

# Tobacco (Compliance Testing Procedures) Approval 2011 (No 1)

Disallowable instrument DI2011–194

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 2008*.

These procedures were previously approved by the Minister for Health in March 2007. It was noted in the 2007 procedures that the procedures would be subject to review, taking into account any issues that may arise in the course of conducting compliance testing. As a result of unsuccessful campaigns for volunteers, the procedures have been revised to allow the Office of Regulatory Services to offer a reward to a volunteer. The nature of the reward is to be determined by the Office of Regulatory Services but may only be given to the purchase assistant after participation in the compliance program. Another change has been to remove the restriction on the method of engagement of volunteers. The previous procedures required either a newspaper advertisement or a recruitment agency. This restriction was found to be unworkable. There, however, remains a restriction on the engagement of children of agency employees.