

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, November 2025*



Queensland

**No.
A BILL for**

An Act to amend the State Penalties Enforcement Regulation 2014 and the Tobacco and Other Smoking Products Act 1998 for particular purposes



Queensland

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

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Amendment Bill 2025

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2025

A Bill

for

An Act to amend the *State Penalties Enforcement Regulation 2014* and the *Tobacco and Other Smoking Products Act 1998* for particular purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Act 2025*.

Part 2 Amendment of State Penalties Enforcement Regulation 2014

2 Regulation amended

This part amends the *State Penalties Enforcement Regulation 2014*.

3 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)

Schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*—
insert—

s 49(3)	Individual	10
	Corporation	50
s 49(4)	Individual	10
	Corporation	50
s 209C(1)	Individual	20
	Corporation	100

Part 3 **Amendment of Tobacco and Other Smoking Products Act 1998**

4 Act amended

This part amends the *Tobacco and Other Smoking Products Act 1998*.

5 Amendment of s 18 (Requirements for application)

(1) Section 18(1)—

insert—

(ba) if the applicant is an entity that holds an ABN—state the ABN; and

(2) Section 18(1)(d)—

omit, insert—

(d) if the application relates to a retail or wholesale outlet—

(i) identify the location of the outlet; and

(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; and

(3) Section 18(1)(ba) to (h)—

renumber as section 18(1)(c) to (i).

6 Amendment of s 47 (Notification of particular events)

(1) Section 47(1)(g)—

omit, insert—

(g) if the licence relates to a retail or wholesale outlet—

(i) the location of the outlet changes; or

(ii) the licensee's entitlement to occupy the outlet, including, for example, as an owner or lessee of the outlet, ceases or changes; or

(iii) if the licensee leases, or holds an entitlement to occupy, the outlet from another person (the *lessor*)—the name, address or contact details of the lessor change;

(2) Section 47(1)(h), 'or business name,'—

omit, insert—

business name or ABN

7 Amendment of s 49 (Invoices for supply to retailers)

(1) Section 49—

insert—

(2A) The licensee must keep a copy of the invoice for at least 2 years after giving the retailer the invoice.

Maximum penalty—140 penalty units.

(2) Section 49(2A) and (3)—

renumber as section 49(3) and (4).

8 Amendment of s 91 (Location of smoking products at retail outlet)

Section 91, 'or in'—

omit.

9 Amendment of s 134 (Smoking area at outdoor eating or drinking place)

Section 134(6)—

omit.

10 Amendment of s 158 (Sale, supply and display of ice pipes)

(1) Section 158, heading—

omit, insert—

158 Supply or possession of ice pipes as part of business activities

(2) Section 158(1)—

omit, insert—

(1) A person must not, as part of a business activity, supply, display, store or otherwise be in possession of an ice pipe or a component of an ice pipe.

Maximum penalty—140 penalty units.

11 Amendment of s 159 (Sale, supply and display of bongs)

(1) Section 159, heading—

omit, insert—

159 Supply or possession of bongs as part of business activities

(2) Section 159(1)—

omit, insert—

(1) A person must not, as part of a business activity, supply, display, store or otherwise be in possession of a bong or a component of a bong.

Maximum penalty—140 penalty units.

12 Amendment of s 160 (Display of hookahs)

Section 160(2)(a) and (c) and (3), ‘part’—

omit, insert—

component

13 Amendment of s 170 (Appointment)

Section 170(1)(a), ‘officer or’—

omit.

14 Amendment of s 181 (Entry of places by authorised persons)

(1) Section 181(2)—

insert—

(ba) a wholesale outlet when the outlet is open
for carrying on business; or

(2) Section 181(2)(c), after ‘retail’—

insert—

or wholesale

(3) Section 181(2)(ba) to (e)—

renumber as section 181(2)(c) to (f).

15 Insertion of new s 194A

Before section 195—

insert—

194A Definition for division

(1) In this division—

compromised goods means any of the following

things present at a place in which illicit tobacco or an illicit nicotine product is seized under section 197(1) or 198(1), (2), (3) or (4)—

- (a) a smoking product;
 - (b) a hookah, or a component of a hookah;
 - (c) a receptacle that contains nitrous oxide;
 - (d) another thing, that may be detrimental to the health of members of the public, prescribed by regulation.
- (2) For subsection (1), definition *compromised goods*, paragraph (c), a receptacle contains nitrous oxide if the receptacle—
- (a) actually contains nitrous oxide; or
 - (b) is labelled as containing nitrous oxide; or
 - (c) is claimed to contain nitrous oxide; or
 - (d) is reasonably believed or commonly understood to contain nitrous oxide.

16 Amendment of s 195, hdg (Application of div 4)

Section 195, heading, ‘div 4’—

omit, insert—

division

17 Amendment of s 197 (Seizing evidence at a place that may be entered without consent or a warrant)

Section 197—

insert—

- (2) Also, the authorised person may seize a thing at the place if the authorised person reasonably believes the thing is compromised goods.

18 Amendment of s 198 (Seizing evidence at a place that may only be entered with consent or a warrant)

- (1) Section 198, heading, ‘only be entered’—

omit, insert—

be entered only

- (2) Section 198(1), (3) and (4), ‘in the place’—

omit, insert—

at the place

- (3) Section 198—

insert—

- (5) In addition, the authorised person may seize a thing at the place if the authorised person reasonably believes the thing is compromised goods.

- (6) To remove any doubt, it is declared that subsection (5) applies to an authorised person who enters a place with a warrant even if the warrant does not state under section 184(5)(c) that the thing that is compromised goods may be seized under the warrant.

19 Amendment of s 205 (Forfeiture of relevant product)

Section 205(6), definition *seized thing*—

omit.

20 Amendment of s 205A (Forfeiture of bongs and ice pipes)

- (1) Section 205A(1)(a), after ‘pipe’—

insert—

, or a component of a bong or ice pipe

- (2) Section 205A(2)(a)—

omit, insert—

- (a) the chief executive believes—
 - (i) the seized thing is a bong or ice pipe, or a component of a bong or ice pipe; and
 - (ii) it is necessary to keep the seized thing to prevent it being used to commit the offence for which it was seized; and
- (3) Section 205A(6)—
omit.

21 Insertion of new s 205BA

After section 205B—

insert—

205BA Forfeiture of compromised goods

- (1) The chief executive may decide a seized thing is forfeited to the State if the chief executive is satisfied—
 - (a) the thing is compromised goods; and
 - (b) either—
 - (i) a relevant product under section 205(6) was present at the place in which the thing was seized and has been forfeited under section 205; or
 - (ii) vaping goods were present at the place in which the thing was seized and have been forfeited under section 205B.
- (2) The chief executive is not required to provide procedural fairness in making the decision.

22 Insertion of new pt 11, div 4AA

After part 11, division 4—

insert—

Division 4AA Controlled purchase operations

208 Definitions for division

In this division—

controlled purchase officer means a person authorised to be a controlled purchase officer under section 208A.

controlled purchase operation see section 208B(1).

prescribed offence means an offence against section 65, 161 or 161A.

208A Authorisation of controlled purchase officer

- (1) The chief executive may, by notice in writing, authorise either of the following persons to be a controlled purchase officer if the person is an adult—
 - (a) a public service employee;
 - (b) a health service employee.
- (2) However, the chief executive may not authorise the person to be a controlled purchase officer unless the chief executive is satisfied the person is appropriately qualified.
- (3) A controlled purchase officer may, for the purposes of a controlled purchase operation, make or attempt to make the purchases authorised under section 208D(2)(e) for the operation.

208B Authorisation of controlled purchase operation

- (1) The chief executive may, by notice in writing,

authorise an operation (a ***controlled purchase operation***) the intended purpose of which is to provide a person with an opportunity to commit or to attempt to commit a prescribed offence.

- (2) However, the chief executive may not authorise a controlled purchase operation unless the chief executive is satisfied—
- (a) a prescribed offence has been, is being, or is likely to be committed; and
 - (b) the nature and extent of the prescribed offence mentioned in paragraph (a) justifies the operation; and
 - (c) the operation will not be conducted in a way that makes it likely for a person to be induced to commit a prescribed offence, or any other offence, that the person would not otherwise have intended to commit; and
 - (d) any conduct involved in the operation will not seriously endanger the health or safety of any person; and
 - (e) the operation will be conducted in a way that will ensure the chief executive is immediately notified if a controlled purchase officer engages in—
 - (i) conduct that may seriously endanger the health or safety of any person; or
 - (ii) conduct that may not be authorised under the authority to conduct the operation; and
 - (f) each controlled purchase officer proposed to participate in the operation has received appropriate training for the purpose.

208C Supervision by authorised person

- (1) The controlled purchase operation must be supervised by an authorised person chosen by the chief executive to supervise the operation.
- (2) The authorised person supervising the operation is not authorised to make or attempt to make the purchases authorised under section 208D(2)(e) for the operation.

208D Form of authority

- (1) An authority to conduct a controlled purchase operation must be in writing.
- (2) The authority must state—
 - (a) an identifying name or number for the operation; and
 - (b) the identity of the authorised person responsible for supervising the operation; and
 - (c) the identity of each controlled purchase officer who may make or attempt to make purchases for the operation; and
 - (d) the prescribed offences in relation to which the operation is to be conducted; and
 - (e) a description of the type of purchases the controlled purchase officers may make or attempt to make for the operation; and
 - (f) the places, if any, the controlled purchase officers may enter for the operation; and
 - (g) the websites, online shops or other online accounts or platforms, if any, the controlled purchase officers may access or engage with for the operation; and
 - (h) the period, of not more than 3 months, for which the authority is in effect; and

- (i) the conditions, if any, to which the conduct of the operation is subject; and
 - (j) the date and time when the authority is granted.
- (3) A controlled purchase officer is sufficiently identified for subsection (2)(c) if the person is identified by either of the following that can be matched to the person's identity by the chief executive—
 - (a) an assumed name;
 - (b) a code name or code number.
- (4) A place may be stated under subsection (2)(f) only if the place is a place mentioned in section 181(2).

208E Variation or cancellation of authority

- (1) The chief executive may vary or cancel an authority to conduct a controlled purchase operation during the period, stated under section 208D(2)(h), for which the authority is in effect.
- (2) If the chief executive varies or cancels an authority, the chief executive must tell the following persons about the variation or cancellation immediately after the variation or cancellation is made—
 - (a) the authorised person responsible for supervising the operation;
 - (b) each controlled purchase officer authorised to make or attempt to make purchases for the operation.

208F Effect of authority

- (1) An authority to conduct a controlled purchase operation, while the authority is in effect,

authorises each controlled purchase officer stated in the authority under section 208D(2)(c) to make or attempt to make the purchases authorised under section 208D(2)(e) for the operation.

- (2) The authority given to a controlled purchase officer to engage in conduct mentioned in subsection (1) can not be delegated to any other person.

208G Protection from criminal responsibility

- (1) Despite any other Act or law, a person (the *participant*) who engages in conduct in a controlled purchase operation in the course of, and for the purposes of, the operation, is not, if engaging in that conduct is an offence, criminally responsible for the offence, if—
 - (a) either—
 - (i) the conduct is authorised by, and is engaged in, in accordance with, the authority for the operation; or
 - (ii) the conduct is ancillary to conduct mentioned in subparagraph (i), including, for example, aiding or enabling the conduct mentioned in subparagraph (i); and
 - (b) the conduct does not involve the participant intentionally inducing a person to commit an offence that the person would not otherwise have intended to commit.
- (2) To remove any doubt, it is declared that subsection (1) does not apply if the participant engages in conduct that seriously endangers the health or safety of any person.

208H Effect of being unaware of variation or cancellation of authority

- (1) If an authority to conduct a controlled purchase operation is varied in a way that limits its scope, this division continues to apply to a person authorised to engage in conduct for the purposes of the operation as if the authority had not been varied in that way, for as long as the person—
 - (a) is unaware of the variation; and
 - (b) is not reckless about the existence of the variation.
- (2) If an authority to conduct a controlled purchase operation is cancelled, this division continues to apply to a person authorised to engage in conduct for the purposes of the operation as if the authority had not been cancelled, for as long as the person—
 - (a) is unaware of the cancellation; and
 - (b) is not reckless about the existence of the cancellation.
- (3) For this section, a person is reckless about the existence of the variation or cancellation of an authority if—
 - (a) the person is aware of a substantial risk that the variation or cancellation has happened; and
 - (b) having regard to the circumstances known to the person, it is unjustifiable to continue to engage in conduct that was, but may no longer be, authorised by the authority because of the variation or cancellation.

208I Notification requirements

- (1) If any loss of or serious damage to property happens in the course of or as a direct result of a

controlled purchase operation, the authorised person supervising the operation must report the loss or damage to the chief executive as soon as practicable.

- (2) The chief executive must take all reasonable steps to notify the owner of the property of the loss or damage.
- (3) The chief executive is not required to notify the owner of property under this section until the chief executive is satisfied that notification would not—
 - (a) compromise or hinder the operation; or
 - (b) compromise the identity of an authorised person or controlled purchase officer; or
 - (c) endanger the life or safety of any person; or
 - (d) prejudice any legal proceeding; or
 - (e) otherwise be contrary to the public interest.
- (4) Subsection (1) does not apply to property of the department.
- (5) If any personal injury happens in the course of or as a direct result of a controlled purchase operation, the authorised person supervising the operation must report the injury to the chief executive as soon as possible.

208J Admissibility of evidence

Evidence gathered because of a controlled purchase operation is not inadmissible only because the evidence was obtained by a person while engaging in an unlawful act if the unlawful act was authorised under this division.

23 Amendment of pt 11, div 4A, hdg (Closure orders)

Part 11, division 4A, heading, after ‘orders’—

insert—

and relevant lessors

24 Replacement of ss 209A and 209B

Sections 209A and 209B—

omit, insert—

Subdivision 1 Preliminary

209 Application of division

This division does not apply to residential premises.

Subdivision 2 Making of orders

209A Definitions for subdivision

In this subdivision—

infringement notice means an infringement notice under the *State Penalties Enforcement Act 1999*.

mobile premises means premises that are a vehicle, building or other structure ordinarily moved from place to place.

previous enforcement action, taken in relation to premises, means any of the following actions relating to the premises—

- (a) the issue of a closure order;
- (b) the issue of an infringement notice for an offence against section 65, 161 or 161A;

- (c) the seizure of evidence under part 11, division 4 in relation to an offence against section 65, 161 or 161A;
- (d) the start of a proceeding for an offence against section 65, 161 or 161A;
- (e) the giving of an improvement notice under section 211 in relation to a contravention or likely contravention of section 65, 161 or 161A.

209B Short-term closure of premises by chief executive

- (1) The chief executive may make an order that stated premises be closed (a *short-term closure order*) if the chief executive is satisfied that—
 - (a) illicit tobacco or illicit nicotine products are being supplied or possessed at the premises as part of a business activity; or
 - (b) a business is being carried on at the premises in a way that involves a contravention of section 65.
- (2) In deciding whether to make a short-term closure order the chief executive may have regard to—
 - (a) previous enforcement action taken in relation to the premises; and
 - (b) whether the order will impact the ability of the community to access essential goods and services; and
 - (c) any other matter the chief executive considers appropriate.
- (3) The short-term closure order must be—
 - (a) served on the person apparently in charge of the premises, if any; and
 - (b) posted in a conspicuous place—

- (i) for premises that are fixed premises—at the entrance to the premises; or
 - (ii) for premises that are mobile premises—
 - (A) on the mobile premises; or
 - (B) at the entrance to fixed premises that are connected to the business carried on at the mobile premises.
- (4) The short-term closure order—
 - (a) takes effect from the earlier of the following to happen—
 - (i) the service of the order under subsection (3)(a);
 - (ii) the posting of the order under subsection (3)(b); and
 - (b) continues until the first of the following to happen—
 - (i) the chief executive revokes the order;
 - (ii) the end of 90 days after the order takes effect.

209BA Long-term closure of premises by magistrate

- (1) A magistrate may, on the application of the chief executive, make an order that stated premises be closed for a stated period of not more than 1 year (a *long-term closure order*) if the magistrate is satisfied that—
 - (a) illicit tobacco or illicit nicotine products have been, or are likely to be, supplied or possessed at the premises as part of a business activity; or

- (b) a business is being carried on at the premises in a way that involves a contravention of section 65.
- (2) In deciding whether to make a long-term closure order the magistrate may have regard to—
 - (a) previous enforcement action taken in relation to the premises; and
 - (b) whether the order will impact the ability of the community to access essential goods and services; and
 - (c) any other matter the magistrate considers appropriate.
- (3) The application may be made regardless of whether a short-term closure order is, or has been, in effect in relation to the premises under section 209B.
- (4) The application must be served on—
 - (a) the person apparently in charge of the premises, if any; and
 - (b) the lessor of the premises, if any.
- (5) The long-term closure order must be—
 - (a) served on the person apparently in charge of the premises, if any; and
 - (b) posted in a conspicuous place—
 - (i) for premises that are fixed premises—at the entrance to the premises; or
 - (ii) for premises that are mobile premises—
 - (A) on the mobile premises; or
 - (B) at the entrance to fixed premises that are connected to the business carried on at the mobile premises.

- (6) Subsections (4) and (5)(a) do not apply if the chief executive is satisfied it is not reasonably practicable to serve the document mentioned in the subsection.

25 Amendment of s 209C (Smoking products not to be supplied at closed premises)

- (1) Section 209C, heading, ‘Smoking products not’—
omit, insert—

No products or services

- (2) Section 209C(1)—
insert—

- (c) supply any other product or service at the premises; or
(d) work in a business involving the supply of any other product or service at the premises; or
(e) open the premises to the public.

- (3) Section 209C(3)—
omit, insert—

- (3) Also, a person is not required to comply with subsection (1)(c) or (d) if the person has a reasonable excuse.

26 Insertion of new pt 11, div 4A, sdiv 3

After section 209C—
insert—

Subdivision 3 Relevant lessors

209CA Definitions for subdivision

In this subdivision—

lease, in relation to premises, includes any right to occupy the premises.

premises means any of the following—

- (a) a retail outlet;
- (b) a wholesale outlet;
- (c) premises at which illicit tobacco or illicit nicotine products are available for sale by retail or wholesale.

relevant lessor, of premises—

- (a) means the person who—
 - (i) leases the premises directly to a person conducting a tobacco business at the premises; or
 - (ii) otherwise directly allows a person conducting a tobacco business at the premises to occupy the premises; and
- (b) does not include a person, including, for example, a head lessor, who leases the premises to a person who is not occupying the premises for the purpose of conducting a tobacco business at the premises.

tobacco business means a business that involves supplying or possessing illicit tobacco, illicit nicotine products or smoking products.

209CB Chief executive must give relevant lessor copy of closure order and notice

(1) This section applies if—

- (a) a closure order is made in relation to premises; and

- (b) the premises are subject to a lease.
- (2) The chief executive must give the relevant lessor of the premises the following documents within 7 days after the closure order is made—
 - (a) a copy of the order;
 - (b) a notice stating the following information—
 - (i) the reason for the making of the order;
 - (ii) that the order may allow the relevant lessor to terminate the lease of the premises under section 209CC;
 - (iii) that the relevant lessor may be liable for an offence under section 209CE or a civil penalty under section 209CF.
- (3) Subsection (2) does not apply if the chief executive is satisfied it is not reasonably practicable to give the documents.

209CC Relevant lessor may terminate lease of premises subject to closure order

- (1) This section applies if—
 - (a) a closure order is made in relation to premises; and
 - (b) the premises are subject to a lease.
- (2) The relevant lessor of the premises may terminate the lease of the premises by giving the lessee a notice (the *termination notice*) stating that the lease is terminated on a stated day (the *termination day*).
- (3) The termination day must be at least 14 days after the day the relevant lessor gives the lessee the termination notice.
- (4) The termination notice must—
 - (a) be in the approved form; and

- (b) be given before the end of the closure order.
- (5) Subsection (2) applies—
 - (a) despite any other Act or anything to the contrary in the lease or another agreement or arrangement; and
 - (b) even if the closure order is subsequently revoked, found to have been wrongfully made or found by a court to be invalid.
- (6) The termination is taken—
 - (a) to be a termination of the lease for a repudiation of the lease by the lessee; and
 - (b) to preserve the rights and powers of the relevant lessor in relation to a repudiation of the lease by the lessee, including, for example, the right to claim damages or a rental bond.
- (7) The relevant lessor—
 - (a) is not liable for damages or compensation, on any ground, to any person in relation to the termination of the lease under this section; and
 - (b) may enter, and take possession of, the premises after the termination of the lease under this section.
- (8) The lessee is not entitled to bring a proceeding against either of the following persons, on any ground, in relation to the termination of the lease under this section—
 - (a) the relevant lessor;
 - (b) a person, including, for example, a head lessor, who leases the premises to a person who is not occupying the premises for the purpose of conducting a tobacco business at the premises.

- (9) Without limiting subsection (8), the following provisions do not apply in relation to the termination—
 - (a) the *Property Law Act 2023*, part 9, division 5;
 - (b) the *Retail Shop Leases Act 1994*, part 8;
 - (c) the *Small Business Commissioner Act 2022*, part 3.
- (10) Subsection (8) does not prevent a lessee from bringing a proceeding against the relevant lessor on a ground unrelated to the termination of the lease under this section, including, for example, a proceeding in relation to a breach of the lease by the relevant lessor before the termination of the lease under this section.
- (11) If a lease is terminated under this section and the lessee has not removed the lessee's property from the premises under the lease, the relevant lessor may deal with the property as the relevant lessor considers appropriate, including, for example, by disposing of the property.
- (12) This section does not limit or affect any other power of the relevant lessor to terminate the lease or deal with property not removed from the premises.

209CD Ending of closure order if lease ends

- (1) If a lease of premises subject to a closure order ends—
 - (a) the order ends when the lease ends; and
 - (b) if the relevant lessor of the premises has been given a copy of the order under section 209CB(2)—the relevant lessor must give the chief executive a notice stating the lease of

the premises has ended within 7 days after the end of the lease.

- (2) However, if the premises are leased to the same lessee in the period stated in the closure order, the order is reinstated and ends on the last day of the period stated in the order.
- (3) A person must comply with a requirement to give a notice under subsection (1)(b) unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

209CE Offence of permitting premises to be used to supply or possess illicit tobacco or illicit nicotine products

- (1) A relevant lessor of premises must not permit another person to use the premises for the supply or possession of illicit tobacco or illicit nicotine products as part of a business activity.

Maximum penalty—1,000 penalty units or 1 year's imprisonment, or both.

- (2) A person commits an offence under subsection (1) only if the person knowingly permits another person to use the premises for the supply or possession of illicit tobacco or illicit nicotine products as part of a business activity.

Note—

Civil proceedings may be taken under section 209CF in relation to a contravention of subsection (1).

- (3) It is a defence to a charge under subsection (1) if the relevant lessor has a reasonable excuse for permitting the person to use the premises for the supply or possession of illicit tobacco or illicit nicotine products as part of a business activity.
- (4) The relevant lessor bears an evidential burden in relation to the matter mentioned in subsection (3).

209CF Civil penalty for contravention by relevant lessor

- (1) The chief executive may apply to the court for an order under this section if the chief executive is reasonably satisfied a relevant lessor has contravened section 209CE(1).
- (2) If the court is satisfied the relevant lessor has contravened section 209CE(1), the court may make—
 - (a) an order that the relevant lessor pay the State as a civil penalty—
 - (i) if the relevant lessor is an individual—an amount of not more than the amount that is equivalent to 1,000 penalty units; or
 - (ii) if the relevant lessor is a corporation—an amount of not more than the amount that is equivalent to 5,000 penalty units; and
 - (b) any other order the court considers appropriate.
- (3) In deciding whether a relevant lessor has contravened section 209CE(1), the court may have regard to the following—
 - (a) whether there is a pattern of supply or possession of illicit tobacco or illicit nicotine products at the premises;
 - (b) whether the chief executive has notified the relevant lessor that 1 or more closure orders have been made in relation to the premises;
 - (c) whether the relevant lessor and the person using the premises have an arm's length relationship;

- (d) whether the rent for the premises is significantly above market value or paid well in advance;
 - (e) whether the lease is in writing;
 - (f) whether the relevant lessor has taken steps to terminate the lease of the premises or otherwise prevent the supply or possession of illicit tobacco or illicit nicotine products at the premises.
- (4) However, the court must not make an order under subsection (2) against the relevant lessor if the relevant lessor has a reasonable excuse for permitting the person to use the premises for the supply or possession of illicit tobacco or illicit nicotine products as part of a business activity.
- (5) The relevant lessor bears an evidential burden in relation to the matter mentioned in subsection (4).
- (6) The court must apply the rules of evidence and procedure for civil proceedings when hearing a proceeding under this section.
- (7) Evidence or information acquired under this Act in relation to an offence against section 209CE, including, for example, under a warrant issued under section 184 or under section 215A, is admissible in a proceeding under this section.
- (8) A contravention of section 209CE(1) found under this section is not an offence.
- (9) An application for an order in relation to a contravention of section 209CE(1) must be made within 2 years after the contravention or alleged contravention first comes to the notice of the chief executive.

209CG Civil proceeding stayed during criminal proceeding

- (1) A proceeding against a person for a contravention of section 209CE(1) is stayed if—
 - (a) a criminal proceeding is or has commenced against the person for an offence against section 209CE; and
 - (b) the offence against section 209CE is constituted by conduct that is substantially the same as the conduct alleged to constitute the contravention of section 209CE(1).
- (2) The proceeding for a contravention of section 209CE(1) may be resumed if the person is not convicted of the offence against section 209CE.
- (3) Otherwise, the proceeding for the contravention of section 209CE(1) is dismissed.
- (4) In this section—

convicted, of an offence, includes a plea of guilty or a finding of guilt by a court even though a conviction is not recorded.

209CH No criminal proceeding after successful civil proceeding

A criminal proceeding for an offence against section 209CE may not be commenced against a person for conduct that is substantially the same as conduct in relation to which an order has been made against the person under section 209CF(2).

209CI Evidence given by individual in civil proceeding not admissible in criminal proceeding

- (1) Evidence of information given, or evidence of production of documents, by an individual is not admissible in a criminal proceeding for an offence

against the individual if the individual previously gave the information or produced the documents in a civil proceeding against the individual for a contravention of section 209CE(1) (whether or not an order under section 209CF(2) was made).

- (2) However, subsection (1) does not apply to a criminal proceeding in relation to the falsity of evidence given by an individual in a civil proceeding for a contravention of section 209CE(1).

27 Amendment of s 212 (Power to require production of written acknowledgement)

- (1) Section 212, heading, ‘written’—

omit.

- (2) Section 212(2) to (6)—

omit, insert—

- (2) A written acknowledgement may be an electronic document but only if the acknowledgement contains a unique identifier for the person giving the acknowledgement.
- (3) If a written acknowledgment is in hard copy form, an authorised person—
- (a) may keep the acknowledgement to copy the acknowledgement; and
 - (b) may require the supplier or person in charge of the tobacco product vending machine to certify the copy as a true copy of the acknowledgement; and
 - (c) must return the acknowledgement as soon as practicable after copying the acknowledgement.
- (4) Despite subsection (3)(c), if a requirement is made of a person under subsection (3)(b), the

authorised person may keep the
acknowledgement until the person complies with
the requirement.

(3) Section 212(7)—

insert—

digital signature means encrypted electronic or
computer data intended for the exclusive use of a
particular person as a means of identifying the
person as the signer of an electronic document.

unique identifier, for a person, includes the
following—

- (a) a digital signature of the person;
- (b) an identifying number for the person.

(4) Section 212(7)—

renumber as section 212(5).

**28 Amendment of s 213 (Failure to produce
acknowledgement)**

Section 213—

insert—

(3) In this section—

acknowledgement production requirement
means a requirement made under section 212(1).

**29 Amendment of s 214 (Failure to certify copy of
acknowledgement)**

Section 214—

insert—

(2) In this section—

acknowledgement certification requirement
means a requirement made under section

212(3)(b).

30 Amendment of s 215 (Power to require information)

- (1) Section 215, heading, after ‘information’—

insert—

about offence

- (2) Section 215(2), from ‘at a’—

omit, insert—

within a stated reasonable period.

- (3) Section 215—

insert—

- (5) In this section—

information includes a document.

31 Insertion of new s 215A

After section 215—

insert—

**215A Power to require information relevant to
monitoring or enforcement of particular
provisions**

- (1) This section applies if an authorised person reasonably believes a person may be able to give information relevant to the monitoring or enforcement of section 65, 66, 67, 161, 161A or 209CE.
- (2) The authorised person may, by written notice given to the person, require the person to give the authorised person information relevant to the monitoring or enforcement of the provision within a stated reasonable period.
- (3) The person must comply with a requirement

under subsection (2), unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (4) It is a reasonable excuse for an individual to fail to give information if giving the information might tend to incriminate the individual.
- (5) To remove any doubt, it is declared that this section is not limited by, and does not limit, section 215.
- (6) In this section—
information includes a document.

32 Amendment of s 219 (Compensation)

- (1) Section 219—

insert—

- (2A) Despite subsection (1), a person may claim compensation for loss or expense incurred because of the exercise or purported exercise of a power to make a closure order only if—
 - (a) the order is revoked; or
 - (b) the order is found to have been wrongfully made; or
 - (c) the order is found by a court to be invalid.

- (2) Section 219(2A) to (4)—

renumber as section 219(3) to (5).

33 Amendment of s 224 (Definition for division)

Section 224, definition *forfeiture decision*, paragraph (b), after ‘pipe’—

insert—

, or a component of a bong or ice pipe,

34 Insertion of new s 229A

After section 229—

insert—

229A Evidentiary provisions

- (1) In a proceeding under or in relation to this Act, a certificate purporting to be signed by the chief executive and stating any of the following matters is evidence of the matter—
 - (a) a stated document is any of the following—
 - (i) a retail licence;
 - (ii) a retail licence (liquor);
 - (iii) a wholesale licence;
 - (iv) a notice, direction, order or other document given by the chief executive or another entity under this Act;
 - (v) an approved form;
 - (vi) an identity card;
 - (vii) a document given to the chief executive under this Act;
 - (b) a stated document is a copy of, or an extract from or part of, a document mentioned in paragraph (a);
 - (c) on a stated day, or during a stated period, a person's appointment as an authorised person, a controlled purchase officer or a chief executive officer was, or was not, in effect;
 - (d) on a stated day, or during a stated period, an authorisation under section 208B of a controlled purchase operation was, or was not, in effect;
 - (e) on a stated day, or during a stated period, a variation under section 208E of an

- authorisation of a controlled purchase operation was, or was not, in effect;
- (f) on a stated day, or during a stated period, an authorised person was authorised to supervise a controlled purchase operation;
 - (g) on a stated day, or during a stated period, a retail licence, retail licence (liquor) or wholesale licence—
 - (i) was or was not in effect; or
 - (ii) was or was not subject to a stated condition;
 - (h) on a stated day, a retail licence, retail licence (liquor) or wholesale licence was suspended for a stated period or cancelled;
 - (i) on a stated day, a stated person was given a stated notice, direction, order or other document under this Act;
 - (j) on a stated day, a stated requirement was made of a stated person;
 - (k) on a stated day, a stated amount was payable under this Act by a stated person and has not been paid;
 - (l) that a stated method of storage, preservation, handling or transportation of a thing, or a sample of or from a thing, taken under this Act has not materially affected the attributes of the thing or sample.
- (2) In a proceeding for an offence in which an application is made under section 223A to recover costs incurred by the State because of the offence, a certificate purporting to be signed by the chief executive stating that stated costs were incurred and the way in which, and purpose for which, the stated costs were incurred is evidence of the matters stated.

35 Replacement of s 230A (Liability of executive officer—offence committed by corporation against executive liability provision)

Section 230A—

omit, insert—

230A Liability of executive officer—offence committed by corporation against executive liability (evidential burden) provision

- (1) If a corporation commits an offence against an executive liability (evidential burden) provision, each executive officer of the corporation is taken to have also committed an offence against the provision.

Maximum penalty—the penalty for a contravention of the executive liability (evidential burden) provision by an individual.

- (2) However, the executive officer is not taken to have also committed an offence against the executive liability (evidential burden) provision if—
- (a) firstly, the officer satisfies the evidential burden of showing that—
- (i) the officer did not know, and could not reasonably have been expected to have known, of the corporation’s conduct constituting its offence against the executive liability (evidential burden) provision; or
- (ii) the officer took all reasonable steps to ensure the corporation did not engage in the conduct constituting its offence against the executive liability (evidential burden) provision; and
- (b) secondly, the officer having complied with paragraph (a), the prosecution does not prove the contrary beyond reasonable doubt.

- (3) In deciding whether things done or omitted to be done by the executive officer constitute reasonable steps for subsection (2)(a)(ii), a court must have regard to whether the officer was in a position to influence the corporation's conduct in relation to its offence against the executive liability (evidential burden) provision.
- (4) The executive officer may be proceeded against for, and convicted of, an offence against the executive liability (evidential burden) provision whether or not the corporation has been proceeded against for, or convicted of, its offence against the executive liability (evidential burden) provision.
- (5) This section does not affect either of the following—
 - (a) the liability of the corporation for its offence against the executive liability (evidential burden) provision;
 - (b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the corporation's offence against the executive liability (evidential burden) provision.
- (6) In this subsection—
executive liability (evidential burden) provision
means any of the following provisions—
 - (a) section 65;
 - (b) section 66;
 - (c) section 67;
 - (d) section 161;
 - (e) section 161A.

36 Amendment of s 231 (Act does not create or preserve right to smoke)

Section 231(1), ‘in or’—

omit.

37 Amendment of s 242B (Application of amended s 208)

Section 242B—

insert—

Note—

Section 208 was relocated and renumbered as section 202B by the *Health Legislation Amendment Act 2025*.

38 Insertion of new pt 13, div 4

Part 13—

insert—

Division 4	Transitional provisions for Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Act 2025
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243 Definition for division

In this division—

new, in relation to a provision of this Act, means the provision as in force from the commencement.

244 Notification of particular events

- (1) New section 47 applies in relation to a licensee only if the licensee’s licence was issued after the

commencement.

- (2) Despite the amendment of section 47 by the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Act 2025*, former section 47 continues to apply in relation to a licensee whose licence was issued before the commencement.
- (3) In this section—
former section 47 means section 47 as in force immediately before the commencement.

245 Proceedings for particular offences

- (1) This section applies in relation to an offence against former section 158, 159, 209C or 230A committed by a person before the commencement.
- (2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be convicted of and punished for the offence, as if new section 158, 159, 209C or 230A had not commenced.
- (3) Subsection (2) applies despite the Criminal Code, section 11.
- (4) In this section—
former section 158, 159, 209C or 230A means section 158, 159, 209C or 230A of this Act as in force from time to time before the commencement.

246 Application for long-term closure order made before commencement

- (1) A long-term closure order made after the

commencement on an application under former section 209B made before the commencement is taken to be a long-term closure order under this Act.

- (2) In this section—

former section 209B means section 209B of this Act as in force from time to time before the commencement.

247 New provisions applying to relevant lessors

- (1) New part 11, division 4A, subdivision 3 applies in relation to a lease under new section 209CA whether the lease was entered into before or after the commencement.
- (2) However, new part 11, division 4A, subdivision 3 applies in relation to a closure order only if the order is made after the commencement.

248 New evidentiary provisions

New section 229A applies in relation to a proceeding—

- (a) whether the proceeding was started before or after the commencement; and
- (b) whether the offence or contravention, if any, relating to the proceeding was committed before or after the commencement.

39 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definitions *acknowledgement certification requirement*, *acknowledgement production requirement* and *premises*—

omit.

- (2) Schedule 1—

insert—

ABN means the ABN under the *A New Tax System (Australian Business Number) Act 1999* (Cwlth), section 41.

at, a place, includes in or on the place.

closure order means—

- (a) a short-term closure order; or
- (b) a long-term closure order.

component—

- (a) of a bong, see section 159(4); or
- (b) of an ice pipe, see section 158(4); or
- (c) of a hookah, includes a base, bowl, diffuser, grommet, hose, mouthpiece, stem, tray and valve.

compromised goods, for part 11, division 4, see section 194A.

controlled purchase officer see section 208.

controlled purchase operation see section 208B(1).

identity card means an identity card issued to an authorised person under section 173.

infringement notice, for part 11, division 4A, subdivision 2, see section 209A.

lease, for part 11, division 4A, subdivision 3, see section 209CA.

long-term closure order see section 209BA(1).

mobile premises, for part 11, division 4A, subdivision 2, see section 209A.

premises—

- (a) generally, includes—
 - (i) a building or other structure; and

- (ii) a part of a building or other structure;
and
 - (iii) land where a building or other structure
is situated; and
 - (iv) a vehicle; or
- (b) for part 11, division 4A, subdivision 3, see
section 209CA.

prescribed offence, for part 11, division 4AA, see
section 208.

previous enforcement action, for part 11,
division 4A, subdivision 2, see section 209A.

relevant lessor, for part 11, division 4A,
subdivision 3, see section 209CA.

seized thing means a thing seized under section
197 or 198.

short-term closure order see section 209B(1).

tobacco business, for part 11, division 4A,
subdivision 3, see section 209CA.