

Tobacco and Other Smoking Products Amendment Bill 2023

Submission No: 31
Submitted by: Australian College of Nursing
Publication:
Attachments:
Submitter Comments:

Health and Environment Committee
Parliament House
George Street
Brisbane QLD 4000

Email: HEC@parliament.qld.gov.au

To the Committee Secretary

Re: Inquiry into the Tobacco and Other Smoking Products Amendment Bill 2023.

The Australian College of Nursing (ACN) would like to thank the Department of Justice for the opportunity to provide feedback on the **Inquiry into the Tobacco and Other Smoking Products Amendment Bill 2023**.

Please note we have distributed the consultation to ACN members for comment. Their responses have been taken into consideration and incorporated into the attached document.

As the national leader of the nursing profession, ACN supports and agrees with the introduction of new measures intended to lower smoking rates and improve health outcomes for all Australians while also reducing the burden of tobacco-related chronic diseases on the public health systems.

ACN would like to commend the Queensland Government and the Health and Environment Committee for taking human rights and their limitations into consideration as per the statement of compatibility for this Bill. ACN acknowledges that this legislation attempts to balance the freedom of all Queenslanders to be autonomous in decisions regarding their health (including the decision to purchase and use tobacco products) and preserve the right to a healthy environment and protection from harm caused by tobacco and smoking products.

ACN supports the amendments to the Tobacco and Other Smoking Products Amendment Bill 2023 and agrees with the amendments and principles listed. However, it is requested that the Queensland Government consider the following and request further clarification in further iterations of the Bill:

- Insertion of new section 11A (page 48)
- Insertion of new sections 52–52D (page 79)

Although ACN acknowledges the potential dangers of having minors vend tobacco products, ACN urges the Queensland government to contemplate the potential unintended consequences of this amendment. In particular, the consequences in relation to employment of minors. Therefore, ACN recommends that the Queensland government consider adding measures to protect the employment of young people who may be discriminated against when seeking employment due to

their age because of this amendment. These measures may include requesting that minors who are in an employment situation where they must serve tobacco products are required to undertake extensive training and monitoring or providing further guidelines and strategies for employers.

Additionally, ACN encourages the Queensland Government to provide further information regarding the regulatory framework surrounding the privacy and confidentiality of information. Regarding governance of information and how this information will be regulated and how any issues relating to privacy will be identified.

Please find our full response to the Bill attached. If you have further enquiries regarding this matter, please do not hesitate to contact me at [REDACTED].

Yours faithfully



Dr Carolyn Stapleton FACN
Director – Policy and Advocacy
Australian College of Nursing

28 March 2023

ACN's Responses to Queensland's Inquiry into the Tobacco and Other Smoking Products Amendment Bill 2023.

Description		ACN Comments
Part 1		
1	Short title	Acknowledge
2	Commencement	Roll out of commencement dates
Part 2 – Amendment of Tobacco and Other Smoking Products Act 1998		
3		Amends the Act
4	New para inserted	How object of Act will be achieved
5		Meaning of a retail and wholesale outlet
6	Amendment of section 6(a)	Acceptability of Australia Post Keypass as acceptable evidence of person's age
7	Part 1A introduced	Part 1A - Retail and wholesale licences
	New section 7A	<u>Division 1 - Preliminary</u> Definitions for the part – retail licence
	New section 7B	<u>Division 2 – General Information about licences</u> 7B(1), 7B(2), 7B(3) – conditions for retail licence
	New section 7C	7C(1), 7C(2) – conditions for wholesale licence
	New section 7D	7D - conditions of retail or wholesale licences
	New section 7E	7E – conditions leading to licence ceasing to have effect

		Description	ACN Comments
	New sections 7F – 7L	<u>Division 3 – Application and grant</u> 7F – 7L these relate to who can apply for a licence, grant criteria, notices and terms of licences	Acknowledge
	New sections 7M – 7R	<u>Division 4 – Renewal and restoration</u> 7M – 7R these sections refer to renewal and restoration of licences	Acknowledge
	New sections 7S – 7U	<u>Division 5 – Changes to licence</u> <i>Subdivision 1 – changes requested by licensee</i> 7S – 7U relate to application for change	Acknowledge
	New sections 7V-7X	<i>Subdivision 2 – Changes made by chief executive</i> 7V-7X – relate to impact and responding to changes <u>Division 6 – Suspension, cancellation, surrender</u>	Acknowledge Acknowledge
8	Amendment of section 9	Meaning of prevention measures for division 1	Agree in principle
9	Insertion of new section 9B	9B – Supplier must not sell smoking goods without a licence	

Description			ACN Comments
10	Insertion of new section 11A	11A – ensure child employees do not supply or handle product	Request for further information. ACN acknowledges that child employees (employees under the age of eighteen) should be limited in their contact and handling of smoking products. However, it is understood that in some instances, this amendment may jeopardise the eligibility for some people under the age of eighteen to gain employment that is critical to maintaining their wellbeing. ACN therefore recommends that the Queensland government outline strategies to ensure that this revision does not result in any discriminatory action.
11	Amendment of section 12	When employee of supplier liable	Acknowledge
12	Amendment of section 13A	Power to require details of retail suppliers	Agree
13	Amendment of section 14	Definitions for division 2	Acknowledge
14	Amendment of section 15	Restriction on location of tobacco product vending machines	Acknowledge
15	Amendment of section 15A	Person in charge of tobacco product vending machine in bar area or gaming machine area must instruct employees	Acknowledge
16	Insertion of new section 16A	16A - Supply of smoking products at liquor licensed premises from tobacco product vending machines	Agree
17	Amendment of section 19	Supply prohibited	Agree
18	Amendment of section 25	Definitions for Part 2A	Acknowledge
19	Replacement of section 26	26 - Application of division 1	Agree
20	Amendment of section 26A	Prohibition on display, and restrictions on advertising, of smoking products	Agree
21	Amendment of section	Certain business names allowed	Acknowledge

Canberra

PO Box 219, Deakin West ACT 2600
 freecall 1800 061 660 (charges apply to mobile phones)
 t 02 6283 3400 | f 02 6282 3565

Sydney

PO Box 650, Parramatta NSW 2124
 freecall 1800 061 660 (charges apply to mobile phones)
 t 02 9745 7500 | f 02 6282 3565

acn.edu.au

Australian College of Nursing Ltd
 ABN 48 154 924 642

		Description	ACN Comments
	26HA		
22	Amendment of section 26HB	Use of 'tobacconist' in advertising	Agree
23	Replacement of section 26HC	Display of signage at supplier's relevant point of sale	Agree
24	Amendment of section 26N	Smoking product giveaways	Acknowledge
25	Amendment of section 26PA	Image of consumption of smoking product	Acknowledge
26	Amendment of section 26Q	Definitions for pt. 2B	Agree
27	Amendment of section 26U	Person smoking must stop when directed	Agree
28	Omission of section 26VI	Person smoking must stop when directed	Acknowledge
29	Omission of section 26VM	Person smoking must stop when directed	Acknowledge
30	Omission of section 26VP	Person smoking must stop when directed	Acknowledge
31	Amendment of section 26VQ	Person must not smoke at or near school facility	Agree
32	Omission of section 26VR	Person smoking must stop when directed	Acknowledge
33	Omission of section 26VT	Person smoking must stop when directed	Acknowledge
34	Omission of section 26VV	Person smoking must stop when directed	Acknowledge
35	Omission of section 26VX	Person smoking must stop when directed	Acknowledge
36	Amendment of section 36 pt. 2c	Insertion of new pt. 2C, div 1, sdiv 1, hdg Before section 26W	Acknowledge
37	Amendment of section 26W	Meaning of outdoor eating or drinking place	Acknowledge
38	Amendment of section 26X	Person must not smoke at outdoor eating or drinking place	Agree

Canberra

PO Box 219, Deakin West ACT 2600
 freecall 1800 061 660 (charges apply to mobile phones)
 t 02 6283 3400 | f 02 6282 3565

Sydney

PO Box 650, Parramatta NSW 2124
 freecall 1800 061 660 (charges apply to mobile phones)
 t 02 9745 7500 | f 02 6282 3565

acn.edu.au

Australian College of Nursing Ltd
 ABN 48 154 924 642

Description		ACN Comments	
39	Insertion of new section 26XA	Smoking area at outdoor eating or drinking place	Agree
40	Amendment of section 26Y	Person smoking must stop when directed	Agree
41	Insertion of new pt. 2C, div 1, sdiv 2, hdg	Provisions for particular liquor licensed premises	Acknowledge
42	Amendment of section 26ZA	Designating an outdoor smoking area	Agree
43	Amendment of section 26ZB	Obligations of liquor licensee of premises with designated outdoor smoking area	Agree
44	Amendment of section 26ZD	Person must not smoke within government precinct	Agree
45	Omission of section 26ZE	Person smoking must stop when directed	Acknowledge
46	Insertion of new pt. 2C, div 2A	Outdoor markets	Agree
47	Amendment of section 26ZKD	Person must not smoke at or near under-age sporting event	Agree
48	Omission of s 26ZL	Person smoking must stop when directed	Acknowledge
49	Amendment of section 26ZQA	Display of hookahs	Acknowledge
50	Insertion of new section 26ZQB	Supply or possession of illicit tobacco	Acknowledge
51	Amendment of section 28	Appointment	Acknowledge
52	Amendment of section 33	Entry of places by authorised persons)	Acknowledge
53	Amendment of section 37	General powers after entering places	Acknowledge
54	Amendment of section 40A	Power to direct person to stop smoking)	Agree

Canberra

PO Box 219, Deakin West ACT 2600

freecall 1800 061 660 (charges apply to mobile phones)

t 02 6283 3400 | f 02 6282 3565

Sydney

PO Box 650, Parramatta NSW 2124

freecall 1800 061 660 (charges apply to mobile phones)

t 02 9745 7500 | f 02 6282 3565

acn.edu.au

Australian College of Nursing Ltd

ABN 48 154 924 642

Description		ACN Comments	
55	Amendment of section 42D	Forfeiture of seized things	Agree
56	Insertion of new section 42F	Forfeiture of illicit tobacco	Agree
57	Amendment of section 44C	Improvement notices	Agree
58	Insertion of new sections 50A and 50B	Person smoking may be directed to stop, Person smoking must stop when directed	Agree
59	Insertion of new pt. 3, div 6	Appeals for particular forfeiture decisions	Agree
60	Insertion of new sections 52–52D	Confidentiality of information	Agree. ACN encourages the Queensland Government to provide further information regarding how this information will be monitored and how this will be enforced.
61	Amendment of section 53	Regulation-making power	Acknowledge
62	Insertion of new pt. 5, div 1, hdg	Transitional provision for Tobacco and Other Smoking Products Amendment Act 2004	Agree
63	Insertion of new pt. 5, div 2	Transitional provisions for Tobacco and Other Smoking Products Amendment Act 2023	Acknowledge
64	Insertion of new section 56	Renumbering of Act	Acknowledge
65	Insertion of new sections 57 and 58	Staged implementation for small businesses, Sections 9B and 12 do not apply while particular applications undecided	Acknowledge
66	Amendment of schedule (Dictionary)	Amendment of sch (Dictionary)	Acknowledge

Canberra

PO Box 219, Deakin West ACT 2600

freecall 1800 061 660 (charges apply to mobile phones)

t 02 6283 3400 | f 02 6282 3565

Sydney

PO Box 650, Parramatta NSW 2124

freecall 1800 061 660 (charges apply to mobile phones)

t 02 9745 7500 | f 02 6282 3565

acn.edu.au

Australian College of Nursing Ltd

ABN 48 154 924 642