s42D (Approval of compliance testing procedures)

## EXPLANATORY STATEMENT

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Section 42D (1) of the *Tobacco Act 1927* (the Act) provides that the Minister may approve procedures for carrying out an approved program of compliance testing. The procedures are a disallowable instrument.

Compliance testing is a strategy to test the compliance of tobacco sellers in relation to section 14 (Supply of smoking products to under 18 year olds) of the Act. It involves a trained young person (a purchase assistant) under the supervision of an authorised officer attempting to purchase cigarettes or other tobacco products from the seller.

The procedures stipulate that before a young person can be used as a purchase assistant the authorised officer must have obtained in writing the informed consent of the young person and at least one of the person(s) with parental responsibility for the young person, as defined in the *Children and Young People Act 1999*.

The procedures also cover the following matters requiring authorised officers to:

- consider the welfare, health and safety of the purchase assistant who conducts the compliance testing;
- allow a purchase assistant to withdraw from a compliance test at any time;
- protect the anonymity of a purchase assistant;
- make certain that a purchase assistant is indistinguishable from other young purchasers;
- require a purchase assistant not to lie about their age; and
- ensure a test takes place only during normal business hours or when the premises is normally open for business.

The Minister must approve a program of compliance testing. The program may be conducted in an area where the Minister is satisfied the program is necessary to deter the sale of tobacco products in the area. An approved program may be conducted in an area for period for not longer than 3 months.