

Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024

Amendments during consideration in detail to be moved by
The Honourable the Minister for Health, Mental Health and Ambulance Services and Minister for Women

1 Clause 2 (Commencement)

Page 6, lines 7 and 8—

omit.

2 After clause 2

Page 6, after line 8—

insert—

Part 1A Amendment of Hospital and Health Boards Act 2011

2A Act amended

This part amends the *Hospital and Health Boards Act 2011*.

2B Amendment of s 85A (Disclosure to prevent serious risk of harm)

(1) Section 85A(4)(a), ‘a prescribed Service’—

omit, insert—

a Service

(2) Section 85A(4)(a)(ii) and (b)(ii), after ‘making’—

insert—

, or enabling another person to make,

(3) Section 85A(5), definition *chief executive*, paragraphs (a) to (c)—

omit, insert—

- (a) if the health professional is appointed as a health service employee or public service officer in the department and is working for a Service—the chief executive of the Service; or
- (b) if the health professional is appointed as a health service employee in a Service—the chief executive of the Service; or
- (c) if the health professional provides services for a Service under a contract for services—the chief executive of the Service; or
- (d) if the health professional is employed in, or provides services under a contract for services for, a private health facility—the licensee of the facility; or
- (e) otherwise—the chief executive of the department.

3 Clause 15 (Insertion of new pt 4A)

Page 13, line 4, after ‘*Therapeutic Goods Act 1989* (Cwlth)’—

insert—

, chapter 5, part 5-1A

4 Clause 17 (Replacement of s 161 (Supply or possession of illicit tobacco))

Page 15, line 22 to page 16, line 6—

omit, insert—

- (4) Subsection (1) does not apply in relation to the supply of an illicit nicotine product if—

- (a) the illicit nicotine product is vaping goods; and
 - (b) were the person to be charged with an offence under the *Therapeutic Goods Act 1989* (Cwlth), section 41QB in relation to the supply of the illicit nicotine product, the person would be entitled to claim an exception in relation to the supply under that section.
- (5) Subsection (2) does not apply in relation to the possession of an illicit nicotine product if—
- (a) the illicit nicotine product is vaping goods; and
 - (b) were the person to be charged with an offence under the *Therapeutic Goods Act 1989* (Cwlth), section 41QC or 41QD in relation to the possession of the illicit nicotine product, the person would be entitled to claim an exception in relation to the possession under—
 - (i) section 41QC(12), (13) and (14); or
 - (ii) section 41QD(6), (7) and (8).
- (6) It is a defence to a charge under subsection (2) for the person to prove that the illicit nicotine product is stored or possessed for personal use by the person or an employee of the person.
- (7) However, if the illicit nicotine product is vaping goods, subsection (6) does not apply if the quantity of vaping goods is more than the permitted quantity.
- (8) In this section—
- permitted quantity***, for vaping goods, means the quantity prescribed by regulation for this definition.

5 Clause 27 (Insertion of new pt 11, divs 4A and 4B)

Page 22, line 23, after ‘owner’—

insert—

, and the person apparently in charge,

6 Clause 27 (Insertion of new pt 11, divs 4A and 4B)

Page 22, line 26, after ‘owner’—

insert—

, and the person apparently in charge,

7 Clause 27 (Insertion of new pt 11, divs 4A and 4B)

Page 23, after line 4—

insert—

(4A) If a lease of premises subject to an order under this section ends, including, for example, because the lease is terminated, the order ends when the lease ends.

Note—

An order under this section may be evidence of a breach of a term of a lease.

(4B) However, if the premises are leased to the same lessee within the period stated in the order, the order is reinstated and ends on the last day of the period stated in the order.

8 After clause 35

Page 31, after line 12—

insert—

Part 2A **Amendment of Tobacco
and Other Smoking
Products Regulation
2021**

35A Regulation amended

This part amends the *Tobacco and Other Smoking Products Regulation 2021*.

35B Insertion of new s 15AA

After section 15A—

insert—

**15AA Permitted quantity for illicit nicotine
product—Act, s 161A**

For section 161A(8) of the Act, definition *permitted quantity*, the quantity prescribed is—

- (a) if the vaping goods are a vaping substance—60mL; and
- (b) if the vaping goods are a vaping accessory—4 vaping accessories; and
- (c) if the vaping goods are a vaping device—2 vaping devices.

9 Long title

Long title, after ‘to amend’—

insert—

the *Hospital and Health Boards Act 2011*,

10 Long title

Long title, after '*Tobacco and Other Smoking Products Act 1998*'—

insert—

, the *Tobacco and Other Smoking Products Regulation 2021*

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