



Queensland

Tobacco and Other Smoking Products and Another Regulation Amendment Regulation (No. 1) 2011

Explanatory Notes for SL 2011 No. 229

made under the

State Penalties Enforcement Act 1999

Tobacco and Other Smoking Products Act 1998

General outline

Short title

Tobacco and Other Smoking Products and Another Regulation Amendment Regulation (No. 1) 2011.

Authorising law

Section 53 of the *Tobacco and Other Smoking Products 1998*

Section 165 of the *State Penalties Enforcement Act 1999*

Policy objectives and the reasons for them

The objectives of the amendments are to:

- make consequential amendments to the *Tobacco and Other Smoking Products Regulation 2010* (Tobacco Regulation) to give effect to a number of the amendments made to the *Tobacco and Other Smoking*

Products 1998 (Tobacco Act) that provide for a complete ban on the retail display of smoking products; and.

- enable various offences in the Tobacco Act to be dealt with by way of a Penalty Infringement Notice (PIN).

Achievement of policy objectives

To achieve their objectives, the amendments will amend the Tobacco Regulation to:

- update the current requirement for price tickets in retail settings and for tobacco product vending machines, to ensure that price tickets are not used to directly or indirectly promote smoking products;
- omit the current requirements for price boards and signs for humidified rooms or humidified containers, as the heads of power under the Act for these items has been removed;
- prescribe the requirements for a ‘mandatory sign’ which is a new sign that replaces the ‘quit smoking sign’ and ‘prohibition sign’ (to notify persons of the laws that prohibit the supply of smoking products to children) and combines the requirements of those two signs; and
- prescribe the requirements for a ‘permitted sign’, which is a new sign that retailers may use to advise customers of the availability of smoking products at the outlet.

The amendments will also amend the *State Penalties Enforcement Regulation 2000* to insert a PIN offence for the following sections of the Tobacco Act:

- s.13B (retailer must have only one point of sale);
- s.26A(3) (retailer must not advertise smoking products other than as provided for in the Tobacco Act);
- s.26HC(1) (retailer must display mandatory signage); and
- s.26IF (tobacco vending machine operator must display mandatory signage).

Consistency with policy objectives of authorising law

The amendments are consistent with the objective of the Tobacco Act which is to improve the health of members of the public by reducing their exposure to tobacco and other smoking products.

Inconsistency with policy objectives of other legislation

The amendments are consistent with the policy objectives of other Queensland legislation.

Alternative ways of achieving policy objectives

The amendments are the only effective means of achieving the objective of the Tobacco Act.

Benefits and costs of implementation

The amendments will ensure clarity for all relevant stakeholders with regard to the specific application of the Tobacco Act and will reduce the required signage at retail outlets where smoking products are sold, from up to three signs to one sign only.

The 'mandatory sign' is available free of charge from the tobacco laws service at the whole of government call centre (13 QGOV - 13 7468). Retailers who choose to develop and display a 'permitted sign' will be able to comply with the prescribed requirements for such signs at minimal cost.

Compliance with the ticketing requirements for tobacco products (price tickets and other indicators of price) may incur costs for retailers whose existing ticketing does not meet the new requirements. However, these costs are expected to be minimal.

Consistency with fundamental legislative principles

The amendments are consistent with section 4 of the *Legislative Standards Act 1992*.

Consultation

Key stakeholders, including smoking product manufacturers and major retailing groups, have been advised of the proposed amendments to the Tobacco Regulation.

The Department of Justice and Attorney-General was consulted on the amendments to the *State Penalties Enforcement Regulation 2000* and supports the amendments.

Notes on provisions

Part 1 Preliminary

Short Title

Clause 1 provides the short title of the regulation.

Commencement

Clause 2 provides that the regulation commences on 18 November 2011.

Part 2 Amendment of Tobacco and Other Smoking Products Regulation 2010

Regulation amended

Clause 3 provides that Part 2 amends the *Tobacco and Other Smoking Products Regulation 2010*.

Insertion of new s 1A

Clause 4 inserts a new section 1A that contains definitions of the terms ‘mandatory sign’ and ‘style’.

Amendment of s 3 (Price ticket for other than a tobacco product vending machine—Act, s 26H)

Clause 5 amends section 3 to refer to section 26E of the Tobacco Act instead of the repealed section 26H of that Act. The clause also inserts a requirement that all price tickets for smoking products being sold at a particular retail outlet must have the same font size, style and typeface. Relevant paragraphs of section 3(1) are also renumbered.

Amendment of s 4 (Price ticket for tobacco product vending machine--Act, s 26ID)

Clause 6 amends section 4 by inserting a requirement that all price tickets for smoking products being sold from a particular tobacco product vending machine must have the same font size, style and typeface. Relevant paragraphs of section 4(1) are also renumbered.

Omission of pt 2, div 3 (Price boards)

Clause 7 omits part 2, division 3 as its provisions are redundant as a result of the repeal of section 26H of the Tobacco Act.

Omission of pt 3, div 1 (Signs for humidified containers and humidified rooms)

Clause 8 omits part 3, division 1 as its provisions are redundant as a result of the repeal of section 26F of the Tobacco Act.

Replacement of pt 3, div 2 (Prohibition and quit smoking signs)

Clause 9 omits part 3, division 2 and inserts a new division 1 containing sections 8 to 11.

Section 8 specifies the requirements for mandatory signs that are required under section 26HC(1) and 26IF of the Tobacco Act. This provision

incorporates the requirements for the 'quit smoking sign' and 'prohibition sign' that were required under those sections prior to their amendment, relocation and renumbering.

Section 9 specifies the requirements for permitted signs referred to section 26HC(2) of the Tobacco Act.

Section 10 specifies that a supplier must display a mandatory sign under section 26HC(1) of the Act so that it is easily visible to a person purchasing a smoking product at the supplier's relevant point of sale.

Section 11 specifies that, for section 26IF of the Tobacco Act, a person in charge of a tobacco product vending machine must attach a mandatory sign to the front of the machine or near to it, so the sign is visible to a person using the machine.

Renumbering of pt 3, div 3 (No smoking signs)

Clause 10 renumbers part 3, division 3 as part 3, division 2.

Part 3 Amendment of State Penalties Enforcement Regulation 2000

Regulation amended

Clause 11 provides that Part 3 amends the *State Penalties Enforcement Regulation 2000*.

Amendment of sch 5 (Other legislation)

Clause 12 amends Schedule 5 to omit the entries for section 20(1) and 21 as they have been renumbered.

The clause also inserts new entries in Schedule 5 for the offences under sections 13B, 26A(3), 26HC(1) and 26IF of the Tobacco Act.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Health.

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