

Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025

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SMOKE SHOP SHUTDOWN:

A SUBMISSION ON THE *TOBACCO AND OTHER SMOKING PRODUCTS*
(*DISMANTLING ILLEGAL TRADE*) AND OTHER LEGISLATION AMENDMENT
BILL 2025 (QLD)



Hon. Timothy Nicholls MP, 'We're Stepping up the War against Illicit Tobacco and Vape Retailers...', X, 23
May 2025, <https://x.com/TimNichollsMP/status/1925720398991138921>

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EXECUTIVE SUMMARY

This submission supports the raft of amendments to the *Tobacco and Other Smoking Products Act* 1998 (Qld) and the *State Penalties Enforcement Regulation* 2014 (Qld) as part of the proposed *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill* 2025 (Qld). The Queensland Government is to be congratulated on its proactive and vigilant response to the regulation of illegal tobacco. The expansion and extension of closure powers will help curb the proliferation of illegal tobacco stores. The heightened regulation of landlords is necessary to reduce the presence of illegal tobacco stores. Liability of executive officers of corporations will result in greater accountability for the supply of illegal tobacco. The expansion of seizure and forfeiture powers in respect of compromised goods, and components of bongs and ice pipes, is logical. Controlled purchase operations, and undercover operations will help to effectively combat the illicit trade in tobacco. Augmenting the powers of enforcement officers to enter wholesale outlets without the need for occupier consent or a warrant, and to request information from any person in relation to the administration or enforcement of the Act is appropriate.

In order to achieve a tobacco endgame, the Queensland Government should phase out smoking areas in hotels, clubs, pubs, and casinos. The new penalty infringement notices for contravention of a closure order and failure to retain invoices are appropriate and well-adapted. In light of the recent ABC Investigations, the Federal Government should take legislative action to prevent automatic teller machines (ATMs) from operating in tobacconists. There needs to be stronger regulatory settings and supervisory mechanisms to mitigate financial crime risks in the ATM sector.

The proposed legislation is compatible with Queensland's human rights regime. Indeed, the measures will help promote a number of human rights – relating to the right to life, the rights of families and children, and the right to health access. The *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill* 2025 (Qld) is consistent with the best policies and practices in other jurisdictions – such as South Australia, Western Australia, the Australian Capital Territory, and New South Wales. The legislation will also reinforce the efforts of the Federal Government to combat the illegal trade in tobacco and vaping at a national level.

The adoption of the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill* 2025 (Qld) will also help Australia implement its obligations under the *WHO Framework Convention on Tobacco Control* 2003, and the *WHO*

Protocol to Eliminate Illicit Trade in Tobacco Products 2012. This submission builds an initial preliminary submission to the consultation held by the Department of Health about the proposed legislation.

RECOMMENDATIONS

Recommendation 1

The expansion and extension of the closure powers of the Chief Executive of the Department of Health and Magistrates under the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* (Qld) will help curb the proliferation of illegal tobacco stores.

Recommendation 2

The heightened regulation of landlords under the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* (Qld) is necessary to reduce the presence of illegal tobacco stores.

Recommendation 3

This submission supports the proposal under the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* (Qld) to hold executive officers of corporations liable for certain offences committed by the corporation, unless the executive officer can establish a relevant defence

Recommendation 4

The *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* (Qld) correctly expands seizure and forfeiture powers in respect of compromised goods, and components of bongs and ice pipes.

Recommendation 5

In line with the *WHO Protocol to Eliminate Illicit Trade in Tobacco Products 2012*, the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* (Qld) allows for controlled purchase operations,

and undercover operations for the purpose of effectively combating illicit trade in tobacco.

Recommendation 6

The *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Qld)* expands the powers of enforcement officers to enter wholesale outlets without the need for occupier consent or a warrant, and to request information from any person in relation to the administration or enforcement of the Act.

Recommendation 7

In line with its smoke-free spaces ambition, the Queensland Government should phase out smoking areas in hotels, clubs, pubs, and casinos.

Recommendation 8

The new penalty infringement notices for contravention of a closure order and failure to retain invoices under the *State Penalties Enforcement Regulation 2014 (Qld)* are appropriate and well-adapted.

Recommendation 9

In light of the recent ABC Investigations, the Federal Government should take legislative action to prevent automatic teller machines (ATMs) from operating in tobacconists. There needs to be stronger regulatory settings and supervisory mechanisms to mitigate financial crime risks in the ATM sector.

Recommendation 10

The proposed legislation, the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Qld)*, is compatible with Queensland's Human Rights regime.

Recommendation 11

The *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Qld)* is consistent with the best policies and practices of other States and Territories – most notably, South Australia, Western Australia, and the Australian Capital Territory. Queensland’s initiative has also prompted the New South Wales Government to urgently pass the *Tobacco Legislation (Closure Orders) Amendment Act 2025 (NSW)*, so that it does not get left behind in terms of tobacco control and e-cigarette regulation. Although it has introduced a new licensing scheme, the Victorian Government could go further, and adopt expansive closure orders.

Recommendation 12

The *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Qld)* will help reinforce the efforts of the Federal Government to combat the illegal trade in tobacco and e-cigarettes.

Recommendation 13

The adoption of the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Qld)* will also help Australia implement key parts of the *WHO Framework Convention on Tobacco Control 2003* related to illicit trade and liability, and the *WHO Protocol to Eliminate Illicit Trade in Tobacco Products 2012*.

INTRODUCTION

This submission provides feedback on proposed amendments to the *Tobacco and Other Smoking Products Act* 1998 (Qld) and the *State Penalties Enforcement Regulation* 2014 (Qld), to be included in the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill* 2025 (Qld).

In a press release by the Queensland Minister for Health and Ambulance Services, the Hon. Timothy Nicholls MP, the Queensland Government observed of the proposed legislative reforms: ‘The Crisafulli Government is stepping up its war against illicit tobacco and vape retailers and is going after the landlords who knowingly lease a premises to them.’¹ The press release noted: ‘The *Tobacco and Other Smoking Products and Other Legislation Amendment Bill* 2025 (Qld) proposes a suite of reforms to tackle the scourge of illicit tobacco and vapes in Queensland.’² Nicholls explained the intent of the legislative measures:

The Crisafulli Government has zero tolerance for traders of illicit tobacco and vapes. Under these proposed laws, illegal traders will face the toughest laws in the nation. We’re also targeting landlords who are complicit in, or turn a blind eye on, illegal activity occurring in their premises. We will empower landlords with a statutory right to terminate a lease if their tenant has triggered a closure order through illegal activity. Any landlords who don’t use this termination right to kick out their dodgy tenants will be considered complicit and will face hefty fines and possible jail time.³

Nicholls observed: ‘Despite all our recent progress, the illegal trade remains deeply entrenched.’⁴ He observed: ‘This is because the profits simply outweigh risk of enforcement and the current laws limit enforcement responsiveness by being too onerous or relying on prosecution through the courts’.⁵ Nicholls commented: ‘These new laws, released for public consultation today, will help fix this.’⁶

¹ Hon. Timothy Nicholls, ‘Illegal Tobacco and Vape Traders and their Landlords Face Jail under Proposed Laws’, Press Release, Queensland Government, 22 May 2025, <https://statements.qld.gov.au/statements/102596>

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

Nicholls cited the recent enforcement action in Operation Appaloosa. It is worthwhile highlighting Operation Appaloosa in the context of the law reform proposals.⁷ Discussing Operation Appaloosa, Nicholls noted: ‘We need to do everything possible to keep dangerous illegal vapes away from Queensland’s young people, which is why we’ve boosted enforcement and introduced serious new fines.’⁸ He commented: ‘We’re hitting these illegal traders where it hurts most, by seizing their illicit goods to deprive them of generating a profit and hitting them with the nation’s toughest fines.’⁹ Nicholls observed: ‘This is the latest in our crackdown on illegal chop shops and we’ll continue to target this organised crime and keep dangerous vapes out of the hands of kids.’¹⁰ The press release noted: ‘More than 76,000 vapes, 19 million illicit cigarettes and 3.6 tonnes of loose illicit tobacco – with a combined estimated street value of \$20.8 million - were seized during the record-breaking Operation Appaloosa in March.’¹¹ The press release explained: ‘Queensland Health raided more than 30 locations across Central Queensland, Wide Bay, Metro North, Metro South, and West Moreton, supported by the Queensland Police Service and the Therapeutic Goods Administration.’¹²

In a further September 2025 press release, Minister Nicholls stressed: ‘The Crisafulli Government has taken a zero-tolerance approach to this criminal trade, by ramping up enforcement efforts and introducing the highest on-the-spot fines in Australia.’¹³ He observed: ‘We need to stop this game of whack-a-mole where every time we hit an illegal business, it reopens within days or another springs up in its place.’¹⁴ Nicholls emphasized: ‘We’re pulling out all stops to help keep our kids safe, hitting illegal sellers harder and closing them for longer,

⁷ Hon. Timothy Nicholls MP, ‘Record-Breaking Raids in War on Illicit Tobacco and Dangerous Vapes’, Press Release, Queensland Government, 6 May 2025, <https://statements.qld.gov.au/statements/102504>

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Hon. Tim Nicholls MP, ‘Illegal Tobacco and Vape Crackdown Continues with New Nation-Leading Laws’, Press Release, Queensland Government, 16 September 2025, <https://statements.qld.gov.au/statements/103538>

¹⁴ Ibid.

with landlords also held accountable.’¹⁵ The Minister said of the legislation: ‘This is about shutting down the criminal illegal tobacco racket which is putting our kids at risk.’¹⁶

The legislative proposal has been supported by the Cancer Council. Matt Gardiner, CEO Cancer Council Queensland commended the Government's introduction of this nation-leading Bill as a vital step to protect public health: ‘We support the introduction of these amendments which give authorities greater power to shut down illegal tobacco and vape dealers.’¹⁷ He emphasized: ‘These reforms are essential to safeguard decades of progress in tobacco control and ensure stronger protections for Queensland communities.’¹⁸

Chief Executive of the Shopping Centre Council of Australia, Angus Nardi, also welcomed the Queensland Government’s new laws to combat the sale of illicit tobacco: ‘The new laws are strong, clear and will give landlords the backing and protections they need to terminate the leases for anyone found selling illicit tobacco and issued with a closure order.’¹⁹

The consultation paper discusses the larger objectives of the *Tobacco and Other Smoking Products and Other Legislation Amendment Bill 2025* (Qld). The consultation paper recognised that ‘Queensland now has some of the strongest offences, highest on-the-spot fines, and most extensive enforcement powers in the country’.²⁰ The consultation paper highlights the significant compliance and enforcement action undertaken by the Queensland Government in respect of tobacco control and e-cigarette regulation: ‘Extensive enforcement efforts have complemented these legislative reforms.’²¹ The consultation paper recognises that the black market for illicit tobacco remains a persistent problem: ‘Despite this [enforcement], illegally imported and untaxed cigarettes, loose-leaf tobacco (“chop-chop”) and flavoured nicotine-filled vapes remain widely available in tobacconists, convenience stores, gift shops and other

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Hon. Timothy Nicholls MP, ‘Illegal Tobacco and Vape Crackdown Continues with New Nation-Leading Laws’, Press Release, Queensland Government, 16 September 2025, <https://statements.qld.gov.au/statements/103538>

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Queensland Health, ‘Consultation Paper on the *Tobacco and Other Smoking Products and Other Legislation Amendment Bill 2025* (Qld)’, Queensland Government, May 2025, 6.

²¹ Ibid., 6.

retailers’.²² The consultation paper explains: ‘The Bill proposes further legislative controls to disrupt the significant economic incentives associated with the supply of illicit tobacco and illicit nicotine products and deter a broader range of participants, making this illegal market less sustainable and profitable for all involved.’²³ The consultation paper emphasizes: ‘The Bill aims to close loopholes, streamline enforcement and crack down on operators who attempt to act illegally and circumvent enforcement of the Act.’²⁴

According to the consultation paper, the *Tobacco and Other Smoking Products and Other Legislation Amendment Bill 2025* (Qld) will propose a range of legislative amendments and law reforms. First, the bill seeks to expand the existing 72-hour closure power to allow the chief executive of Queensland Health to close stores for three months for supplying illicit tobacco and illicit nicotine products (including vapes) or operating without a licence. It also expands the existing court-ordered long-term closure power to allow a Magistrate to order the closure of a store for up to 12 months, rather than six months. The bill makes it an offence to contravene a closure order by opening the store to the public or supplying any product or service during the closure.

Second, the bill focuses on the role of landlords of tobacco and vape shops. The bill gives lessors of stores the right to terminate a lease if a closure order has been issued against the store due to the tenant supplying or possessing illicit tobacco or illicit nicotine products. The bill inserts an offence for lessors who knowingly permit their tenant to use the leased store for the supply or possession of illicit tobacco or illicit nicotine products as part of a business activity.

Third, the bill seeks to hold executive officers of corporations liable for certain offences committed by the corporation, unless the executive officer can establish a relevant defence.

Fourth, the bill builds upon existing powers to seize, forfeit and destroy illegal tobacco and vaping products. The bill introduces the ability to seize, forfeit and destroy ‘compromised goods’, which include legal smoking products, hookahs and hookah components found with illicit tobacco and illicit nicotine products. The bill also amends the offences related to bongs, ice pipes and their components to capture the storage and possession of these items, and to allow the forfeiture of components of bongs and ice pipes.

²² Ibid., 6.

²³ Ibid., 6.

²⁴ Ibid., 7.

Fifth, the bill aims to introduce controlled purchase operations to authorise covert investigations.

Sixth, the bill expands the powers of enforcement officers. It expands the existing entry powers to allow enforcement officers to enter wholesale outlets without the need for occupier consent or a warrant. It introduces the ability for evidentiary aids to be provided in court proceedings for a range of non-controversial matters. It allows enforcement officers to request information from any person in relation to the administration or enforcement of the Act.

Seventh, the bill makes amendments to the provisions relating to Smoking Areas at Outdoor Eating or Drinking Places. Arguably, though, in the interests of public health, Queensland should be pushing towards smoke-free spaces, especially at eating and drinking places.

Eighth, the bill proposes to amend the *State Penalties Enforcement Regulation 2014* (Qld) to prescribe certain new offences as PIN offences.

Ninth, it is recommended that the Federal Government to take action to prevent the establishment of ATMs at tobacconists, especially in light of recent ABC investigations.

Tenth, the proposed legislation is consistent with Queensland's human rights regime. The measures are balanced and proportional given the public interest objectives.

Eleventh, the legislative regime is comparable to other state and territory tobacco control measures – most notably, South Australia's pioneering regime, and some of the best policies and practices of Western Australia, New South Wales, and the Australian Capital Territory.

Twelfth, the Queensland regime will reinforce the Federal legislation, policy and enforcement in respect of tobacco control and e-cigarette regulation.

Thirteenth, the suite of legislative and regulatory reforms proposed by the Queensland Government will constitute best practice in terms of international health law.

This submission builds upon previous public policy work by the author on the regulation of tobacco and e-cigarettes in Queensland. The author made a submission made during the consultations on tobacco control conducted by the Department of Health of the Queensland Government in 2022.²⁵ The author made a submission to the Queensland

²⁵ Matthew Rimmer, *Reducing the Negative Effects of Smoking in Queensland: A Submission to the Queensland Government*. Queensland Government, Queensland Health, 2022, <https://eprints.qut.edu.au/232886/> and Matthew Rimmer, 'A Submission on the *Tobacco and Other Smoking Products Amendment Bill 2023* (Qld)', Health and Environment Committee, Queensland Parliament, April 2023,

Parliament focuses in particular on the package of legislative proposals contained in the *Tobacco and Other Smoking Products Amendment Bill 2023 (Qld)*.²⁶ The author made a submission on Queensland law reform in respect of vaping and e-cigarettes.²⁷ The author also considered 2025 amendments in the Queensland Parliament on the seizure and forfeiture of illegal goods.²⁸

This submission builds an initial preliminary submission to the consultation held by the Department of Health about the proposed legislation.²⁹ This submission also builds upon the work of the author on Federal regulation of tobacco and e-cigarettes. The author has made policy submissions to the Federal inquiries into new consolidated tobacco control legislation,³⁰ and legislation on vaping and e-cigarette regulation.³¹

<https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=169&id=4243>
<https://documents.parliament.qld.gov.au/com/HEC-B5E1/TOSPAB2023-4AF4/submissions/00000007.pdf> QUT
ePrints: <https://eprints.qut.edu.au/239155/>

²⁶ Matthew Rimmer, 'A Submission on the *Public Health (Tobacco and Other Products) Bill 2023 (Cth)* and Accompanying Regulations', Senate Standing Committee on Community Affairs - Legislation Committee, Canberra: Australian Parliament, November 2023, QUT ePrints: <https://eprints.qut.edu.au/244497/>

²⁷ Matthew Rimmer, 'A Submission on the *Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024 (Qld)*', Health, Environment and Agriculture Committee, the Queensland Parliament, 28 June 2024, <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=238&id=4431>, QUT ePrints: <https://eprints.qut.edu.au/250430/>

²⁸ Matthew Rimmer, 'Seize and Destroy: A Submission on the Forfeiture Provisions of the *Health Legislation Amendment Bill 2025 (Qld)*', Health, Environment and Innovation Committee, the Queensland Parliament, 8 April 2025, <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=274&id=4511>, QUT ePrints: <https://eprints.qut.edu.au/256630>

²⁹ Matthew Rimmer, 'Closing Time: A Submission to the Consultation Paper on the *Tobacco and Other Smoking Products and Other Legislation Bill 2025 (Qld)*'. Queensland Government Department of Health, 26 June 2025, <https://eprints.qut.edu.au/258309/>

³⁰ Matthew Rimmer, 'A Submission on the *Public Health (Tobacco and Other Products) Bill 2023 (Cth)* and Accompanying Regulations' Senate Standing Committee on Community Affairs - Legislation Committee, Canberra: Australian Parliament, November 2023, QUT ePrints: <https://eprints.qut.edu.au/244497/>

³¹ Matthew Rimmer, 'A Submission on the *Therapeutic Goods and Other Legislation (Vaping Reforms) Bill 2024 (Cth)*', Community Affairs Legislation Committee, Australian Senate, Canberra: Australian Parliament, 12 April 2024, Submission No. 98, pp. 192, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/VapingReformsBill, QUT ePrints: <https://eprints.qut.edu.au/248243/>

1. Closure Powers

The *Tobacco and Other Smoking Products Amendment Act 2024* (Qld) introduced closure powers. Section 209A deals with the interim closure of premises by order of the chief executive. Section 209B deals with the long-term closure of premises by order of the magistrate.

In June 2025, the Queensland Government noted: ‘Queensland Health also has the authority to issue an interim closure order for up to 72 hours and up to six months under a court order where there is evidence of either unlicensed or continued illicit tobacco or vape supply.’³² The Queensland Government reported that ‘More than 121 interim closure orders have been issued across Queensland since September 2024 when the commencement of powers for closures began.’³³

A number of interim closure orders have received wider media coverage. In February 2025, there was a closure of two tobacconists on the Sunshine Coast - Nambour Gifts and Tobacconist and Golden Leaf Tobacconist in Currie Street, Nambour.³⁴ The media reported: ‘The notices, signed on behalf of the Queensland Health chief executive and posted on the front door of each business, say it is reasonably suspected that illicit tobacco or tobacco products have been or are likely to be sold, or that the business has been supplying smoking products without a licence.’³⁵ The media observed: ‘The notices say that during the three-day closure, it is an offence to sell smoking products at the premises and an offence to work in a business involving the supply of smoking products at the premises.’³⁶

In May 2025, there was a further closure order issued for the Nambour Gift Centre & Tobacco at 40–42 Lowe Street.³⁷ Health Minister Timothy Nicholls commented: ‘We need to

³² Queensland Health, ‘Everything You Need to Know About Illicit Tobacco and Vapes’, Queensland Government, 13 June 2025, <https://www.health.qld.gov.au/newsroom/news/everything-you-need-to-know-about-illicit-tobacco-and-vapes>

³³ Ibid.

³⁴ Janine Hill, ‘Queensland Health Forces Tobacco Shops Into Short-Term Closures’, *Sunshine Coast News*, 21 February 2025, <https://www.sunshinecoastnews.com.au/2025/02/21/suspect-tobacco-stores-forced-to-temporarily-close/>

³⁵ Ibid.

³⁶ Ibid.

³⁷ Cameron Outridge, ‘Tobacco Crackdown hits Nambour CBD’, *Sunshine Valley Gazette*, 13 May 2025, <https://www.sunshinevalleygazette.com.au/blog/vape-store-raids-nambour>

do everything possible to keep dangerous illegal vapes away from Queensland's young people, which is why we've boosted enforcement and introduced serious new fines.'³⁸

In April 2025, the Gold Coast's public health unit raided stores on the tourist strip, seizing illegal vapes and tobacco.³⁹ Investigations were carried out on stores at Southport, Mermaid Beach, Broadbeach and Nobby Beach, leading to the closure of five tobacconists. ABC News commented: 'Among the stores temporarily shut were Uncle Gabriel's convenience stores at Mermaid Beach and Broadbeach, where authorities allege they saw illegal tobacco being bagged on Tuesday.'⁴⁰ ABC News observed: 'Interim closure order notices have been affixed to the doors of both stores, on the busy Gold Coast Highway, stating health authorities "reasonably suspect" that "illicit tobacco or illicit nicotine products have been, or are likely to be, supplied at the premises".'⁴¹ A Gold Coast Health spokesperson told ABC News 'health authorities conduct routine and targeted inspections relating to retail tobacco compliance and enforcement on an ongoing basis'.⁴²

In May 2025, several tobacco stores were closed in the West End, Brisbane.⁴³ The local news reported: 'One of the stores, A1 Convenience on Vulture Street, had two official notices taped to its front door'.⁴⁴ Furthermore, 'The warnings were sealed with bright green tape marked "SEIZED," showing that products may have been confiscated'.⁴⁵ The local news also noted: 'Another store, West End Tobacconist on Boundary Street, was also closed.'⁴⁶ The local news observed: 'Both shops were accused of supplying smoking products without a licence.'⁴⁷

³⁸ Ibid.

³⁹ Alexandria Utting, 'Gold Coast Vape Stores Shut, Products seized in Health Authority Raids', *ABC News*, 2 April 2025, <https://www.abc.net.au/news/2025-04-02/gold-coast-smoke-shop-raids-vapes-tobacco-seized/105126040>

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ 'West End Stores Forced to Close in Sudden Tobacco Raid', *West End Today*, 14 May 2025, <https://westendtoday.com.au/west-end-stores-forced-to-close-in-sudden-tobacco-raid/>

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

In November 2024, there was action taken against unlicensed tobacco stores in Bundaberg.⁴⁸ Three tobacconists were closed down. The Wide Bay Public Health Unit's director of environmental health, Wayne Ingall, commented: 'Illicit smoking and vaping products undermine important public health measures including plain packaging, health warnings.'⁴⁹ He added: 'And in the case of nicotine vapes, the requirement for a prescription.'⁵⁰ WBHHS Chief Executive Debbie Carroll said she was 'proud to be leading the state in carrying out closure notices.'⁵¹ She commented: 'The enforcement of these new laws sends a clear message that illegal tobacco sales will not be tolerated in our community.'⁵²

In June 2025, Queensland Health sought a long-term closure order in the Hervey Bay Magistrates Court after the Wide Bay Public Health Unit and Queensland Police Service carried out raids on six Hervey Bay stores.⁵³ The owner of five of the businesses, Mohammed Alfalahi, and Adam Ayser, the owner of one store, did not appear in court. Seeking an adjournment, Alfalahi's lawyer, Dean Mayr, said his client was overseas, which made it difficult for him to obtain instructions. Opposing an adjournment, the lawyer for Queensland Health, Peter O'Connor, argued that there was a risk to public health if the businesses stayed open: 'This is an emergent and urgent community health issue.'⁵⁴ He emphasized: 'It is a matter that needs to be dealt with expeditiously.'⁵⁵ The lawyer commented: 'These shops in all likelihood ... could be opening tomorrow.'⁵⁶ Magistrate Trinity McGarvie granted an adjournment, noting Mr Alfalahi and Mr Ayser had been notified of legal action by Queensland Health about June 3. The matter will be heard further at the end of June.

⁴⁸ Johanna Marie, 'New Queensland Tobacco Laws Enforced for First Time on "Unlicensed" Retailers', *ABC News*, 27 November 2024, <https://www.abc.net.au/news/2024-11-27/tobacco-and-vapes-seized-from-bundaberg-tobacconists-qld/104649760>

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

⁵³ James Taylor and Lucy Loram, 'Queensland Health seeks Court Order to Shut Tobacco Stores for Six Months', *ABC Wide Bay*, 18 June 2025, <https://www.abc.net.au/news/2025-06-18/hervey-bay-store-raids-under-new-qld-tobacco-laws/105430210>

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Ibid.

In August 2025, the Mackay Hospital and Health Service reported that unlicensed tobacco stores in the Whitsundays were raided and closed.⁵⁷ The Mackay Public Health Unit (MPHU) forced eight tobacconists to close for 72 hours after raids found seven premises didn't have a retail tobacco licence and were found selling illicit tobacco and vapes. A spokesperson said: 'This sends another clear message that premises without a retail tobacco license and illegal tobacco sales will not be tolerated in the community.'⁵⁸ The spokesperson observed: 'Our authorised officers will continue to be vigilant to ensure retailers of smoking products comply with the law.'⁵⁹ In addition to the eight closure orders issued, Penalty Infringement Notices (PINs) were issued under the *Tobacco and Other Smoking Products Act*. There will be further investigations to determine whether there was a need for further enforcement action.

There has also been action taken in Northern Queensland. In June 2025, Queensland Police and Queensland Health Officials were locked inside a CBD tobacconist during an inspection in Cairns.⁶⁰ The man allegedly responsible was charged with deprivation of liberty. The shop had a substantial amount of illegal products: 'A dramatic raid an illicit tobacco shop during which authorities were locked inside has netted a haul of alleged illegal cigarettes, vapes, bongs valued at almost a quarter of a million dollars.'⁶¹ In September 2025, Queensland Health shutdown a Townsville tobacconist.⁶²

The consultation paper highlights the proliferation of stores selling illegal tobacco and vapes: 'Enforcement is also challenged by the sheer number of businesses involved in the

⁵⁷ Mackay Hospital and Health Service, 'Unlicensed Tobacco Stores in Whitsundays Raided, Closed', 25 August 2025, <https://www.mackay.health.qld.gov.au/about-us/news/unlicensed-tobacco-stores-in-whitsundays-raided,-closed>

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Katharina Losche, 'Cairns Shop Attendant's Alleged Bid to Lock in Cops and Health Inspectors Backfires', 7 News, 25 June 2025, <https://7news.com.au/news/cairns-shop-attendants-bid-to-lock-in-cops-and-health-inspectors-backfires-c-19149942>

⁶¹ 'Vapes and Ciggie Seizure Deals Major Blow to Black Market Trade', Cairns Post, 26 June 2025, <https://www.cairnspost.com.au/news/cairns/cairns-illicit-tobacco-and-vape-bust-gets-products-worth-more-than-200000/news-story/300cbb0e6aec5276d66266431d0fcf4c>

⁶² 'Qld Health Hits Flinders St Convenience and Tobacco Store with 72 Hour Closure Notice', Townsville Bulletin, September 2025, <https://www.townsvillebulletin.com.au/business/townsville-business/qld-health-hits-flinders-st-convenience-and-tobacco-with-72hr-closure-notice/news-story/e74481d36e7b7d202fe3fadb9b8184e5>

supply of these illegal products and the deceptive tactics used by operators to reduce their legal and financial exposure.’⁶³

The consultation paper explains: ‘It is proposed to increase the period the chief executive may order a “short-term” closure of a store under section 209A of the Act from 72-hours to three months’.⁶⁴ The consultation paper notes: ‘This amendment will ensure the financial impact of a store’s closure is a sufficient deterrent.’⁶⁵ The consultation paper elaborates: ‘Enforcement officers have raised concerns that the current 72-hour closure period is not long enough, with offenders treating this period as “a long weekend off” and simply reopening to continue illegally trading after this period.’⁶⁶

The consultation paper comments on the required threshold for a ‘short-term closure’: ‘The chief executive would need to be satisfied, rather than merely reasonably suspect, that illicit tobacco or illicit nicotine products are being supplied or possessed at the store, or that unlicensed supply is occurring, before a closure order can be issued.’⁶⁷

Moreover, ‘it is also proposed to extend the period a Magistrate may order a long-term closure order under section 209B from six months to up to 12 months.’⁶⁸ The consultation paper comments: ‘A Magistrate would be authorised to order the closure of a store if satisfied that illicit tobacco or illicit nicotine products have been, or are likely to be, possessed at the store or unlicensed supply is occurring.’⁶⁹

The consultation paper summarizes the changes in these terms: ‘Stores subject to closure orders will be closed for longer periods, depriving them from generating profits from continued trading.’⁷⁰

The consultation paper also highlights the problem of stores continuing to trade, in spite of closure orders: ‘Enforcement officers have identified that some stores subject to closure orders are continuing to trade in both smoking products and illicit products by claiming that

⁶³ Queensland Health, ‘Consultation Paper on the *Tobacco and Other Smoking Products and Other Legislation Amendment Bill 2025 (Qld)*’, Queensland Government, May 2025, 6.

⁶⁴ Ibid., 10.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid., 9.

they are selling items other than smoking products at the store.’⁷¹ The consultation paper proposes a new offence: ‘It will be an offence for a store subject to a closure order to open to the public to provide any services or supply any products.’⁷² The consultation paper notes: ‘It is proposed to amend the Act to remove any loophole that allows continued trading from a closed store’.⁷³ The consultation paper observes: ‘Under the reforms, it will be an offence to contravene a closure order in any way, not just by supplying smoking products’.⁷⁴ Accordingly, ‘This will ensure that ‘closed means closed’, by making it unlawful to reopen the store to the public for any form of trade, regardless of the goods or services offered.’⁷⁵

New section 209B discusses the requirements that a chief executive must follow to make a short-term closure order. New Section 209BA deals with long-term closure of premises by a Magistrate.

Recommendation 1

The expansion and extension of the closure powers of the Chief Executive of the Department of Health and Magistrates under the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* (Qld) will help curb the proliferation of illegal tobacco stores.

⁷¹ Ibid., 13.

⁷² Ibid., 13.

⁷³ Ibid., 13.

⁷⁴ Ibid., 13.

⁷⁵ Ibid., 13.

2. Landlords

The consultation paper also squarely focuses upon the role of landlords in respect of tobacco and vape stores.

The Minister for Health and Ambulance Services, the Hon. Timothy Nicholls, comments: ‘Landlords who knowingly lease their premises to illicit tobacco and vape traders will face hefty fines and possible jail time under proposed laws.’⁷⁶

The consultation paper proposes that ‘lessors can terminate a lease if the store is subject to a closure order.’⁷⁷ The consultation paper suggests: ‘It is proposed to amend the Act to provide a statutory right for a lessor (or sub-lessor, where relevant) of a store subject to a closure order to terminate the lease related to the store.’⁷⁸

The consultation paper observed that ‘it is evident that some lessors of stores are knowingly leasing to tenants who supply or possess illicit tobacco or illicit nicotine products or, alternatively, are turning a blind eye to this conduct.’⁷⁹ The consultation paper suggested: ‘It will be an offence for a commercial lessor to permit the leased store to be used by their tenant for the commercial supply or possession of illicit tobacco or illicit nicotine products.’⁸⁰

The consultation paper commented: ‘To support this offence and ensure commercial lessors are aware of illegal conduct occurring at the store, it is proposed to also amend the Act to authorise Queensland Health to share information with the lessor of a store about enforcement action occurring at the store.’⁸¹

The new legislation has detailed provisions in respect of the regulation of landlords, lessors, lessees, and leases.

⁷⁶ Hon. Timothy Nicholls, ‘Illegal Tobacco and Vape Traders and their Landlords Face Jail under Proposed Laws’, Press Release, Queensland Government, 22 May 2025, <https://statements.qld.gov.au/statements/102596>

⁷⁷ Queensland Health, ‘Consultation Paper on the *Tobacco and Other Smoking Products and Other Legislation Amendment Bill 2025 (Qld)*’, Queensland Government, May 2025, 11.

⁷⁸ Ibid., 11.

⁷⁹ Ibid., 12.

⁸⁰ Ibid., 12.

⁸¹ Ibid., 12.

Landlords will also need to be mindful of escalating insurance costs related to tobacconists.⁸² In Victoria, landlords have been warned by police about the risks of leasing stores to tobacconists.⁸³ Acting commander Jason Kelly noted that letters had been distributed to landlords: ‘The purpose of the letter is to highlight to landlords the current risks around businesses operating who are engaged in illicit activity, and the risk they present.’⁸⁴ He observed: ‘This includes the risk to current insurance arrangements as well as the potential for nearby businesses and properties to be adversely impacted by the fires and other criminal activity.’⁸⁵

Recommendation 2

The heightened regulation of landlords under the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* (Qld) is necessary to reduce the presence of illegal tobacco stores.

⁸² Stephen Clarke, ‘Insurers say it’s become “Almost Impossible” to find Cover for Tobacconists after String of Arson Attacks’ ABC News, 7 June 2025, <https://www.abc.net.au/news/2025-06-07/tobacco-insurance-cover-arson-attacks/105384920>

⁸³ Allanah Sciberras, ‘Landlords Warned By Police about Leasing Stores to Tobacconists’, *9 News*, 27 May 2025, <https://www.9news.com.au/national/victoria-tobacco-store-fires-landlords-warned-by-police-about-leasing-stores-to-tobacconists/9c9693a6-2953-40b5-84ca-2ab58f3db70e>

⁸⁴ Ibid.

⁸⁵ Ibid.

3. Executive Officer Liability

The legislation currently provides that executive officers of corporations can be held personally liable for certain offences committed by their corporations.

The consultation paper comments: ‘Given the serious public health risks posed by illicit tobacco and illicit nicotine products, the significant profits driving this illegal trade and the underhanded tactics used by many suppliers to avoid liability, it is proposed to strengthen the existing executive liability offence to ensure greater accountability’.⁸⁶

The consultation paper proposes to amend the Act to reverse the evidentiary onus of proof for executive liability provisions: ‘This will require executive officers to establish that they either took all reasonable steps to ensure the corporation complied with the relevant offence provision (for example, not supplying illicit tobacco or illicit nicotine products) or that they were not in a position to influence the conduct of the corporation in relation to the offence.’⁸⁷

Such law reform will help ensure that executive officers of corporations are accountable for tobacco-related offences.

The legislation replaces s 230A of the *Tobacco and Other Smoking Products Act* 1998 (Qld) – which deals with the liability of an executive officer—offence committed by corporation against executive liability provision). According to the explanatory memorandum, ‘Subsection (1) of new section 230A provides that each executive officer of a corporation is taken to have also committed an offence if the corporation commits an offence against an executive liability (evidential burden) provision, being sections 65, 66, 67, 161 or 161A (which is defined at subsection (6)).’⁸⁸ The legislation retains the current maximum penalty, meaning that each executive officer will be subject to the penalty applying to a contravention of the relevant executive liability provision.

⁸⁶ Queensland Health, ‘Consultation Paper on the *Tobacco and Other Smoking Products and Other Legislation Amendment Bill* 2025 (Qld)’, Queensland Government, May 2025, 14.

⁸⁷ Ibid., 14.

⁸⁸ Explanatory Memorandum of the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill* 2025 (Qld), 43.

Recommendation 3

This submission supports the proposal under the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Qld)* to hold executive officers of corporations liable for certain offences committed by the corporation, unless the executive officer can establish a relevant defence

4. Compromised Goods

The Queensland Government has recently expanded powers in respect of seizure, forfeiture, and destruction as part of amendments to health legislation.⁸⁹

The consultation paper grapples with the issue of compromised goods:

Enforcement officers have observed that suppliers often keep small quantities of illegal products in-store to minimise the financial impact of seizures. This evasive tactic limits what can be seized during inspections, allowing operators to restock expeditiously without any significant financial impact.⁹⁰

It is proposed that ‘legal smoking products will be able to be seized, confiscated and destroyed if found at the same place as illicit tobacco or illicit nicotine products.’⁹¹ The consultation paper explains that such a measure ‘will empower enforcement officers to seize, forfeit and destroy legal smoking products, hookahs and components of hookahs found at the store where illicit tobacco or illicit nicotine products are seized’.⁹² Furthermore, ‘Enforcement officers will be able to forfeit these compromised goods following the forfeiture of the illicit tobacco and illicit nicotine products they are found with.’⁹³

⁸⁹ Matthew Rimmer, ‘Seize and Destroy: A Submission on the Forfeiture Provisions of the *Health Legislation Amendment Bill 2025 (Qld)*’, Health, Environment and Innovation Committee, the Queensland Parliament, 8 April 2025, <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=274&id=4511> QUT ePrints: <https://eprints.qut.edu.au/256630>

⁹⁰ Queensland Health, ‘Consultation Paper on the *Tobacco and Other Smoking Products and Other Legislation Amendment Bill 2025 (Qld)*’, Queensland Government, May 2025, 14.

⁹¹ Ibid., 15.

⁹² Ibid., 15.

⁹³ Ibid., 15.

The consultation paper also discusses the need for powers relating to the seizure and forfeiture of components of bongs and ice pipes:

Under the Act, enforcement officers can currently seize components of ice pipes and bongs as evidence of an offence. The Act does not include a right to forfeit the components of bongs and ice pipes. Enforcement officers report that suppliers are dismantling bongs and ice pipes into their physical components to stop them from being forfeited.⁹⁴

The consultation paper proposes ‘to amend the existing offences in the Act relating to bongs, ice pipes and their components to also capture ‘storing or otherwise possessing’ bongs, ice pipes and their components as an offence’.⁹⁵ The consultation paper also proposes to ‘amend the Act to clarify that the chief executive can forfeit components of bongs and ice pipes, as well as assembled bongs and ice pipes.’⁹⁶ The consultation paper explains: ‘It is intended that all bongs, ice pipes and components that are present at a store will be capable of being seized and forfeited by the chief executive.’⁹⁷

New section 194A provides a definition of compromised goods ‘to mean a smoking product or a hookah, or a component of a hookah, present in a place in which illicit tobacco or an illicit nicotine product is seized under sections 197 or 198 of the Act.’⁹⁸ Section 205 deals with the forfeiture of the relevant product. Section 205A deals with the forfeiture of bongs and ice pipes. Section 205A focuses on the forfeiture of compromised goods.

Recommendation 4

The Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Qld) correctly expands seizure and forfeiture powers in respect of compromised goods, and components of bongs and ice pipes.

⁹⁴ Ibid., 21.

⁹⁵ Ibid., 21.

⁹⁶ Ibid., 21.

⁹⁷ Ibid., 21.

⁹⁸ Explanatory Memorandum of the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Qld)*, 46.

5. Controlled Purchase Operations

Article 19 of the *WHO Protocol to Eliminate Illicit Trade in Tobacco Products* 2012 provides: ‘If permitted by the basic principles of its domestic legal system, each Party shall, within its possibilities and under the conditions prescribed by its domestic law, take the necessary measures to allow for the appropriate use of controlled delivery and, where it deems it appropriate, for the use of other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, by its competent authorities on its territory for the purpose of effectively combating illicit trade in tobacco, tobacco products or manufacturing equipment.’⁹⁹

The consultation paper contemplates the use of controlled purchase operations. The Discussion Paper recommends: ‘To strengthen the detection of illegal activity, it is proposed to amend the Act to allow authorised adults employed by Queensland Health to participate in controlled purchase operations, including attempts to buy illicit products such as illicit tobacco and illicit nicotine products, from licensed or unlicensed stores, both online and in-person.’¹⁰⁰ The consultation paper observes: ‘It is intended that this will assist in identifying operators who are contravening the Act and combat the underhanded tactics used to conceal illegal activity from enforcement officers and circumvent enforcement action.’¹⁰¹ The consultation paper observes: ‘It is intended that the chief executive of Queensland Health will be empowered to authorise controlled purchase officers and convert operations focused on uncovering evidence of certain prescribed offences.’¹⁰²

The consultation paper notes that ‘unlike the legislation in South Australia, children under the age of 16 will not be able to be involved in controlled purchase operations in Queensland.’¹⁰³

⁹⁹ *WHO Protocol to Eliminate Illicit Trade in Tobacco Products* 2012, <https://fctc.who.int/resources/publications/m/item/brochure-protocol-to-eliminate-illicit-trade-in-tobacco-products>

¹⁰⁰ Queensland Health, ‘Consultation Paper on the *Tobacco and Other Smoking Products and Other Legislation Amendment Bill 2025 (Qld)*’, Queensland Government, May 2025, 16.

¹⁰¹ *Ibid.*, 16.

¹⁰² *Ibid.*, 16.

¹⁰³ *Ibid.*, 16.

The Queensland legislation inserts a new division 4AA entitled, ‘Controlled purchase operations’. The division covers sections 208 to 208J.

Recommendation 5

In line with the *WHO Protocol to Eliminate Illicit Trade in Tobacco Products 2012*, the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Qld)* allows for controlled purchase operations, and undercover operations for the purpose of effectively combating illicit trade in tobacco.

6. Expanded Powers for Enforcement Officers

The proposed legislation contains a range of other miscellaneous provisions. The consultation paper proposes: ‘Enforcement officers will be able to enter all licensed wholesale stores and unlicensed wholesale stores where illicit nicotine products are available for sale’.¹⁰⁴ Moreover, ‘a warrant or occupier consent will not be required.’¹⁰⁵ Furthermore, ‘licensed wholesalers will need to keep a copy of the invoices issued to retailers for two years.’

The consultation paper suggests: ‘Evidentiary aids will be used to ensure non-controversial matters can be efficiently presented to the Court through a Queensland Health-issued certificate.’¹⁰⁶

The consultation paper recommends that additional information be sought in respect of licence applications: ‘These changes will strengthen Queensland Health’s assessment of applicants and ongoing information collected about the business arrangements of licensees.’¹⁰⁷

The consultation paper suggests: ‘Licensees can use electronic records to show that their employees have been given required instructions and warning relating to supply to children and unlicensed supply.’¹⁰⁸

¹⁰⁴ Ibid., 17.

¹⁰⁵ Ibid., 17.

¹⁰⁶ Ibid., 17.

¹⁰⁷ Ibid., 18.

¹⁰⁸ Ibid., 19.

The consultation paper also recommends: ‘Enforcement officers will be able to request information from any person and that person will need to comply with the request, unless they have a reasonable excuse.’¹⁰⁹

Recommendation 6

The *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Qld)* expands the powers of enforcement officers to enter wholesale outlets without the need for occupier consent or a warrant, and to request information from any person in relation to the administration or enforcement of the Act.

7. Smoking Areas at Outdoor Eating or Drinking Places

The consultation paper proposes that ‘some liquor licensed venues will be able to choose between having designated outdoor smoking areas or smoking-only areas.’¹¹⁰ The consultation notes: ‘It is proposed to amend the Act to allow liquor licensed venues to choose either a smoking-only area (where drinking is not permitted) or a designated outdoor smoking area (where drinking is permitted).’¹¹¹ The consultation paper observes: ‘This change will provide flexibility for venues to adopt arrangements that best suit their operations and may reduce the time patrons spend in smoking areas.’¹¹²

The legislation provides for the amendment of s 134 – dealing with smoking areas at outdoor eating or drinking place. The explanatory memorandum notes: ‘Clause 9 omits section 134(6) to allow premises to which a commercial hotel licence, community club licence or a commercial special facility licence that contains all or part of a casino applies under the *Liquor*

¹⁰⁹ Ibid., 20.

¹¹⁰ Queensland Health, ‘Consultation Paper on the *Tobacco and Other Smoking Products and Other Legislation Amendment Bill 2025 (Qld)*’, Queensland Government, May 2025, 22.

¹¹¹ Ibid., 22.

¹¹² Ibid., 22.

Act 1992 to set aside a part of the place as an area in which smoking is allowed (a smoking only area) so long as smoking in the area is not otherwise prohibited under the Act.’¹¹³

The special exceptions for hotels, clubs, and casinos have long been anomalous in terms of the general legislative and regulatory trend towards smokefree places and spaces. Surely, it is time for hotels, clubs, and casinos to transition altogether to smokefree environments. There are obvious liability issues for hotels, clubs, and casinos in respect of smoking-related deaths and diseases suffered by their employees and patrons. Governments have also faced litigation for allowing special exemptions from smoking laws and regulations for hotels, clubs, and casinos. Recent litigation in Victoria has highlighted the dangers of having special exceptions for hotels, clubs, and casinos in terms of smoking spaces and places.

In 2023, Dien Nguyen – a waiter with lung cancer – sued Melbourne’s Crown Casino over smoking in a high rollers room.¹¹⁴ In the claim to the Supreme Court of Victoria, Nguyen alleged he ‘worked in an environment heavily contaminated with smoke from cigarettes and cigars’.¹¹⁵ He claimed that Crown Melbourne Limited knew, or ought to have known, he would be exposed to smoke and was at ‘risk of developing serious lung disease’.¹¹⁶ The lawsuit alleged that Crown failed to test or measure the levels of cigarette and cigar smoke in the Mahogany Room and did not maintain ‘any proper system of ventilation’.¹¹⁷ Crown has been warned about the health risks: ‘Prior to 2017 Crown had received complaints and notifications in relation to employees suffering from lung cancer or serious lung diseases which were alleged to have been caused by exposure to cigarette and cigar smoke in the course of their employment.’¹¹⁸

The managing director of law firm Arnold Thomas & Becker, Lee Flanagan, argued on behalf of their client: ‘Crown casino and the state government – by allowing the exemption – were aware of the risks of tobacco smoke causing cancer, but nonetheless, [allegedly] willingly

¹¹³ Explanatory Memorandum to the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill* 2025 (Qld), 44-45.

¹¹⁴ Benita Kolovos, ‘Waiter with Lung Cancer sues Melbourne’s Crown Casino over Smoking in High-rollers Room’, *The Guardian*, 12 September 2023, <https://www.theguardian.com/australia-news/2023/sep/12/crown-casino-melbourne-waiter-sues-lung-cancer-smoking-high-rollers>

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

¹¹⁸ Ibid.

exposed workers to this risk.’¹¹⁹ Flanagan observed: ‘Smoking in indoor public spaces was banned in 2007, yet Crown and the government continued to expose hundreds of workers and regular patrons to tobacco smoke for well over a decade.’¹²⁰

In January 2024, it was reported that Nguyen died from lung cancer before his negligence case against the gaming giant was set to be heard by the courts.¹²¹ His lawyer, Arnold, Thomas and Becker managing principal Lee Flanagan commented the two claims would be pursued by Nguyen’s family: ‘We knew Nguyen’s work at Crown casino would eventually cost him his life, but the timing of his death was unexpected’.¹²² Flanagan noted: ‘Crown casino and the state government were aware of the risks of tobacco smoke causing cancer, but nonetheless, willingly exposed workers to this risk’.¹²³

In light of such current litigation, and no doubt future litigation over smoking areas, it is recommended that the Queensland Government phase out exemptions and exceptions for smoking areas in hotels, clubs, pubs, and casinos.

Recommendation 7

In line with its smoke-free spaces ambition, the Queensland Government should phase out smoking areas in hotels, clubs, pubs, and casinos.

8. Proposed changes to the *State Penalties Enforcement Regulation 2014 (Qld)*

The *State Penalties Enforcement Regulation 2014 (Qld)* has been deployed in respect of illegal tobacco operators.

In 2025, the State Penalties Enforcement Registry (SPER) officers executed warrants on 17 illegal tobacco operators who refused to pay their fines.¹²⁴ Officers seized \$468,000 in

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ Amelia McGuire, ‘Former Crown Waiter dies from Lung Cancer ahead of Civil Trial against Gaming Giant’, *The Age*, 25 January 2024, <https://www.smh.com.au/business/companies/former-crown-waiter-dies-from-lung-cancer-ahead-of-civil-trial-against-gaming-giant-20240125-p5f01v.html>

¹²² Ibid.

¹²³ Ibid.

¹²⁴ Hon. David Janetzki, ‘Crisafulli Government Turns Up Heat on Illegal Tobacco Traders’, Queensland Government, 29 May 2025, <https://statements.qld.gov.au/statements/102630>

cash and other assets from illegal tobacco traders. Treasurer the Hon. David Janetzki MP commented on the action:

The Crisafulli Government is determined to hit these illegal traders where it hurts, disrupt their cash flow and seize their cash and property. Several of these illegal operators have closed their doors for good because of these enforcement actions, so we'll continue to support SPER and other agencies so they can use their full powers under the law to prevent chop shops from selling illegal tobacco and vapes, particularly to young Queenslanders.¹²⁵

SPER Director Kim Easton observed: 'Enforcement officers are carrying out seizure operations across south east Queensland against illegal tobacco operators to recover the debts they owe.'¹²⁶ He noted: 'We've caught several of these operators attempting to conceal assets, hiding cash in secret rooms and behind fake walls.'¹²⁷ Easton promised: 'Our officers will continue to ensure these debtors face consequences by seizing their cash and other property until these debts are paid.'¹²⁸

The consultation paper proposed changes to the *State Penalties Enforcement Regulation* 2014 (Qld).¹²⁹ It is proposed to amend the *State Penalties Enforcement Regulation* 2014 (Qld) to prescribe new offences so that they can be issued by enforcement officers as PINs. Section 209C (as amended) – contravention of a closure order – will involve the following penalties - Individual – 20 penalty units (\$3,226); and Corporation – 100 penalty units (\$16,130). Section 49 (as amended) – failure by licensed retailers and wholesalers to retain invoices for a period of two years – will have the following penalties: Individual – 10 penalty units (\$1,613), and Corporation – 50 penalty units (\$8,065).

The legislative bill amends the *State Penalties Enforcement Regulation* 2014 to prescribe three offences as penalty infringement notice offences with their respective penalty amounts: contravention of a closure order – 20 penalty units (individuals) and 100 penalty units (corporations); failure of a retail licensee to keep invoices for at least two years – 10 penalty units (individuals) and 50 penalty units (corporations); and failure of a licensee for a wholesale

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ Queensland Health, 'Consultation Paper on the *Tobacco and Other Smoking Products and Other Legislation Amendment Bill* 2025 (Qld)', Queensland Government, May 2025, 23.

licence or a retail licence with a limited wholesale condition to keep invoices for at least two years – 10 penalty units (individuals) and 50 penalty units (corporations).

Recommendation 8

The new penalty infringement notices for contravention of a closure order and failure to retain invoices under the *State Penalties Enforcement Regulation 2014* (Qld) are appropriate and well-adapted.

9. Automatic Teller Machines (ATMs)

While it is not currently contemplated in the consultation paper, there has been broader policy debate over the need to regulate automatic teller machines (ATMs) at tobacconists.

A June 2025 ABC Investigation revealed ‘the provision of networks of privately owned cash-dispensing ATMs that have been placed in tobacconists despite their links to criminals and blatant illegal sales activities.’¹³⁰ The journalist Rory Callinan commented: ‘The arrangements — which in some cases allow shop owners to load their own cash into the machine — highlight a regulatory black hole facilitating tax avoidance and money laundering, according to experts.’¹³¹ Callinan observed: ‘Macquarie's link to the trade is via its 47 per cent ownership in private company Next Payments, which is supplying the private ATMs to businesses.’¹³²

The ABC investigation ‘confirmed Next Payments has supplied multiple ATMs to tobacco shops around Queensland.’¹³³ The study found: ‘Some of the deals involve supplying ATMs to companies and individuals who have been found guilty of illegal tobacco possession and sales.’¹³⁴ The ABC investigation noted: ‘One deal uncovered by the ABC involves Next Payments continuing to supply ATMs to a convicted criminal despite him having been found guilty of illegal tobacco possession, some of which was allegedly hidden in cat food packages.’¹³⁵ The ABC Investigation observed: ‘Another case involved Next Payments allegedly having a deal to supply ATMs to businesses connected to a man who was the subject of a proceeds of crime court action by the NSW Crime Commission, according to court records.’¹³⁶ The ABC Investigation concluded: ‘The onsite ATMs are providing a vital source

¹³⁰ Rory Callinan, ‘Macquarie Group Company's Private ATMs are Helping Fuel the Illegal Tobacco Trade’, *ABC News*, 18 June 2025, <https://www.abc.net.au/news/2025-06-18/macquarie-group-next-atm-illegal-tobacco-trade/105399234>

¹³¹ Ibid.

¹³² Ibid.

¹³³ Ibid.

¹³⁴ Ibid.

¹³⁵ Ibid.

¹³⁶ Ibid.

of instant cash for the businesses as customers are usually asked to purchase illegal tobacco products for cash.’¹³⁷

There has been policy discussion as to whether the regulation of such ATMs is a state or a Federal responsibility. AUSTRAC told the ABC that private ATMs were a ‘target for criminals’ and were not regulated under anti-money laundering laws, meaning a ‘reduced visibility for AUSTRAC and law enforcement’.¹³⁸ Home Affairs Minister Tony Burke's office said it did not have ‘anything to add at this stage’.¹³⁹ The shadow Federal Attorney-General, Julian Leeser, observed that AUSTRAC had flagged private ATMs as a risk for cash-intensive businesses in a 2024 money-laundering report. He said any regulatory changes to anti-money laundering laws ‘need to be the subject of rigorous cost-benefit analysis and careful consultation with industry’.¹⁴⁰

The Queensland Minister for Health and Ambulance Services, the Hon. Timothy Nicholls, commented: ‘The Commonwealth government should be pulling every appropriate lever to stop this criminal trade and prevent these illicit products from getting into the country in the first place.’¹⁴¹ He observed ‘Reports of the lengths that these black-market operators are going to in laundering their money is disturbing’.¹⁴² Nicholls noted: ‘It highlights the need for swift regulatory and enforcement action to close loopholes and deprive these operators of their cash and ability to generate profits.’¹⁴³

In response to the ABC investigation and the ensuing policy debate, Melbourne-based Next Payments withdrew their machines from stores linked to illicit tobacco sales.¹⁴⁴ Chief Executive Tim Wildash said he had not been aware of the extent of the issue until the ABC's

¹³⁷ Ibid.

¹³⁸ Rory Callinan and Liam Walsh, ‘Queensland Minister calls on Federal Government to Crackdown on Illegal Tobacco Trade’, *ABC News*, 19 June 2025, <https://www.abc.net.au/news/2025-06-19/calls-to-tighten-laws-illegal-tobacco-trades-atms/105432780>

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴² Ibid.

¹⁴³ Ibid.

¹⁴⁴ Rory Callinan and Liam Walsh, ‘Macquarie Group-backed ATM Provider begins Removing Machines from Suspected Illegal Tobacco Stores’, *ABC News*, 24 July 2025, <https://www.abc.net.au/news/2025-07-24/next-payments-removing-atms-suspected-illegal-tobacco-stores/105562702>

reporting: ‘[The] ABC highlighted the size and rapid spread of this issue.’¹⁴⁵ He insisted that the company remove ATMs from the outlets: ‘If they [the shops] are not legal, we’re not going to provide services’.¹⁴⁶ The Australian Criminal Intelligence Commission cautioned: ‘The scale of cash turnover through private ATMs in certain industries make these an ideal target for serious and organised crime groups who thrive off the money made from criminal activities.’¹⁴⁷

In August 2025, ATM provider atm2go sought to remove machines linked to the illicit tobacco trade.¹⁴⁸ The ABC reporters noted: ‘The ABC had found atm2go machines in a string of stores selling illicit cigarettes — with sales occurring even after some shops in Queensland had been suspended by health authorities for breaching tobacco laws.’¹⁴⁹ The ABC reporters observed: ‘Court documents also showed atm2go had cut deals to install ATMs with a man charged and later convicted with proceeds of crime and tobacco offences.’¹⁵⁰ The ABC reporters commented: ‘In another case in Darwin, a man jailed for massive cannabis dealing had atm2go machines that he told an underling to load with drug cash.’¹⁵¹

In August 2025, the ATM provider NCR Atleos sought to remove machines from tobacco stores, in the wake of the ABC Investigation.¹⁵² A company spokesman told the ABC that following a review, ‘we have chosen to remove a number of ATMs and will be removing self-filled ATMs in tobacco stores, which account for 1 per cent of our fleet’.¹⁵³ NCR Atleos’ spokesman also said: ‘Additionally, we will continue to review this issue and will remove any

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ Liam Walsh and Rory Callinan, ‘ATM Supplier atm2go Begins Removes Machines from Stores linked to Illicit Tobacco Trade’, *ABC News*, 2 August 2025, <https://www.abc.net.au/news/2025-08-02/qld-atm2go-supplier-removes-machines-from-stores/105598108>

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Liam Walsh, Amy Greenbank, and Rory Callinan, ‘International ATM Giant NCR Atleos begins Removing Machines from Tobacco Stores after ABC Investigation’, *ABC News*, 21 August 2025, <https://www.abc.net.au/news/2025-08-21/ncr-atleos-removing-machines-suspected-illegal-tobacco-stores/105680294>

¹⁵³ Ibid.

ATMs from stores that we believe are linked to illegal tobacco trade.’¹⁵⁴ NCR Atelos maintained that it had complied with all relevant legislation.

Doron Goldbarsht, director of the Financial Integrity Hub at Macquarie University, said NCR's decision ‘suggests recognition of the risks associated with the machines, particularly around traceability of funds’.¹⁵⁵ He observed: ‘Because cash is filled directly by store owners rather than through a regulated provider, such ATMs may present heightened vulnerabilities to misuse, including for money laundering or to facilitate proceeds of crime.’¹⁵⁶ Dr Goldbarsht commented: ‘This should signal to both government and industry that current oversight may be insufficient, and that stronger regulatory settings or supervisory mechanisms could be needed to mitigate financial crime risks in the ATM sector’.¹⁵⁷

There has also been concerns that the Square system has been used to facilitate the trade in illegal tobacco. Journalist Liam Walsh reports: ‘Police have also found the Square system in some stores they suspect of selling illegal tobacco.’¹⁵⁸ He observed: ‘In one ongoing case, authorities claimed Square devices listed \$20 million in transactions in stores over two years linked to an alleged criminal who also had ATMs’.¹⁵⁹ He noted: ‘A review of bank transactions found more than \$2 million was allegedly deposited by Square into his bank accounts.’¹⁶⁰ A Square spokesperson said that its local compliance team deactivated accounts upon detecting ‘irregularities in relation to suspected illegal tobacco sales’.¹⁶¹

The ABC’s investigative journalism is to be commended for revealing the inner economic workings of the black market for tobacco and e-cigarettes.

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

¹⁵⁸ Liam Walsh, ‘Inside the Illegal Tobacco Trade – Secret Rooms, Fire Bombings and Bags Full of Cash’, *ABC News*, 7 September 2025, <https://www.abc.net.au/news/2025-09-07/qld-illicit-tobacco-trade-court-records-allegations/105733494>

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

¹⁶¹ Ibid.

Recommendation 9

In light of the recent ABC Investigations, the Federal Government should take legislative action to prevent automatic teller machines (ATMs) from operating in tobacco stores. There needs to be stronger regulatory settings and supervisory mechanisms to mitigate financial crime risks in the ATM sector.

10. Human Rights Compatibility

The Minister for Health and Ambulance Services Timothy Nicholls MP attests: ‘In my opinion, the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* (Qld) is compatible with human rights under the *Human Rights Act 2019* (Qld) because it limits human rights only to the extent that is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.’¹⁶²

The statement of compatibility is particularly focused on the impact of the legislation upon a series of human rights – including the right to freedom of movement (section 19); the right to property (section 24); the right to privacy and reputation (section 25); the right to liberty and security of person (section 29); the right to a fair hearing (section 31); and the rights in criminal proceedings (section 32). It should also be noted that the legislation enhances the rights of Queenslanders in a number of ways – such as the right to life (section 16); the protection of families and children (section 26); the right to education (section 36); the right to health services (section 37) and Indigenous rights (section 28).

In respect of the expanded closure orders, the Minister maintains: ‘The amendments strike a fair balance between the benefits to the public and the limitation of individual rights by achieving their purposes in disrupting and disincentivising illegal and unlicensed activity’.¹⁶³ In his view, the legislative package ‘ultimately will assist in achieving the broader purpose of protecting public health.’¹⁶⁴ The Minister observes: ‘Illicit tobacco and illicit nicotine products pose significant and well-documented health risks, and their continued unlawful availability undermines public health objectives.’¹⁶⁵ The Minister comments: ‘Operators who engage in the unlicensed sale of legal smoking products also often engage in the supply of illicit tobacco and illicit nicotine products and circumvent the regulatory controls of the licensing framework’.¹⁶⁶

The Minister explains: ‘The amendments are intended to strengthen enforcement by extending the duration of closure orders, creating stronger financial and operational

¹⁶² Statement of Compatibility for the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* (Qld).

¹⁶³ Ibid., 6.

¹⁶⁴ Ibid., 6.

¹⁶⁵ Ibid., 6.

¹⁶⁶ Ibid., 6.

disincentives for those engaging in illegal conduct’.¹⁶⁷ The Minister observes that the amendments ‘also reduce the availability of illegal products for longer periods, further supporting public health aims.’¹⁶⁸ The Minister comments: ‘In my opinion, the amendments strike an appropriate balance between the Bill’s public health objectives and the limitation on human rights that is reasonable and demonstrably justifiable in a free and democratic society.’¹⁶⁹

In respect of the amendments to the section 209C offence, the Minister observes: ‘The amendment ensures that premises subject to a closure order are genuinely closed for all trading purposes.’¹⁷⁰ The Minister comments that the measure ‘strengthens deterrence by signalling to operators that they will not be able to continue business under a different guise, and it reduces opportunities for the covert supply of harmful products to the community, including to children and young people.’¹⁷¹ The Minister observes: ‘The ability to completely close premises for trading is a powerful tool for disrupting supply chains and curbing the availability of illicit products, which is a critical public health objective.’¹⁷² The Minister maintains: ‘Although the amendment limits freedom of movement and property rights, those limitations are temporary, targeted and proportionate.’¹⁷³ The Minister highlights: ‘Businesses operating in accordance with the Act are not affected and customers are free to purchase lawful products from other businesses.’¹⁷⁴

In respect of the statutory lease termination power, the Minister observes: ‘The statutory lease termination power complements the expanded closure powers and the new lessor offence and civil penalty introduced by the Bill.’¹⁷⁵ The Minister explains: ‘This power is necessary to protect the legitimate interests of the lessor, mitigate their exposure to the new lessor offence and civil penalty, and reduce the availability of commercial premises for illicit trade.’¹⁷⁶ The

¹⁶⁷ Ibid., 6.

¹⁶⁸ Ibid., 6.

¹⁶⁹ Ibid., 6.

¹⁷⁰ Ibid., 11.

¹⁷¹ Ibid., 11.

¹⁷² Ibid., 11.

¹⁷³ Ibid., 11.

¹⁷⁴ Ibid., 12.

¹⁷⁵ Ibid., 14.

¹⁷⁶ Ibid., 14.

Minister observes: ‘The limitation on property rights is narrow in scope and applies only to premises subject to a closure order’.¹⁷⁷ The Minister maintains: ‘The amendment carefully balances the interests of all parties and ensures that any interference with property rights is not arbitrary, and is reasonable and demonstrably justifiable’.¹⁷⁸

The Minister also considers the human rights implications of introducing a criminal offence and civil penalty for relevant lessors of commercial premises. The Minister comments: ‘By incentivising lessors to not allow their premises to be used for the supply or possession of illicit tobacco or illicit nicotine products, the criminal offence and civil penalty are likely to reduce the availability of commercial premises for these activities.’¹⁷⁹ The Minister observes that there will be a public health benefit: ‘It is also likely to have a community safety benefit, noting the increasing number of dangerous incidents associated with illicit tobacco and vape retailers.’¹⁸⁰ The Minister comments: ‘Where lessors choose to continue facilitating and profiting from illegal conduct, there is a clear public interest in ensuring they can be held accountable.’¹⁸¹ The Minister observes: ‘Balanced against the public health and safety benefits, the limitations on the right to property and the right to liberty and security are reasonable and demonstrably justifiable in a free and democratic society.’¹⁸²

The Minister also considers human rights limited by deeming liability for executive officers. The Minister notes: ‘Although the amendment will limit the right to a fair hearing and rights in criminal proceedings by shifting the evidential burden to executive officers, the limitation is narrow and proportionate.’¹⁸³ The Minister reflects: ‘The Bill does not create new offences but strengthens the existing executive liability provision to ensure executive officers who enable or fail to prevent offending conduct cannot avoid accountability’.¹⁸⁴ The Minister notes: ‘Executive officers are well placed to influence compliance, and the amendment creates a strong incentive for them to act responsibly and lawfully.’¹⁸⁵ The Minister comments:

¹⁷⁷ Ibid., 14.

¹⁷⁸ Ibid., 14.

¹⁷⁹ Ibid., 17.

¹⁸⁰ Ibid., 18.

¹⁸¹ Ibid., 18.

¹⁸² Ibid., 18.

¹⁸³ Ibid., 20.

¹⁸⁴ Ibid., 20.

¹⁸⁵ Ibid., 20.

‘Liability only arises once the prosecution demonstrates the corporation’s offence, and officers retain clear defences such as showing they took reasonable steps or could not reasonably have known of the conduct.’¹⁸⁶ The Minister concludes: ‘On balance, the limited impact on rights is justified by the significant public health benefits and improved enforcement outcomes.’¹⁸⁷

The Statement of Compatibility also considers human rights limited by introducing seizure and forfeiture powers for compromised goods. The Minister comments: ‘Given the significant public health and enforcement challenges posed by the illicit trade, the limitation on property rights is considered reasonable and demonstrably justifiable.’¹⁸⁸ The Minister notes: ‘The limitation on the right to property is balanced against the need to deter individuals and businesses from engaging in unlawful conduct and the risks to public health of that conduct’.¹⁸⁹ The Minister concludes: ‘The limitation ensures that businesses engaging in the illicit trade face immediate and tangible consequences that reflect the gravity of their actions, while preserving safeguards for individuals through established legal processes for seizure and forfeiture.’¹⁹⁰

The Statement of Compatibility also explores the impact of controlled purchase operations on human rights. The Minister explains:

Controlled purchase operations are narrowly targeted. These operations are limited to activities necessary to gather evidence for certain prescribed offences, such as attempting to purchase, or making purchases, of legal or illegal smoking products, for the purpose of obtaining evidence of the supply and possession of illicit tobacco or illicit nicotine products or unlicensed sale of smoking products. Controlled purchase operations are a proportionate and justified response to the significant public health and safety risks that have arisen from the illegal trade of these products.¹⁹¹

The Minister concludes: ‘Overall, the introduction of controlled purchase operations is necessary to support effective enforcement against illegal operators in the community’.¹⁹² The Minister maintains: ‘The Bill does not arbitrarily interfere with the right to privacy and

¹⁸⁶ Ibid., 20.

¹⁸⁷ Ibid., 20.

¹⁸⁸ Ibid., 23.

¹⁸⁹ Ibid., 23.

¹⁹⁰ Ibid., 23.

¹⁹¹ Ibid., 25.

¹⁹² Ibid., 25.

appropriately balances the purpose of the Bill with the limitation on the right to privacy and reputation.’¹⁹³

The Statement of Compatibility also considers the expansion of entry powers to wholesale premises. The Minister notes: ‘On balance, the significant public health interest in preventing the distribution of illicit tobacco and illicit nicotine products outweighs the minimal impact on privacy rights’.¹⁹⁴ The Minister comments: ‘Wholesalers play a pivotal role in the supply chain, and ensuring that non-compliant operators are subject to timely enforcement action is necessary to protect the community and disincentivise illegal trade’.¹⁹⁵ The Minister concludes: ‘The limitation is therefore reasonable and proportionate.’¹⁹⁶

On evidentiary aids, the Minister maintains: ‘The amendments strike an appropriate balance between the purpose of the Bill and the limitation on human rights which is reasonable and demonstrably justifiable in a free and democratic society.’¹⁹⁷

In respect of the power to request information, the Statement of Compatibility observes: ‘The amendment is a reasonable and proportionate response to the public health issues that stem from the supply of smoking products to children, and the supply and commercial possession of illicit tobacco and illicit nicotine products.’¹⁹⁸

On the requirement for additional information in licence applications, the Statement of Compatibility observes: ‘The amendment strikes an appropriate balance as it provides Queensland Health with the information necessary to administer and enforce the licensing scheme with minimal privacy impacts, as the information required is limited to that directly relevant to regulatory oversight’.¹⁹⁹

In respect of the prescription of new PIN offences, the Minister explains: ‘The ability to issue PINs delivers a proportionate and targeted response to non-compliance, avoiding the need for criminal prosecution while still promoting adherence to the law’.²⁰⁰ The Minister notes: ‘Any limitation on human rights is minimal and is outweighed by the significant public interest

¹⁹³ Ibid., 25.

¹⁹⁴ Ibid., 27.

¹⁹⁵ Ibid., 27.

¹⁹⁶ Ibid., 27.

¹⁹⁷ Ibid., 28.

¹⁹⁸ Ibid., 30.

¹⁹⁹ Ibid., 32.

²⁰⁰ Ibid., 34.

in implementing effective enforcement measures, reducing the burden on the courts and safeguarding public health.’²⁰¹

Furthermore, it should also be noted that the legislation enhances and protects the rights of Queenslanders in a number of ways – such as the right to life (section 16); the protection of families and children (section 26); the right to education (section 36); the right to health services (section 37) and Indigenous rights (section 28). There has been recognition that smoking imperils the right to life through its cause of death and disease. There has been concern about how illegal tobacco retailers have been selling cigarettes and vapes to young people, and children (raising issues about the protection of children). As noted by previous Queensland parliamentary inquiries, smoking and vaping have been disrupting the provision of education, raising concerns amongst teachers and parents. The illegal trade in tobacco and vaping poses a threat to public health in Queensland – and raises larger questions about the right to health, and access to healthcare. The tobacco industry has also targeted Indigenous communities and First Nations – resulting in a higher than average smoking rate. Tobacco control measures will serve to protect the health of Indigenous communities in Queensland.

Recommendation 10

The proposed legislation, the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Qld)*, is compatible with Queensland’s Human Rights regime.

²⁰¹ Ibid., 34.

11. Consistency with Legislation of Other Jurisdictions

The explanatory memorandum to the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* (Qld) notes: ‘The Bill represents a unique response to the supply and possession of illicit tobacco and illicit nicotine products.’²⁰² The explanatory memorandum highlights the regime of South Australia as a comparator: ‘While all States and Territories have legislation for tobacco control, South Australia has the most comparable enforcement tools to Queensland’.²⁰³ The explanatory memorandum also points to the example of Western Australia: ‘Western Australia also shares some similarities.’²⁰⁴

The explanatory memorandum highlights the effective use of closure orders by the Government of South Australia:

Like Queensland, South Australia has closure orders and offences for persons who contravene closure orders. South Australia has an offence for owners and those who manage or control premises who permit another person to engage in prohibited conduct (such as the supply of illicit tobacco) on the premises, as well as a statutory power to terminate a lease following a court issued closure order.²⁰⁵

The explanatory memorandum notes: ‘Both South Australia and Western Australia have a controlled purchase operation scheme that permits appointed persons, including minors, to attempt to purchase smoking products to covertly collect evidence of contraventions.’²⁰⁶ Moreover, ‘the Australian Capital Territory also has controlled purchase operations (known as compliance testing programs) to detect sales to minors.’²⁰⁷

A. South Australia

The Government of South Australia passed the *Tobacco and E-Cigarettes (E-Cigarettes and Other Reforms) Amendment Act 2024* (SA). Minister for Health and Wellbeing Chris Picton

²⁰² Explanatory Memorandum to the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* (Qld), 42.

²⁰³ Ibid., 42.

²⁰⁴ Ibid., 42.

²⁰⁵ Ibid., 42.

²⁰⁶ Ibid., 42.

²⁰⁷ Ibid., 42.

noted: ‘There’s no safe level of smoking or vaping and these new laws will bring South Australia to the forefront of strong public health protections.’²⁰⁸ He stressed: ‘These tough measures are necessary to ensure that the illegal vaping and tobacco industry faces much tougher penalties commensurate with their health impact.’²⁰⁹ The press release observed: ‘South Australia will have among the highest penalties in the nation against the sale of illicit vapes and tobacco with the Malinauskas Labor Government continuing its fight against the criminals who sell it.’²¹⁰

The Government of South Australia passed new amendments to the *Tobacco and E-Cigarette Products Act* 1997 (SA) and *Retail and Commercial Leases Act* 1995 (SA) in 2025.²¹¹ Introducing the legislation, the Minister for Health and Wellbeing Chris Picton (a former chief of staff to Nicola Roxon when she introduced the revolutionary plain packaging of tobacco products) considered the context of tobacco control in Australia:

Despite the decline in rates of smoking, tobacco remains a leading cause of death and disease in Australia and it is estimated to cost the South Australian economy over \$2 billion a year. Australia has some of the toughest requirements for tobacco products in the world, including plain packaging, health warnings, restrictions on flavours and pricing. These measures have played a big part in driving down smoking rates and preventing the uptake of smoking by non-smokers, particularly younger people.²¹²

²⁰⁸ Premier’s Office, ‘SA’s New Penalties tackling Illicit Tobacco and Vapes set to Take Effect’, Press Release, Government of South Australia, 28 November 2024, <https://www.premier.sa.gov.au/media-releases/news-archive/sas-new-penalties-tackling-illicit-tobacco-and-vapes-set-to-take-effect>

²⁰⁹ Ibid.

²¹⁰ Ibid.

²¹¹ *Statutes Amendment (Tobacco and E-Cigarette Products—Closure Orders and Offences) Act* 2025 (SA), [https://www.legislation.sa.gov.au/lz/path=/b/current/statutes%20amendment%20\(tobacco%20and%20e-cigarette%20products%20-%20closure%20orders%20and%20offences\)%20bill%202025](https://www.legislation.sa.gov.au/lz/path=/b/current/statutes%20amendment%20(tobacco%20and%20e-cigarette%20products%20-%20closure%20orders%20and%20offences)%20bill%202025) and [https://www.legislation.sa.gov.au/lz/path=/c/a/statutes%20amendment%20\(tobacco%20and%20e-cigarette%20products%20-%20closure%20orders%20and%20offences\)%20act%202025](https://www.legislation.sa.gov.au/lz/path=/c/a/statutes%20amendment%20(tobacco%20and%20e-cigarette%20products%20-%20closure%20orders%20and%20offences)%20act%202025)

²¹² The Hon. Chris Picton MP, ‘Second Reading Speech on the *Statutes Amendment (Tobacco and E-Cigarette Products – Closure Orders and Offences) Bill* 2025 (SA)’, Hansard, South Australia Parliament, 19 February 2025, <https://hansardsearch.parliament.sa.gov.au/daily/lh/2025-02-19/44>

Picton mentioned additional efforts to regulate e-cigarettes and vaping: ‘This latest data shows the Federal and State Government's vaping reforms are working to prevent a new generation from becoming addicted to nicotine.’²¹³

Against the background, Picton was concerned that the availability of illicit tobacco and vaping products in the community had the potential to reverse such public health successes:

Illicit tobacco trade is not only a law enforcement and compliance issue but also a public health issue. These measures support the Government's investment in evidence-based initiatives such as public health campaigns, delivery of quitting services and reducing the community's exposure to second hand smoke, including through recent smoke-free and vape-free laws introduced in early 2024. The Government remains committed to achieving the ambitious target of achieving a daily smoking prevalence of 6% by 2027 and this Bill is another step to support our work in meeting this target.²¹⁴

Picton noted: ‘The sale of illicit tobacco and e-cigarettes products is not a ‘victimless crime’. Smoking and vaping causes harm to the whole community, not just the individuals who choose to smoke or vape.’²¹⁵ He added that ‘there are very real harms associated with using these products – particularly through the development of high levels of nicotine dependence by young South Australians, and the very serious associated health risks.’²¹⁶

Marina Bowshall, Chief Executive Preventive Health SA, commented: ‘It is great to see the legislation evolving and adapting to new challenges.’²¹⁷ She added: ‘The best way to protect the public is ensuring that our tobacco and e-cigarette restrictions are working to protect future generations.’²¹⁸ These new amendments ‘provide additional powers for police to undertake additional searches in premises suspected of selling illicit products, to include searches for drugs, weapons and explosives.’²¹⁹ These new amendments ‘create a provision for

²¹³ Ibid,

²¹⁴ Ibid.

²¹⁵ Ibid.

²¹⁶ Ibid.

²¹⁷ Preventive Health SA, ‘Tougher Illicit Tobacco and e-Cigarette Laws come into effect in South Australia’, Press Release, 24 March 2025, <https://www.preventivehealth.sa.gov.au/about/news-announcements/tougher-illicit-tobacco-and-e-cigarette-laws-come-into-effect-in-south-australia>

²¹⁸ Ibid,

²¹⁹ Ibid.

information relating to the closure of unlicensed premises to be made publicly available.’²²⁰ These new amendments ‘provide greater clarification for information-sharing between our enforcement agencies, as well as their ability to disclose information relating to illicit activity to interested parties such as the owner of a premises or their agent.’²²¹ Furthermore, ‘new provisions will allow owners to end a retail lease if the tenant has been issued a long-term closure order by authorities’.²²² Moreover, ‘an offence will also be introduced to penalise owners, or a person responsible for a premises, who actively allow their space to be used for prohibited conduct under this law.’²²³

The Government of South Australia has been deploying closure order powers to deal with illicit tobacco and vapes. In September 2025, the Premier’s Office reported on the results of Operation Shutdown.²²⁴ The press release noted: ‘Since June 5 – when the Minister’s new closure order powers came into effect and the operation launched – 71 closure orders have been issued to stores caught selling illicit tobacco and vapes.’²²⁵ The press release commented: ‘In that time, we have seized product valued at more than \$4.2 million including: 3,376,290 cigarettes, 10,667 vapes, 1.1 tonnes of loose tobacco.’²²⁶ The press release observed: ‘This takes the total value of product seized since the taskforce began its work on 1 July last year to more than \$47 million.’²²⁷ The press release noted: ‘Two long term closure orders have also been issued with another three being progressed.’²²⁸ Andrea Michaels – the Minister for Small and Family Business of South Australia – commented:

Operation Shutdown has been extremely successful closing down more than 71 stores across South Australia and seizing \$4.2 million worth of product since 5 June. We know it is largely organised crime that is behind this trade and closing down stores significantly disrupts their business model. The

²²⁰ Ibid.

²²¹ Ibid.

²²² Ibid.

²²³ Ibid.

²²⁴ Premier’s Office ‘SA Leads the Way in the Fight against Illicit Tobacco’, Press Release, Government of South Australia, 26 September 2025, <https://www.premier.sa.gov.au/media-releases/news-items/sa-leads-the-way-in-the-fight-against-illicit-tobacco>

²²⁵ Ibid.

²²⁶ Ibid.

²²⁷ Ibid.

²²⁸ Ibid.

presence of illicit tobacco is extremely dangerous in our community and we are not going to allow these criminals to operate in our state. Anyone selling illicit tobacco and vapes in South Australia is on notice that you will be shut down. We will continue to work closely with our federal counterparts to clamp down across the country.

The press release commented: ‘South Australia’s response to the illicit tobacco trade has been recognised as the best in the nation earning an A+ on a recent national scorecard by the Australian Council on Smoking and Health.’²²⁹

Federal Australian Labor Party MP and assistant minister for various portfolios, Julian Hill, observed: ‘The Malinauskas Government is to be commended on how seriously they are taking the fight against organised crime and the harmful illicit tobacco and vape retail markets.’²³⁰ He highlighted that ‘South Australia’s results through Operation Shutdown are exemplary.’²³¹ Hill commented: ‘Australia has one of the lowest smoking rates in the world, hard won over generations, and the Government will not let serious organised criminals dictate health policy and drag Australia backwards.’²³² He offered the warning: ‘Our message to organised crime is that the Commonwealth, State and Territory Governments are coming after you’.²³³ Hill stressed that ‘Record levels of seizures are now occurring, and much more is being planned that you yet realise.’ Hill cautioned Australian consumers: ‘If you buy cheap smokes at the tobacconist around the corner or through that online advert, this is not just a nifty discount.’²³⁴ He stressed: ‘These are large violent criminal cartels profiting from you and nicotine addiction, and reinvesting your money into other, serious criminal activities to exploit and harm our community including drugs, scams and fraud.’²³⁵

²²⁹ Ibid.

²³⁰ Premier’s Office ‘SA Leads the Way in the Fight against Illicit Tobacco’, Press Release, Government of South Australia, 26 September 2025, <https://www.premier.sa.gov.au/media-releases/news-items/sa-leads-the-way-in-the-fight-against-illicit-tobacco>

²³¹ Ibid.

²³² Ibid.

²³³ Ibid.

²³⁴ Ibid.

²³⁵ Ibid.

B. Western Australia

The State of Western Australia has been concerned about the rise in the trade of illegal tobacco. Premier Roger Cook has noted: ‘Smoking represents a significant burden on families, our society and our health system, and as a Government we will continue to find ways to reduce the terrible harm that it causes.’²³⁶

WA Health has taken action in respect of the sale of illegal tobacco and vapes.²³⁷ In March 2025, a Western Australian man was charged by the Australian Federal Police after the seizure of cigarettes, vapes, loose-leaf tobacco, and cash.²³⁸ The man was charged with one count of dealing with money or property, believed to be the proceeds of crime, and one count of possession of tobacco where excise duty is payable on the tobacco. AFP Inspector Chris Colley said: ‘The AFP is dedicated to protecting the Australian community from serious organised crime syndicates by disrupting and dismantling these illegal operations.’²³⁹ He commented: ‘These criminals have no regard for the significant health issues these products present for the community and the burden they place on our health systems.’²⁴⁰ Colley noted: Criminal networks also use the profits from the sale of illicit tobacco products to support other serious criminal activities.’²⁴¹ He warned: ‘The message to these criminals is simple, the AFP won’t stop until it has shut down your illegal and harmful activities.’²⁴²

²³⁶ Hon. Roger Cook MP, ‘State Parliament passes Tough New Tobacco Laws to Fight Smoking’, Press Release, Government of Western Australia, 13 September 2018, <https://www.wa.gov.au/government/media-statements/McGowan%20Labor%20Government/State-Parliament-passes-tough-new-tobacco-laws-to-fight-smoking-20180913>

²³⁷ For example, Department of Health, ‘WA Health seizes Hundreds of Illegal Nicotine Vapes’, Government of Western Australia, 23 May 2022, <https://www.health.wa.gov.au/Media-releases/2022/May/WA-Health-seizes-hundreds-of-illegal-nicotine-vapes>

²³⁸ Australian Federal Police, ‘WA Man Charged over \$2.6 million Cash and Tobacco Seizure’, Press Release, Australian Federal Police, 28 March 2025, <https://www.afp.gov.au/news-centre/media-release/wa-man-charged-over-26-million-cash-and-tobacco-seizure>

²³⁹ Ibid.

²⁴⁰ Ibid.

²⁴¹ Ibid.

²⁴² Ibid.

In August 2025, WA Police Commissioner Col Blanch called for harsher penalties and stricter rules in relation to illegal tobacco.²⁴³ He told ABC Perth: ‘There are convenience stores that are funded by and set up by organised crime on the east coast of Australia, right here in WA,’²⁴⁴ Blanch noted: ‘Organised crime have seen an opportunity where they’re seeing people sell illicit tobacco through convenience stores or other means and they want the biggest cut of that pie.’²⁴⁵ He observed that there had been arson attacks against tobacco stores: ‘The best way to get the biggest cut is to take out their competitors and that’s exactly what we’re seeing.’²⁴⁶

Blanch maintained that the penalties for the illegal trade in tobacco that could be imposed were too low: ‘Remembering most of that law was drafted to stop young people from buying smokes in shops.’²⁴⁷ He commented: ‘The advent of organised crime infiltrating this market and doing standover tactics and fire bombings and shooting wasn’t considered, so the penalties have to be far more significant.’²⁴⁸

Blanch wanted WA to follow the lead of South Australia and allow authorities to issue interim closure orders: ‘I think what we’re seeing is a national problem and other states are introducing these laws, South Australia already have and the east coast are drafting their bills.’²⁴⁹ He commented: ‘Organised crime will look for an area of displacement where it is easier for them to operate and obviously no West Australian wants organised crime to operate in our state if the laws aren’t equivalent to what’s happening in other states.’²⁵⁰

Western Australia Police Minister Reece Whitby was concerned by the rise in the illegal trade of tobacco:

I’m aware WA Police are working with Australian Federal Police and other interstate police forces to get to the ‘Mr Bigs’ of this, to get at the outlaw gangs that are behind this. I’m aware there are, if you

²⁴³ Rosemary Murphy, ‘Authorities want more Powers to Deal with WA’s Illegal Tobacco Industry’, *ABC News*, 18 August 2025, <https://www.abc.net.au/news/2025-08-18/wa-authorities-want-more-powers-to-deal-with-illegal-tobacco/105651648>

²⁴⁴ Ibid.

²⁴⁵ Ibid.

²⁴⁶ Ibid.

²⁴⁷ Ibid.

²⁴⁸ Ibid.

²⁴⁹ Ibid.

²⁵⁰ Ibid.

like, FIFO [fly-in fly-out] gangsters coming to Perth, shooting up the place, dropping fire bombs outside smoke shops. That is unacceptable.²⁵¹

Whitby was looking at the approach of other states and territories: ‘I’d like to look at all of that legislation and make sure we can come up with the best and the toughest.’²⁵² He promised: ‘But in the meantime, you can be assured police are taking action.’²⁵³

The Premier Roger Cook, senior ministers, and policy have held meetings to discuss tougher penalties for stores selling illicit tobacco products.²⁵⁴ Police Minister Whitby promised: ‘I’m looking at laws which will enable authorities to actually close down these shops, shut them down, take away their premises, their ability to trade in that venue for a period of time.’²⁵⁵ He observed: ‘We are, as a priority, looking at legislation that comes under the Health Act, so we’re looking at how we can amend it, looking at what’s happening in Queensland, South Australia, New South Wales.’²⁵⁶ Whitby commented: ‘All states are moving in this direction, and I want to be in a position to look at all the legislation and pick out the very best and the toughest for Western Australia.’²⁵⁷ He anticipated that Western Australia’s regime could include closure notices which last up to a year: ‘It’s early days, these laws are just being introduced but we’ll look at the legislation, we’ll look at any real world experience.’²⁵⁸ Whitby observed: ‘The next most important step we can take is to actually, rather than fine an illegal dealer in illicit tobacco or vapes for that matter make sure that they can’t operate in that premise, shut them down for whether it could be six months or 12 months.’²⁵⁹ He was also

²⁵¹ Ibid.

²⁵² Ibid.

²⁵³ Ibid.

²⁵⁴ ‘Tobacco Wars: Roger Cook, Reece Whitby Attend Meeting To Discuss Penalties for Selling Illicit Tobacco’, *The West Australian*, <https://thewest.com.au/politics/state-politics/illegal-cigarettes-roger-cook-reece-whitby-attend-meeting-to-discuss-penalties-for-selling-illicit-tobacco-c-19744684>

²⁵⁵ Oliver Lane, ‘Police Minister Reece Whitby says Tougher Laws to close down Illegal Tobacco and Vape Shops “A Priority”’, *The West Australian*, 3 October 2025, <https://thewest.com.au/politics/state-politics/police-minister-reece-whitby-says-tougher-laws-to-close-down-illegal-tobacco-and-vape-shops-a-priority-c-20222837>

²⁵⁶ Ibid.

²⁵⁷ Ibid.

²⁵⁸ Ibid.

²⁵⁹ Ibid.

looking into complementary legislation: ‘We’ll look at other things too that make it very hard for them to operate.’²⁶⁰

C. New South Wales

The explanatory memorandum notes that the example of South Australia, and the progress of Queensland, has sparked (belated) action from New South Wales: ‘A Bill proposing similar closure orders, a closure offence, a lease termination power and the use of evidentiary aids has been introduced in New South Wales.’²⁶¹ The *Public Health (Closure Orders) Amendment Bill 2025* (NSW) was introduced to the New South Wales Parliament on 6 August 2025.²⁶² The legislation is intended to ‘give the Secretary of the Ministry of Health and the Local Court power to order the closure of premises used in connection with offences, including the sale of illicit tobacco and illicit vaping goods; to provide for the seizure and disposal of illicit tobacco and illicit vaping goods; to increase penalties for offences; and for related purposes.’²⁶³ The legislation was passed through the Legislative Assembly on the 10 September 2025, and through the Legislative Council on the 11 September 2025. The legislation received assent on the 11 September 2025.

The New South Wales Minister for Health Mr. Ryan Park emphasized that the ‘tough new illegal tobacco and vaping laws into parliament... will be among the toughest penalties in the country.’²⁶⁴ He emphasized: ‘These new laws will give us the power to shut down these illicit tobacco and vape stores and disrupt this criminal business model.’²⁶⁵ Park observed: ‘These reforms will send a clear message to anyone selling illegal tobacco or vaping products, which is: get rid of these products or they will be seized, your store will be closed and you will

²⁶⁰ Ibid.

²⁶¹ Explanatory Memorandum to the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* (Qld), 42.

²⁶² The *Public Health (Closure Orders) Amendment Bill 2025* (NSW) <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=18789>

²⁶³ Ibid.

²⁶⁴ NSW Health, ‘Tough New Illicit Tobacco Reforms Enter Parliament’, Press Release, NSW Government, 6 August 2025, https://www.health.nsw.gov.au/news/Pages/20250806_00.aspx

²⁶⁵ Ibid.

be prosecuted to the full extent of the law.’²⁶⁶ He also noted: ‘This isn’t just a serious health issue, it’s about fairness, because these illegal operators are undercutting small businesses that are doing the right thing.’²⁶⁷

Park discussed the *Tobacco Legislation (Closure Orders) Amendment Bill 2025 (NSW)* in the legislative assembly.²⁶⁸ Park considered the context for the legislation:

The bill represents this Government’s commitment to reducing the scourge of illegal tobacco trade in this State. This Government has long recognised the importance of strong tobacco control laws to reduce the prevalence of smoking and tobacco use and protect the health and wellbeing of the people of New South Wales, particularly young people. Tobacco use imposes a substantial burden on the New South Wales health system, with hospitalisations and deaths attributable to smoking unacceptably high. Daily smoking rates have more than halved over the past 20 years among adults, from 17.5 per cent in 2004 to, incredibly, just 6.9 per cent in 2024. The Government wants those rates to continue to decline. I think I speak on behalf of all members. ²⁶⁹

Park noted: ‘We are now faced with a flourishing illicit tobacco trade that threatens to reverse what I think is well over half a century of hard-fought wins in reducing tobacco consumption.’²⁷⁰

Park considered the threat posed to public health by the illegal trade in cigarettes and e-cigarettes:

While the existing regulatory framework of the *Public Health (Tobacco) Act 2008*—which I will refer to as “the Act”—provides a strong foundation for tobacco control, it is not currently sufficient to confront the elaborate and growing scale of underground, illegal tobacco networks that are spreading like wildfire across our suburbs, towns and communities. The illicit tobacco industry is not a minor nuisance; it is a growing underground industry that feeds organised crime, undermines public health efforts and

²⁶⁶ Ibid.

²⁶⁷ Ibid.

²⁶⁸ Hon. Ryan Park MP, ‘Second Reading Speech on the *Tobacco Legislation (Closure Orders) Amendment Bill 2025 (NSW)*’, Hansard, NSW Legislative Assembly, 6 August 2025, <https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/HANSARD-1323879322-155727>

²⁶⁹ Ibid.

²⁷⁰ Ibid.

disadvantages legitimate retailers. The purpose of the bill is simple: We want to disrupt illegal tobacco networks by hitting illegal operators hard with strong, targeted and enforceable laws.²⁷¹

The Minister warned: ‘The availability and affordability of illicit tobacco undermines the public health efforts of past and current New South Wales governments.’²⁷² He said: ‘This newer, stronger and more enforceable regulatory framework will help enforcement agencies to work closely and collaboratively to shut down these illegal operators and, importantly, to protect the community, particularly our young people.’²⁷³

Justin Clancy – the Liberal Member for Albury – contributed to the debate over the legislation.²⁷⁴ He said: ‘As the shadow Minister for Health said, this issue is both a health and a law-and-order issue.’²⁷⁵ Clancy observed: ‘We cannot just put our hands over our eyes and our fingers in our ears and pretend that the problem does not exist’.²⁷⁶ He highlighted the proliferation of illegal tobacco stores in his electorate:

In my own community, retailers at Corowa have reached out to me on a number of occasions over the past 12 or 18 months, concerned by the proliferation of illegal tobacco and the impact it is having on legitimate businesses. Retailers in Albury are also concerned about the impact on high street activities. That issue has certainly been front of mind for me and many in our community.²⁷⁷

Clancy was supportive of the legislative package: ‘Turning to the bill, I welcome the proposed amendments to the *Public Health (Tobacco) Act* 2008 and the *Retail Leases Act* 1994, as well as some minor changes to some other Acts’.²⁷⁸ In particular, he welcomed the use of closure orders: ‘The importance of being able to put short-term closure orders and the opportunity for

²⁷¹ Ibid.

²⁷² Ibid.

²⁷³ Ibid.

²⁷⁴ Hon. Justin Clancy, ‘Second Reading Speech on the *Tobacco Legislation (Closure Orders) Amendment Bill* 2025 (Cth)’, NSW Legislative Assembly, 26 September 2025, <https://justinclancy.com.au/tobacco-legislation-closure-orders-amendment-bill-2025/>

²⁷⁵ Ibid.

²⁷⁶ Ibid.

²⁷⁷ Ibid.

²⁷⁸ Ibid.

long-term closures is a good, positive step forward in terms of addressing this issue.’²⁷⁹ Clancy stressed: ‘At the end of the day, we need investment in enforcement to make sure that this good legislation is backed up by action on the ground so that we are attending to this issue, which is not only a law and order issue but also fundamentally a matter of health, particularly that of our young people’.²⁸⁰ He warned: ‘Left unattended, it could have impacts for decades and generations to come.’²⁸¹

NSW Chief Health Officer, Dr Kerry Chant, has reflected: ‘The Tobacco Licensing Scheme gives us better oversight of retailers and wholesalers selling tobacco to ensure they are doing the right thing and to take appropriate action if they are not.’²⁸² She was conscious of the public health impact of smoking:

Tobacco use remains one of the biggest factors in premature death. I acknowledge it’s not easy, but I encourage anyone who smokes to think about quitting for themselves and for their loved ones. Quitting smoking remains the most beneficial thing an individual can do to improve their health.²⁸³

The new Centre for Regulation and Enforcement (CRE) in NSW Health will seek to strengthen compliance and enforcement of tobacco control laws and will work closely with state and federal agencies to ensure a unified approach.

D. The Australian Capital Territory

The Canberra Liberals have called for tougher laws on illicit tobacco and vaping.²⁸⁴ Canberra Liberals leader Leanne Castley MLA commented: ‘This is both a health and community safety issue.’²⁸⁵ Castley commented: ‘Simply saying that there’s no problem here ignores the reality

²⁷⁹ Ibid.

²⁸⁰ Ibid.

²⁸¹ Ibid.

²⁸² Minister for Health, ‘Enforcement of Tobacco Licensing to Commence as Grace Period ends for Retailers’, NSW Government, 1 October 2025, <https://www.nsw.gov.au/ministerial-releases/enforcement-of-tobacco-licensing-to-commence-as-grace-period-ends-for-retailers>

²⁸³ Ibid.

²⁸⁴ Newstime Media, ‘Liberals Call for Crackdown on Illicit Tobacco’, *Canberra Daily*, 2 October 2025, <https://canberradaily.com.au/liberals-call-for-crackdown-on-illicit-tobacco/>

²⁸⁵ Ibid.

that the ACT is an island in NSW, and we are already seeing localised crime issues at local shops.’²⁸⁶ Castley argued: ‘We need tougher legislation in the ACT to give police greater powers to tackle the issue from a supply side’. ²⁸⁷ She noted: ‘We have done a great job educating Canberrans about the dangers of smoking but because it is such a lucrative industry, we will see organised crime set up shop here.’²⁸⁸ Shadow police minister Deborah Morris MLA observed: ‘The illicit tobacco trade and the amount of money that can be made is a magnet for organised crime, and these gangs don’t consider state or territory borders when it comes to setting up shop.’²⁸⁹ The Canberra Liberals have called for a bill pushing for tough laws in line with NSW and Queensland, including severe penalties and new regulatory powers.²⁹⁰ The measures would include closure powers; termination of leases, and penalties for landlords complicit in the trade; higher fines and longer jail sentences, with tougher sanctions for links to organised crime; and extending forfeiture laws to seize assets connected to illicit tobacco sales; and on-the-spot fines.

Police minister Dr Marisa Paterson MLA has observed that ‘the growing concerns around illicit tobacco are a national challenge – one that requires a coordinated, national response.’²⁹¹ She said that the ACT Government will introduce further legislation to strengthen its response to this issue within the ACT community. Paterson notes: ‘While the ACT has not experienced the same level of illicit tobacco activity seen in other jurisdictions, we are continuing to monitor the situation closely and it remains a priority for ACT Policing and our health, licensing, and compliance agencies.’²⁹²

²⁸⁶ Ibid.

²⁸⁷ Ibid.

²⁸⁸ Ibid.

²⁸⁹ Ibid.

²⁹⁰ Minutes of Proceedings, Legislative Assembly of the Australian Capital Territory, 17 September 2025, https://www.parliament.act.gov.au/data/assets/pdf_file/0005/2919740/MoP030P1.pdf

²⁹¹ Newstime Media, ‘Liberals Call for Crackdown on Illicit Tobacco’, *Canberra Daily*, 2 October 2025, <https://canberradaily.com.au/liberals-call-for-crackdown-on-illicit-tobacco/>

²⁹² Ibid.

E. Victoria

In 2024, the Government of Victoria passed the *Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Act 2024* (Vic). The Premier Jacinta Allen commented: ‘We’re implementing the toughest laws anywhere in the country to smoke out the illegal tobacco trade and keep Victorians safe.’²⁹³ Allen elaborated:

This strict new licensing scheme includes more boots on the ground, more resources on the ground, more powers, particularly more powers for Victoria Police to crack down on the illicit tobacco trade. There will be massive consequences, massive penalties for people who breach this regime and these penalties are the toughest penalties in the nation.²⁹⁴

Minister for Casino, Gaming and Liquor Regulation Melissa Horne observed: ‘This strict licensing scheme will establish a dedicated tobacco regulator to help ensure all businesses are operating within the law.’²⁹⁵ Minister for Police Anthony Carbines commented: ‘These new search powers will give police new ways to crack down on crime lords and keep the community safe.’²⁹⁶ VicHealth chief executive Dr Sandro Demaio said: ‘A tobacco licensing scheme will remove dishonest sellers from the market, ensuring they aren’t peddling poison to school children, or selling illicit tobacco or vapes.’²⁹⁷ The licensing regime was intended to ensure that

²⁹³ Hon. Jacinta Allen MP, ‘Tough New Laws To Smoke Out Tobacco Crime Lords’, Press Release, Victorian Government, 12 November 2024, <https://www.premier.vic.gov.au/tough-new-laws-smoke-out-tobacco-crime-lords>

²⁹⁴ ABC News, ‘Victoria promises the Toughest Penalties in the Country and a New Licensing Scheme for Tobacco Retailers’, *ABC News*, 12 November 2024, <https://www.abc.net.au/news/2024-11-12/tobacco-licensing-victoria-to-end-the-state-tobacco-wars/104588470>

²⁹⁵ Hon. Jacinta Allen MP, ‘Tough New Laws To Smoke Out Tobacco Crime Lords’, Press Release, Victorian Government, 12 November 2024, <https://www.premier.vic.gov.au/tough-new-laws-smoke-out-tobacco-crime-lords>

²⁹⁶ Ibid.

²⁹⁷ ABC News, ‘Victoria promises the Toughest Penalties in the Country and a New Licensing Scheme for Tobacco Retailers’, *ABC News*, 12 November 2024, <https://www.abc.net.au/news/2024-11-12/tobacco-licensing-victoria-to-end-the-state-tobacco-wars/104588470>

tobacco stores were not under the control of organised crime.²⁹⁸ Tobacco Licensing Victoria will begin enforcing the regime in February 2026.²⁹⁹

The Victorian Liberals and Nationals have been pushing the Victorian government to pass closure laws.³⁰⁰ Shadow Minister for Consumer Affairs, Tim McCurdy, has argued: ‘Raids that seize stock in the morning only for shops to reopen the very next day shows how ineffective Labor's laws are.’³⁰¹ He pointed to the closure powers in other states: ‘Queensland, New South Wales, South Australia - they've all acted.’³⁰² The Shadow Minister lamented the delay in Victoria: ‘Here in Victoria, spin has replaced enforcement.’³⁰³ He contended: ‘Police and regulators are doing the best they can, but with no power to close illegal traders, the deterrent is non-existent.’³⁰⁴

F. Tasmania

In April 2025, the Tasmanian Government announced that illicit tobacco and vaping products with an estimated retail value of approximately \$1.5 million had been seized during a recent joint operation by the Department of Health.³⁰⁵ Roger Jaensch, Minister for Mental Health and Wellbeing, commented: ‘The seizure was a collaborative inter-agency effort that demonstrated the Tasmanian Government’s commitment to taking strong action to prevent the harms of

²⁹⁸ Benito Kolovos, ‘Victoria seeks to Snuff out Tobacco Wars with Nation’s “Toughest” Cigarette Sales rules and “Fit and Proper Persons” Test’, *The Guardian*, 12 November 2024, <https://www.theguardian.com/australia-news/2024/nov/12/victoria-tobacconist-firebombings-fit-and-proper-test>

²⁹⁹ Victorian Government, ‘Tobacco Licensing Compliance and Enforcement’, <https://www.vic.gov.au/tobacco-licensing-compliance-and-enforcement>

³⁰⁰ Victorian Liberals, ‘Labor’s Soft Laws Letting Illicit Tobacco Trade Flourish’, Press Release, Victorian Liberals, 2 October 2025, <https://vic.liberal.org.au/news/2025-10-02-labors-soft-laws-letting-illicit-tobacco-trade-flourish>

³⁰¹ Ibid.

³⁰² Ibid.

³⁰³ Ibid.

³⁰⁴ Ibid.

³⁰⁵ Roger Jaensch, ‘Estimated \$1.5 million of Illicit Tobacco and Vaping Products seized in Tasmania’, Press Release, the Tasmanian Government, 1 April 2025, [https://www.premier.tas.gov.au/latest-news/2025/april/estimated-\\$1.5-million-of-illicit-tobacco-and-vaping-products-seized-in-tasmania](https://www.premier.tas.gov.au/latest-news/2025/april/estimated-$1.5-million-of-illicit-tobacco-and-vaping-products-seized-in-tasmania)

smoking and vaping.’³⁰⁶ He observed: ‘This backs our nation-leading approach through the *Public Health Amendment (Vaping) Bill* (2024) which recently received in-principal agreement in the Tasmania Parliament.’³⁰⁷ He noted: ‘The Bill aims to protect our community, particularly our youth, from the harms of smoking and vaping.’³⁰⁸ Jaensch observed: ‘We are working proactively to enforce legislation regulating the legal sale and supply of tobacco and vaping products and interrupt the supply of illicit smoking products.’³⁰⁹

In August 2025, there was another seizure of illicit tobacco products in Tasmania.³¹⁰ Secretary of the Department of Health, Dale Webster, commented: ‘Working in partnership with other agencies, we are committed to detecting, deterring, and disrupting the illegal trade of tobacco and vaping products across Tasmania.’³¹¹ He observed: ‘Smoking rates in Tasmania continue to be higher than rates in other parts of Australia and interrupting this illicit trade is important in helping Tasmania kick the habit.’³¹²

In September 2025, the Therapeutic Goods Administration assisted the Tasmanian Department of Health in a blitz on the sale of illicit tobacco and vapes in Hobart, Tasmania.³¹³ The press release noted: ‘A two-day blitz on the sale of illegal vaping goods in Hobart and surrounds has resulted in seizures across 5 retail businesses for the alleged unlawful possession of commercial quantities of vaping goods and illegal tobacco.’³¹⁴

The midway progress report on the Tasmanian Tobacco Action Plan would suggest that further action is needed in Tasmania.³¹⁵ Arguably, the Tasmanian Government should consider

³⁰⁶ Ibid.

³⁰⁷ Ibid.

³⁰⁸ Ibid.

³⁰⁹ Ibid.

³¹⁰ Department of Health, ‘Joint Operation leads to Major Seizure of Illicit Tobacco and Vapes in Tasmania’, Tasmanian Government, 1 August 2025, <https://www.health.tas.gov.au/news/news/joint-operation-leads-major-seizure-illicit-tobacco-and-vapes-tasmania>

³¹¹ Ibid.

³¹² Ibid.

³¹³ Therapeutic Goods Administration, ‘Zero Tolerance for Illegal Vape Sales in Tasmania’, Press release, Therapeutic Goods Administration, 11 September 2025, <https://www.tga.gov.au/news/media-releases/zero-tolerance-illegal-vape-sales-tasmania>

³¹⁴ Ibid.

³¹⁵ *Tasmanian Tobacco Action Plan 2022-2026: Midway Progress Report 2024*, https://www.health.tas.gov.au/sites/default/files/2025-06/tobacco_action_plan_progress_report_2024_final.pdf

the adoption of expansive closure orders - like those contemplated by South Australia, Queensland, and New South Wales.

G. The Northern Territory

The Northern Territory Government has established Operation Hook to disrupt the sale and supply of illicit tobacco and vapes in the Northern Territory by interstate Organised Crime entities.³¹⁶ Detective Superintendent John Ginnane has commented:

Purchasing illegal tobacco directly funds organised crime groups locally, interstate and overseas. NT Police are aware of ongoing conflicts between large crime gangs interstate and we will stop at nothing to prevent these occurring in the Territory. Cutting the beast off at the knees... will continue to prevent that. It is understandable that people who smoke want to buy a cheaper product. However, they need to realise that every illicit cigarette pack they buy directly funds organised crime, arson, kidnapping, financing the trafficking of dangerous drugs, and in some cases murder.³¹⁷

Ginnane added: 'That is not acceptable to the NT Police, and we will continue to disrupt and deter organised crime of this type gaining a toehold in our community.'³¹⁸ The Northern Territory would benefit from its tobacco enforcement laws being enhanced and bolstered – especially given its regime lags behind other states and territories.

Recommendation 11

The Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Qld) is consistent with the best policies and practices of other States and Territories – most notably, South Australia, Western Australia, and the Australian Capital Territory. Queensland's initiative has also prompted the New South Wales Government to urgently pass the Tobacco Legislation (Closure Orders) Amendment Act 2025 (NSW), so that it does not get left behind in terms of tobacco control and e-cigarette regulation. Although it has

³¹⁶ Northern Territory Police, 'Tobacco Seizure - Operation Hook – Darwin', 1 November 2024, <https://pfes.nt.gov.au/newsroom/2024/tobacco-seizure-operation-hook-darwin>

³¹⁷ Northern Territory Police, 'Arrests - Operation Hook – Darwin', 5 July 2024, <https://pfes.nt.gov.au/newsroom/2024/arrests-operation-hook-darwin>

³¹⁸ Ibid.

introduced a new licensing scheme, the Victorian Government could go further, and adopt expansive closure orders.

12. Federal Government

The Federal Government has sought to consolidate and modernise its tobacco control regime, with the *Public Health (Tobacco and Other Products) Act 2023* (Cth), the *Public Health (Tobacco and Other Products) Regulations 2024* (Cth), the *Competition and Consumer (Tobacco) Information Standard 2011* (Cth).³¹⁹ The Federal Government has also instituted stronger regulation of vaping and e-cigarettes, with the *Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Act 2024* (Cth).³²⁰

In March 2025, the Health Minister Mark Butler announced that ‘the Albanese Labor Government will provide \$156.7 million to help tackle the tobacco black market’.³²¹ This package included ‘\$49.4m to expand the AFP-led Criminal Assets Confiscation Taskforce (CACT) and enhance actions to disrupt profits from illicit tobacco by targeting criminal groups involved in the trade’.³²² This package includes funding for the AFP, states and territory law

³¹⁹ Senate Standing Committee on Community Affairs – Legislation Committee, *Public Health (Tobacco and Other Products) Bill 2023 [Provisions] and Public Health (Tobacco and Other Products) (Consequential Amendments and Transitional Provisions) Bill 2023 [Provisions]*, Canberra: Australian Parliament, November 2023,

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/TobaccoandOtherProduct/Report For a commentary, see Matthew Rimmer, ‘A Submission on the *Public Health (Tobacco and Other Products) Bill 2023* (Cth) and Accompanying Regulations’ Senate Standing Committee on Community Affairs - Legislation Committee, Canberra: Australian Parliament, November 2023, QUT ePrints <https://eprints.qut.edu.au/244497/> and Matthew Rimmer, ‘A Submission on the *Public Health (Tobacco and Other Products) Bill 2023* (Cth) and Accompanying Regulations’, Department of Health, Australian Government, July 2023, QUT ePrints: <https://eprints.qut.edu.au/241629/>

³²⁰ Senate Community Affairs Legislation Committee, ‘*Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024* (Cth) [Provisions]’, Canberra: Australian Parliament, May 2024, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/VapingReformsBill/Report For a commentary, see Matthew Rimmer, ‘A Submission on the *Therapeutic Goods and Other Legislation (Vaping Reforms) Bill 2024* (Cth)’, Community Affairs Legislation Committee, Australian Senate, Canberra: Australian Parliament, 12 April 2024, Submission No. 98, pp. 192, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/VapingReformsBill QUT ePrints: <https://eprints.qut.edu.au/248243/>

³²¹ Hon. Mark Butler MP, ‘Action to Combat the Trade of Illicit Tobacco’, Department of Health and Ageing, Australian Government, 12 March 2025, <https://www.health.gov.au/ministers/the-hon-mark-butler-mp/media/action-to-combat-the-trade-of-illicit-tobacco>

³²² Ibid.

enforcement agencies, the Australian Criminal Intelligence Commission, the Australian Transaction Reports and Analysis Centre, the Australian Taxation Office, the Commonwealth Director of Public Prosecutions and the Australian Border Force. The Australian Government promised ‘\$7.0m to support the Australian Border Force to utilise emerging technology to screen and detect more illicit tobacco at our borders, stop it at the source and disrupt the international market.’³²³ The Australian Government provided ‘\$19.9m in increased funding for the Office of the Illicit Tobacco and E-cigarettes Commissioner to continue delivering its critical work including national collaboration to shore up current compliance and enforcement arrangements.’³²⁴ The Australian Government set aside ‘\$1.4m to establish a new international collaboration for a regional assessment of illicit tobacco markets, in partnership with international experts to better understand criminal network behaviours at the production and overseas distribution stages of the supply chain.’³²⁵

Moreover, ‘funding is also being provided to the Department of Health and Aged Care to build on the government’s world-leading tobacco and vaping reforms and support the broader response to the harms of illicit tobacco and novel nicotine products.’³²⁶ The funding includes ‘\$40.0m to support states and territories to establish local level capability to swiftly respond to their own unique compliance and enforcement challenges, and strengthen regulatory authorities’ cross-jurisdictional tactical partnerships for enforcement capacity’.³²⁷ The funding involves ‘\$31.6m to strengthen compliance and enforcement functions under the *Public Health (Tobacco and Other Products) Act 2023* and under the *Therapeutic Goods Act 1989*.’³²⁸ The funding included ‘\$4.0m to extend the National Tobacco and E-cigarette public health campaign to target the motivations and behaviours of people who use illicit tobacco.’³²⁹ The funding also provide ‘\$3.3m for the Commonwealth Director of Public Prosecutions (CDPP) to prosecute contraventions of the *Public Health (Tobacco and Other Products) Act 2023* and the *Therapeutic Goods Act 1989* to address non-compliance.’³³⁰

³²³ Ibid.

³²⁴ Ibid.

³²⁵ Ibid.

³²⁶ Ibid.

³²⁷ Ibid.

³²⁸ Ibid.

³²⁹ Ibid.

³³⁰ Ibid.

In June 2025, the Federal Treasurer Jim Chalmers and federal Health Minister, Mark Butler rejected the view that cheaper cigarettes would solve the growing black market for tobacco.³³¹ Chalmers reflected:

I don't think the answer here is to make cigarettes cheaper for people. I think the answer here is to get better at compliance. And the [federal government] has to come to the table ... with hundreds of millions of dollars in new funding to try and combat the scourge of illegal tobacco. It is a substantial public health challenge still in our economy. It's also a law and order challenge, and we're addressing both of those things simultaneously.³³²

Butler commented that there was no clear link between lower prices and less crime: Price has an impact, but if you look at other countries that have substantially lower priced cigarettes than Australia – the US, some European countries, most in Asia as well – they also have thriving black markets'.³³³

In July 2025, the Federal Government has appointed Amber Shuhyta as the Illicit Tobacco and e-Cigarette Commissioner.³³⁴ Health Minister Mark Butler commented: 'Traders selling illicit tobacco might think this is a relatively harmless, innocuous trade, but it's undermining the public health of Australians.'³³⁵ He observed: 'Every time they sell a packet of these illegal cigarettes, they are bankrolling the criminal activities of some of the vilest, worst organised criminal gangs in this country.'³³⁶ Butler observed: 'Through the work of the ITEC Commissioner we want to see enforcement activity at state level increase, and we're resourcing states to undertake more prosecutions.'³³⁷

³³¹ Patrick Commins, Anne Davies and Benita Kolovos, 'Chalmers says Cheaper Cigarettes will not Solve Illegal Tobacco Boom, Dismissing NSW Premier', *The Guardian*, 4 June 2025, <https://www.theguardian.com/business/2025/jun/04/chalmers-says-cheaper-cigarettes-will-not-solve-tobacco-boom-dismissing-nsw-premier>

³³² Ibid.

³³³ Ibid.

³³⁴ Hon. Mark Butler MP, 'Illicit Tobacco and E-Cigarette Commissioner Appointment', Press Release, Australian Government, 1 July 2025, <https://www.health.gov.au/ministers/the-hon-mark-butler-mp/media/illicit-tobacco-and-e-cigarette-commissioner-appointment?language=en>

³³⁵ Ibid.

³³⁶ Ibid.

³³⁷ Ibid.

In September 2025, Health Minister Mark Butler has conceded that the tobacco black market has ‘exploded’ into the biggest threat to public health in Australia.³³⁸ He observed that organised crime had recently taken a ‘stranglehold’ over the illicit tobacco market.

It started in Melbourne and it spread right through the country. It means that there is violence and arson taking place as rival gangs try to take control of what is a very high-revenue market for them. It bankrolls all of their other criminal activity: their sex trafficking, their drug trafficking, all of the crimes that have very serious victims involved.³³⁹

Butler commented: ‘From a health minister's perspective, it is now the biggest threat to our most important public health program.’³⁴⁰

No doubt there will need to be further Federal legislative, regulatory, and practical enforcement action in respect of the illegal trade in tobacco and vapes. Anita Dessaix and her colleagues comment:

The Illicit tobacco trade has rapidly emerged as a structural threat to ongoing tobacco control success in Australia. While there is little disagreement that addressing the illicit tobacco trade is a priority, solutions must be grounded by a clear commitment to continue to drive down smoking rates across all populations. The commercial tobacco industry has long profited from addiction and continues to shape markets, including illicit ones, in ways that undermine public health. Policy responses must not only counter illicit trade of tobacco products but should also dismantle the systems that enable industry exploitation.³⁴¹

The public health experts comment: ‘Authorities could help to ease their own enforcement load by significantly reducing the number of tobacco outlets allowed.’³⁴² In their view, ‘Australia needs to urgently progress the next step in tobacco control and prioritise the adoption of strict

³³⁸ Jake Evans, ‘Health Minister concedes Tobacco Black Market has “Exploded”’, *ABC News*, 26 September 2025, <https://www.abc.net.au/news/2025-09-26/health-minister-concedes-tobacco-black-market-has-exploded/105820002>

³³⁹ Ibid.

³⁴⁰ Ibid.

³⁴¹ Anita Dessaix et al., ‘Policy Incoherence: Leadership Needed to Combat Illicit Tobacco and End Tobacco Oversupply’ (2025) *Australian and New Zealand Journal of Public Health* <https://www.sciencedirect.com/science/article/pii/S1326020025000603>

³⁴² Ibid.

caps on tobacco licensing.’³⁴³ They call for a ‘commitment to rapidly and measurably reducing the number of tobacco retailers, especially tobacconists.’³⁴⁴ The public health experts note: ‘Prioritising adopting measures that address the oversupply of tobacco retailers will not only aid in enforcement of tobacco laws but could also further reduce smoking across the population.’³⁴⁵

Recommendation 12

The Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Qld) will help reinforce the efforts of the Federal Government to combat the illegal trade in tobacco and e-cigarettes.

³⁴³ Ibid.

³⁴⁴ Ibid.

³⁴⁵ Ibid.

13. *WHO Framework Convention on Tobacco Control 2003 and the WHO Protocol to Eliminate Illicit Trade in Tobacco Products 2012*

In February 2025, the Director-General of the World Health Organization, Tedros Adhanom Ghebreyesus, and Adriana Blanco Marquizo, Head of the Secretariat of the WHO FCTC, discussed the continuing importance and relevance of the *WHO Framework Convention on Tobacco Control 2003*.³⁴⁶ The pair reflected upon the significance of the system:

The WHO FCTC was, and remains, a landmark in international law: the first treaty negotiated under the WHO Constitution, incorporating multiple measures to control the demand and supply of tobacco. Today the convention has 183 parties, covering 90 percent of the world's population. More than 5.6 billion people are protected by the comprehensive implementation of at least one tobacco control measure. For example, 138 countries now require large pictorial health warnings on cigarette packages, and dozens of countries have implemented plain packaging rules that prohibit branding on cigarette packages, making them less attractive. In addition, 66 countries have implemented bans on tobacco advertising, promotion and sponsorship; more than one-quarter of the world's population is protected by bans on indoor smoking and other smoke-free laws; and increased taxes on tobacco products to reduce their affordability remains the most cost-effective tool to reduce consumption. Tobacco taxes can also raise government revenues for tobacco control and health financing.³⁴⁷

Moreover, the couple add: 'Furthermore, in 2018, an additional legal instrument entered into force: A protocol to eliminate all forms of illicit trade in tobacco products, which undermines control measures, diminishes tax revenue, and fuels criminal activities.'³⁴⁸

Nonetheless, there remain challenges. Dr Tedros and Marquizo warn: 'Despite this progress, tobacco remains the world's leading cause of preventable death and a major driver of heart disease, stroke, cancer, chronic respiratory diseases, and diabetes.'³⁴⁹ Moreover, 'there remain about 1.3 billion tobacco users globally, prompted by a multibillion-dollar industry that peddles addictive and deadly products and profits from the suffering of those who use them.'³⁵⁰

³⁴⁶ Tedros Adhanom Ghebreyesus, and Adriana Blanco Marquizo, 'The Tobacco Epidemic is Still One of the World's Deadliest Threats', *Al Jazeera*, 27 February 2025, <https://www.aljazeera.com/opinions/2025/2/27/the-tobacco-epidemic-is-still-one-of-the-worlds-deadliest-threats>

³⁴⁷ Ibid.

³⁴⁸ Ibid.

³⁴⁹ Ibid.

³⁵⁰ Ibid.

Dr Tedros and Marquizo highlight new threats: ‘Faced with dwindling sales of cigarettes, the industry is turning to new products, such as e-cigarettes, which are falsely advertised as healthier alternatives – even though they generate toxic substances, some of which are known to cause cancer and some that increase the risk of heart and lung disorders.’³⁵¹

There are a number of aspects of the *WHO Framework Convention on Tobacco Control* 2003 which are relevant to the Queensland Government’s proposals in respect of law enforcement in respect of tobacco control and e-cigarette regulation.³⁵²

Article 15 deals with the illicit trade in tobacco products. Article 15 (1) provides: ‘The Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to subregional, regional and global agreements, are essential components of tobacco control.’ Article 15 (2) notes: ‘Each Party shall adopt and implement effective legislative, executive, administrative or other measures to ensure that all unit packets and packages of tobacco products and any outside packaging of such products are marked to assist Parties in determining the origin of *WHO Framework Convention on Tobacco Control* tobacco products, and in accordance with national law and relevant bilateral or multilateral agreements, assist Parties in determining the point of diversion and monitor, document and control the movement of tobacco products and their legal status.’ Article 15 (3) provides: ‘Each Party shall require that the packaging information or marking specified in paragraph 2 of this Article shall be presented in legible form and/or appear in its principal language or languages.’

Article 15 (4) provides: ‘With a view to eliminating illicit trade in tobacco products, each Party shall: (a) monitor and collect data on cross-border trade in tobacco products, including illicit trade, and exchange information among customs, tax and other authorities, as appropriate, and in accordance with national law and relevant applicable bilateral or multilateral agreements; (b) enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband cigarettes; (c) take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using environmentally-friendly methods where feasible, or disposed of in accordance with national law; (d) adopt and implement measures to monitor, document and control the storage and

³⁵¹ Ibid.

³⁵² *World Health Organization Framework Convention on Tobacco Control*, Opened for Signature 21 May 2003, 2302 UNTS 166 (entered into force 27 February 2005) <http://www.who.int/fctc/en/>

distribution of tobacco products held or moving under suspension of taxes or duties within its jurisdiction; and (e) adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.’

Article 15 (5) provides: ‘Information collected pursuant to subparagraphs 4(a) and 4(d) of this Article shall, as appropriate, be provided in aggregate form by the Parties in their periodic reports to the Conference of the Parties, in accordance with Article 21.’ Article 15 (6) provides: ‘The Parties shall, as appropriate and in accordance with national law, promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations as it relates to investigations, prosecutions and proceedings, with a view to eliminating illicit trade in tobacco products’. Moreover, ‘Special emphasis shall be placed on cooperation at regional and subregional levels to combat illicit trade of tobacco products.’ Article 15 (7) provides: ‘Each Party shall endeavour to adopt and implement further measures including licensing, where appropriate, to control or regulate the production and distribution of tobacco products in order to prevent illicit trade.’

Article 19 concerns liability. Article 19 (1) provides: ‘For the purpose of tobacco control, the Parties shall consider taking legislative action or promoting their existing laws, where necessary, to deal with criminal and civil liability, including compensation where appropriate.’ Article 19 (2) provides that ‘Parties shall cooperate with each other in exchanging information through the Conference of the Parties’. Article 19 (3) states that ‘the Parties shall... afford one another assistance in legal proceedings relating to civil and criminal liability consistent with this Convention’. Article 19 (4) notes: ‘The Convention shall in no way affect or limit any rights of access of the Parties to each other’s courts where such rights exist’. Article 19 (5) provides: ‘The Conference of the Parties may consider, if possible, at an early stage, taking account of the work being done in relevant international fora, issues related to liability including appropriate international approaches to these issues and appropriate means to support, upon request, the Parties in their legislative and other activities in accordance with this Article.’

In 2023, WHO published a technical document on the implementation of Article 19 of the *WHO Framework Convention on Tobacco Control* 2003.³⁵³ In 2024, the Panama COP10 urged parties ‘to apply to the tobacco industry the highest standards and best practices of

³⁵³ World Health Organization, ‘Implementation on Article 19 of the WHO FCTC: Liability’, 19 September 2023, <https://fctc.who.int/resources/publications/m/item/implementation-of-article-19-of-the-who-fctc-liability>

holding businesses liable for their conduct.’³⁵⁴ It also encourages nation states ‘to require that the tobacco industry and those working to further its interests operate and act in a manner that is accountable and transparent.’ It called on nation states ‘to consider legislative development or reform to strengthen liability regimes, including to facilitate compensation where appropriate, as part of a comprehensive tobacco control policy.’ It asked nation states ‘to establish and apply, in accordance with their national law, criminal, civil or administrative procedures and effective, proportionate and dissuasive sanctions in order to enforce the liability of the tobacco industry.’ It called on states ‘to exchange information on means of enforcement of liability of the tobacco industry, including sanctions and penalties, or compensation where appropriate.’ It asked members ‘to ensure policy coherence in relation to tobacco industry liability at the national and global levels, including in international and regional organizations in which Parties are represented, as well as among non-State actors.’

The *WHO Protocol to Eliminate Illicit Trade in Tobacco Products* 2012 is the first protocol to the *WHO Framework Convention on Tobacco Control* 2003 (WHO FCTC), and a new international treaty in its own right.³⁵⁵ Part II of the *Protocol* lays down general obligations. Part III of the *Protocol* concerns supply chain control. It considers matters such as licensing; due diligence; tracking and tracing; record-keeping; security and preventive measures; sale by Internet, telecommunication or any other evolving technology; free zones and international transit; and duty free sales. Part IV deals with offences. Article 14 concerns unlawful conduct including criminal offences. Article 15 relates to the liability of legal persons. Article 16 relates to prosecutions and sanctions. Article 17 relates to seizure payments. Article 18 focuses on disposal or destruction. Article 19 relates to special investigative techniques. Part V focuses on international cooperation. Part VI looks at reporting. Part VII focuses on institutional arrangements and financial resources. Part VIII considers dispute settlement. Part IX looks at the development of the protocol. Part X has final provisions.

The adoption of the *Tobacco and Other Smoking Products and Other Legislation Amendment Bill* 2025 (Qld) will also help provide for practical implementation of the *WHO Framework Convention on Tobacco Control* 2003 provisions related to illicit trade and

³⁵⁴ Implementation of Article 19 of the WHO FCTC: Liability, FCTC/COP10(13), <https://ash.org/wp-content/uploads/2024/03/FCTC-COP10-13-en-Art-19.pdf>

³⁵⁵ *WHO Protocol to Eliminate Illicit Trade in Tobacco Products* 2012 <https://fctc.who.int/resources/publications/m/item/brochure-protocol-to-eliminate-illicit-trade-in-tobacco-products>

liability, and the *WHO Protocol to Eliminate Illicit Trade in Tobacco Products* 2012. As the 4 Corners report on the Tobacco Wars reveals, the illegal trade in tobacco and vapes in Australia is part of a broader global network.³⁵⁶ To effectively counter the illicit trade in tobacco and e-cigarettes in Australia, there is a need to strengthen the international framework to eliminate illicit trade in tobacco.

Recommendation 13

The adoption of the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* (Qld) will also help Australia implement key parts of the *WHO Framework Convention on Tobacco Control* 2003 related to illicit trade and liability, and the *WHO Protocol to Eliminate Illicit Trade in Tobacco Products* 2012.

³⁵⁶ Dan Oakes, Mayeta Clark and Kirsten Robb, 'Tracking Australia's Black-Market Tobacco from Criminal Smugglers to Cigarette Shops', 4 Corners, *ABC News*, 3 March 2025, <https://www.abc.net.au/news/2025-03-03/black-market-tobacco-manchester-cigarettes-four-corners/104978592>

BIOGRAPHY

Dr Matthew Rimmer is a Professor in Intellectual Property and Innovation Law at the Faculty of Business and Law, at the Queensland University of Technology (QUT). He has published widely on copyright law and information technology, patent law and biotechnology, access to medicines, plain packaging of tobacco products, intellectual property and climate change, Indigenous Intellectual Property, intellectual property and trade, and 3D printing regulation. He is undertaking research on intellectual property and sustainable development (including the debate over the right to repair); greenwashing; intellectual property, access to essential medicines, and public health (particularly looking at the COVID-19 crisis), and tobacco endgame policies. His work is archived at [QUT ePrints](#), [SSRN Abstracts](#), and the [Open Science Framework](#).

Rimmer has published four major research monographs. Rimmer is the author of a research monograph, *The Trans-Pacific Partnership: Intellectual Property and Trade in the Pacific Rim* (Edward Elgar, 2020), *Intellectual Property and Climate Change: Inventing Clean Technologies* (Edward Elgar, 2011), *Intellectual Property and Biotechnology: Biological Inventions* (Edward Elgar, 2008), and *Digital Copyright and the Consumer Revolution: Hands off my iPod* (Edward Elgar, 2007). His PhD Dissertation is on *The Pirate Bazaar: The Social Life of Copyright Law* (UNSW, 2001).

Rimmer has also edited a number of collections. In collaboration with Bitu Amani and Caroline B. Ncube, Rimmer is the editor of the *Elgar Companion on Intellectual Property and the Sustainable Development Goals* (Edward Elgar, 2024). Along with Dinusha Mendis and Mark Lemley, Rimmer is the editor of the collection, *3D Printing and Beyond: Intellectual Property and Regulation* (Edward Elgar, 2019). Rimmer is the editor of the collection, *Intellectual Property and Clean Energy: The Paris Agreement and Climate Justice* (Springer, 2018). Rimmer has edited a special issue of the QUT Law Review on the topic, *The Plain Packaging of Tobacco Products* (2017) - which featured a foreword by former Minister for Health and Attorney-General Nicola Roxon. Rimmer is the editor of the collection, *Indigenous Intellectual Property: A Handbook of Contemporary Research* (Edward Elgar, 2015). Rimmer is also a co-editor of *Intellectual Property and Emerging Technologies: The New Biology* (Edward Elgar, 2012), and *Incentives for Global Public Health: Patent Law and Access to Essential Medicines* (Cambridge University Press, 2010). Rimmer edited the thematic issue of *Law in Context*, entitled *Patent Law and Biological Inventions* (Federation Press, 2006).

Over the past two decades, Rimmer's research has been supported by a number of nationally competitive research grant applications. Rimmer has been a chief investigator in an Australian Research Council Discovery Project, 'Gene Patents In Australia: Options For Reform' (2003-2005), an Australian Research Council Linkage Grant, 'The Protection of Botanical Inventions' (2003); an Australian Research Council Linkage Grant, 'Unlocking IP' (2006-2008) and an Australian Research Council Discovery Project, 'Promoting Plant Innovation in Australia' (2009-2011). He was an Australian Research Council Future Fellow, working on Intellectual Property and Climate Change from 2011 to 2015. Rimmer was a Chief Investigator on an ARC Discovery Project on 'Inventing The Future: Intellectual Property and 3D Printing' (2017-2021). He is a chief investigator of the NHMRC Centre of Research Excellence on Achieving the Tobacco Endgame (CREATE) (2020-2026). Rimmer has experience in directing large-scale collaborative research projects on intellectual property and global challenges.

Rimmer is a chief investigator in the QUT Australian Centre for Health Law Research (QUT ACHLR), and an associate investigator of the QUT Energy Transition Centre. He is a chief investigator in the NHMRC Centre of Research Excellence on Achieving the Tobacco Endgame (CREATE) (2020-2026) - a transnational research network. Rimmer was previously the leader of the QUT Intellectual Property and Innovation Law Research Program from 2015-2020 (QUT IPIL). He was also a member of the QUT Centre for Behavioural Economics, Society, and Technology (QUT BEST); the QUT Digital Media Research Centre (QUT DMRC); the QUT Centre for the Digital Economy; the QUT Centre for Justice; the QUT Centre for Clean Energy Technologies and Processes; and the QUT International Law and Global Governance Research Program.

Dr Matthew Rimmer holds a BA (Hons) and a University Medal in literature (1995), and a LLB (Hons) (1997) from the Australian National University. He received a PhD in law from the University of New South Wales for his dissertation on *The Pirate Bazaar: The Social Life of Copyright Law* (1998-2001). Dr Matthew Rimmer was a lecturer, senior lecturer, and an associate professor at the ANU College of Law, and a research fellow and an associate director of the Australian Centre for Intellectual Property in Agriculture (ACIPA) (2001 to 2015). He was an Australian Research Council Future Fellow, working on Intellectual Property and Climate Change from 2011 to 2015. He was a member of the ANU Climate Change Institute.

THE AUSTRALIAN CENTRE FOR HEALTH LAW RESEARCH (ACHLR)

The Australian Centre for Health Law Research (ACHLR) is a research centre based at the Faculty of Business and Law at the Queensland University of Technology (QUT).

Health law is critical to support and regulate health systems, the delivery of health services and positive health outcomes for individuals and society. ACHLR is internationally recognised as a leading health law research centre, with 38 academic members, 20 PhD students and 20 esteemed Adjunct Professors in the field of health law from across the globe. ACHLR researchers undertake innovative interdisciplinary research into current and emerging health law challenges in Australia and globally to produce an evidence base to properly address complex problems in the field of health and inform reforms to health law, policy and practice in the context of constant societal change.

ACHLR's research critically evaluates the legal, ethical, policy and regulatory frameworks, both conceptual and practical, which support and regulate the delivery of health services in diverse contexts. It distils the links between historical and current law, and its informing ethical and social realities and principles. We employ a range of research methods, including doctrinal, ethical, and empirical approaches. Our research explains for academic, professional and community audiences why the law takes its current form, how it can be critiqued, and how it might be reformed.

During its ten year history, ACHLR researchers have published 784 articles and book chapters; 25 books or edited collections; produced 82 reports/policy briefings and submissions to government enquiries or royal commissions; and graduated 30 PhD students. ACHLR researchers have been awarded \$56 million in grant funding during this time.

ACHLR's health law researchers draw on disciplines including ethics, philosophy, medicine, nursing, psychology, economics, sociology and social work to address practical problems that arise in the health context. Our researchers have a strong track record of undertaking high impact research in health law, policy, ethics, and regulation. Our focus is not only on quality scholarship, but generating new knowledge, evidence, and insights to enhance health and legal policy and practice, and to improve health outcomes. This research serves the interests of the individuals, communities, and institutions that deliver and benefit from health services and other interventions that aim to improve health locally and globally.

Our research has had significant impact: our recommendations have been adopted by parliaments, courts and tribunals, and law reform commissions. Our work has also influenced state and national policy, prompting changes to clinical education in universities, hospitals and

health departments. ACHLR has a strong international focus and presence. We actively continue to build and maintain relationships with external partners to facilitate opportunities for research collaborations, funded and unfunded, and to build and maintain our profile as a leading health law centre globally.