

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

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10 October 2025

Mr Robert Molhoek
Chair
Health, Environment and Innovation Committee
Queensland Parliament

By email: HEIC@parliament.qld.gov.au

Dear Chair

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

The Office of the Information Commissioner (**OIC**) welcomes the opportunity to make a submission to the Health, Environment and Innovation Committee's inquiry into the *Tobacco and Other Smoking Product (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Bill)*.

The Bill proposes to amend the *Tobacco and Other Smoking Products Act 1988 (Act)* to introduce a range of additional enforcement powers and regulatory measures aimed at dismantling the illegal trade of illicit nicotine products and illicit tobacco.

OIC's comments focus on the privacy impacts associated with the Bill and also includes considerations relevant to the administrative release of information.

About the OIC

OIC is an independent statutory body that reports to the Queensland Parliament. The Information Commissioner is an Officer of Parliament and is charged with functions under the *Information Privacy Act 2009 (IP Act)* and *Right to Information Act 2009 (RTI Act)*.

The RTI Act promotes openness, accountability and transparency by facilitating greater access to government-held information. It supports the administrative release of government-held information as a matter of course. Formal applications for government-held information under the RTI Act should be made as a last resort only.

The IP Act provides safeguards for the handling of personal information in the public sector environment. It sets out the Queensland Privacy Principles (**QPPs**) which govern the collection, management, use and disclosure of personal information by Queensland public sector agencies. An agency will not necessarily breach privacy principles relating to disclosure of personal information where disclosure is required or permitted under another Act.

Privacy impacts

The proposed amendments will involve Queensland Health handling a broad range of information, including personal information and potentially sensitive information. Accordingly, it is recommended that Queensland Health conducts a comprehensive [Privacy Impact Assessment](#) (PIA) to identify privacy impacts, assess compliance with the QPPs and develop mitigating measures, followed by the formulation of a privacy risk management approach.¹ The initial steps are outlined below.

Identifying privacy impacts

We suggest the PIA should identify the privacy impacts on individuals whose personal information will be handled as a result of the amendments. As detailed below, this will involve individuals connected to inquiries, applying for licences, named in closure orders and lessors.

Request for information power

The Bill proposes to provide authorised persons with the power to request information from any person, where the authorised person reasonably believes the person may be able to give information relevant to the monitoring or enforcement of specific sections² of the Act (new section 215A).

As stated in the Explanatory Notes, this power will support a broader range of inquiries. For example, allowing authorised persons to obtain information from utility companies, storage facility managers, real estate agents, retail employees and other individuals and entities that may hold information relevant to monitoring and enforcing the Act.

Additional information requirements for licence applications

The Bill proposes to amend section 18 of the Act to expand the information required for a retail or wholesale licence application. An application must now: state the ABN, if the applicant is an entity that holds an ABN; and, if the application relates to a retail or wholesale outlet, (i) identify the location of the outlet, (ii) be accompanied by sufficient evidence to demonstrate the applicant's entitlement to occupy the outlet, including, for example, as an owner or lessee of the outlet, and (iii) if the applicant leases, or holds an entitlement to occupy, the outlet from another person (the lessor), state the name, address and contact details of the lessor.

Provision of closure orders and notices to relevant lessors

The Bill proposes to introduce a new requirement that the relevant lessor must be provided with a copy of the closure order and a notice, if reasonably practicable (new section 209CB). The notice must feature specific information, including the reasons for making the order.

The Explanatory Notes provide that 'reasonably practicable' depends on whether the relevant lessor's identity is discoverable or known to Queensland Health. For example, through a registered lease on a title search or as a result of the lessor's details being provided by the lessee in a licence application.³

¹ Note: If a PIA has previously been conducted, it is recommended that it is updated.

² Sections 65, 66, 67, 161, 161A or 209CE.

³ Explanatory Notes at p 6.

Compliance with the QPPs

Queensland public sector agencies must handle personal⁴ and sensitive⁵ information in accordance with the QPPs. However, law enforcement agencies⁶ are not subject to certain QPP obligations⁷ if non-compliance is necessary for the performance of law enforcement activities.⁸

We suggest the PIA should address compliance with the QPPs (specifying any relevant exemptions) including the following:

- (a) implementing practices, procedures and systems to ensure compliance with the QPPs including updating Queensland Health's privacy policy to reflect any changes to personal information holdings (QPP 1) and notifying individuals about the collection of their personal information (QPP 5);
- (b) allowing individuals to remain anonymous or pseudonymous where appropriate (QPP 2);
- (c) collecting personal and sensitive information (QPP 3 and 4);
- (d) using and disclosing personal and sensitive information (QPP 6);
- (e) ensuring the quality of the personal information (QPP 10);
- (f) protecting the information from misuse, interference and loss, and from unauthorised access, modification or disclosure (QPP 11.1);
- (g) destroying information no longer needed or ensuring the information is de-identified (QPP 11.2); and
- (h) allowing individuals to access and amend information (QPP 12 and 13 or through a formal application under the RTI Act).

Mitigating measures

We suggest that measures should be developed to reduce any negative privacy impacts, particularly in relation to the new power to request information. This will involve ensuring only personal information, which is reasonably necessary for Queensland Health to perform its functions or activities, is collected. Any advice from technical experts on the measures, timetables and resource requirements to mitigate the risk of harm to individuals' information privacy should also be included.

Transparency by Design

OIC recommends a 'Transparency by Design' approach when implementing the amendments, in alignment with the RTI Act. This will involve a considered approach to how the information will be treated under the RTI Act, noting some information may be exempt from disclosure. For example, if the information is gathered through various means, including digital video recordings, consideration needs to be given as to how that information will be assessed for access under the RTI Act.

⁴ Personal information is any information about an identifiable, or reasonably identifiable, individual (see section 12 of the IP Act).

⁵ Sensitive information is a subset of personal information and includes information about an individual's racial or ethnic origin, or criminal record (see schedule 5 of the IP Act).

⁶ 'Law enforcement agency' is defined in schedule 5 of the IP Act.

⁷ Specifically, QPPs 3.6, 5, 6 or 10.1.

⁸ Section 29(1)(d) of the IP Act.

Thank you for the opportunity to make a submission on the Bill. We trust our comments will assist the Committee in its work. Should you require further information regarding the above matters, please contact us at [REDACTED] or on [REDACTED]

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized capital 'J' followed by a series of loops and a long horizontal stroke.

Joanne Kummrow
Information Commissioner