



New South Wales

Public Health (Tobacco) Amendment Bill (No 2) 2024

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows—

- (a) to amend the *Public Health (Tobacco) Act 2008* (*the Act*) to—
 - (i) establish a licensing scheme to regulate the sale of tobacco products and non-tobacco smoking products by retail and wholesale, and
 - (ii) provide for clearer offences relating to the display of prices and brands of tobacco products and non-tobacco smoking products and to increase penalties for particular offences,
- (b) to make consequential amendments to the *Public Health (Tobacco) Regulation 2022*.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Public Health (Tobacco) Act 2008 No 94

Schedule 1[1] amends section 4 to insert relevant definitions consequent on the amendments in Schedule 1[8]. **Schedule 1[7]** makes a minor consequential amendment.

Schedule 1[2] amends section 6 to increase the maximum penalties for the offences of selling tobacco products other than in the manufacturer's packing or selling tobacco products as

individual items or in packs of less than 20 from 100 penalty units to 200 penalty units for an individual and from 500 penalty units to 1,000 penalty units for a corporation.

Schedule 1[3] amends section 7 to increase the maximum penalties for the offences of packing or selling tobacco products in packaging without a health warning from 100 penalty units to 200 penalty units for an individual and from 500 penalty units to 1,000 penalty units for a corporation.

Schedule 1[5] inserts proposed section 16E, which creates a standalone offence for displaying the retail prices or names of tobacco products in a way that can be seen from public places unless the display is within retail premises and complies with prescribed requirements. The new offence carries a maximum penalty of 100 penalty units for an individual and 500 penalty units for a corporation. **Schedule 1[4]** makes a consequential amendment to section 16 to omit the elements of the new offence from the existing offence relating to advertising tobacco products.

Schedule 1[6] amends section 22 to increase the maximum penalties for the offences of selling a tobacco or a non-tobacco smoking product to a person who is under the age of 18 years—

- (a) for an individual—from 100 penalty units to 200 penalty units for a first offence and from 500 penalty units to 1,000 penalty units for a second or subsequent offence, and
- (b) for a corporation—from 500 penalty units to 1,000 penalty units for a first offence and from 1,000 penalty units to 2,000 penalty units for a second or subsequent offence.

Schedule 1[8] substitutes Part 5, Divisions 1–3 to replace the existing restrictions on, and offences relating to, tobacco retailing with a licensing scheme to regulate the sale of tobacco products and non-tobacco smoking products by retail and wholesale as follows—

- (a) proposed Division 1 sets out the key definitions for the scheme,
- (b) proposed Division 2, which—
 - (i) sets out the types of licences that may be granted, being—
 - (A) retail licences, which authorise licence holders to sell tobacco products or non-tobacco smoking products by retail from either a single physical premises or a single online store, and
 - (B) wholesale licences, which authorise licence holders to sell tobacco products or non-tobacco smoking products by wholesale, and
 - (ii) provides for the form of licences, and
 - (iii) provides that licences may be granted or renewed for periods of up to 12 months, and
 - (iv) provides that licences cannot be transferred, and
 - (v) provides that the Secretary may impose or vary licence conditions at any time, and
 - (vi) enables the regulations to prescribe standard conditions that apply to all licences, and
 - (vii) includes the following principal offences relating to the sale or acquisition of tobacco products or non-tobacco smoking products—
 - (A) a person selling tobacco products or non-tobacco smoking products by retail without a retail licence, with a maximum penalty of 2,000 penalty units for a corporation or 400 penalty units for an individual,
 - (B) a licensed retailer selling tobacco products or non-tobacco smoking products by retail other than in accordance with the Act or the conditions of the retail licence, with a maximum penalty of 2,000 penalty units for a corporation or 400 penalty units for an individual,
 - (C) a person selling tobacco products or non-tobacco smoking products by wholesale without a wholesale licence, with a maximum penalty of 2,000 penalty units for a corporation or 400 penalty units for an individual,
 - (D) a licensed wholesaler selling tobacco products or non-tobacco smoking products by wholesale other than in accordance with the Act or the conditions of the wholesale licence, with a maximum penalty of 2,000 penalty units for a corporation or 400 penalty units for an individual, and

- (viii) sets out the processes and requirements for—
 - (A) applying for and granting licences, and
 - (B) renewing licences, including the continuation of licences that expire before an application for renewal is decided, and
- (ix) provides a power for the Secretary to revoke licences in the following circumstances after a show cause process—
 - (A) the licence holder has been found guilty of an offence relating to the sale or supply of tobacco products, non-tobacco smoking products or vaping goods,
 - (B) the licence holder has provided false or misleading information for the Act,
 - (C) the licence holder has failed to comply with a condition of the licence,
 - (D) the licence holder asks the Secretary to revoke the licence,
 - (E) other circumstances that may be prescribed by the regulations, and
- (x) enables a licence holder to surrender a licence, and
- (xi) requires the Secretary to keep a public register of licences, and
- (xii) makes it an offence to falsely claim to be a licensed retailer or licensed wholesaler, with a maximum penalty of 400 penalty units.

Schedule 1[9] makes a minor amendment consequent on the amendments in Schedule 1[8].

Schedule 1[10] and [11] amend section 47 to increase the maximum penalty for obstructing or impersonating inspectors from 5 penalty units to 100 penalty units.

Schedule 1[12] amends section 54 to increase the maximum penalty that the Local Court may impose for an offence from 1,000 penalty units to 2,000 penalty units.

Schedule 1[13] amends section 58 to enable the regulations to make further provision for particular matters relating to retail and wholesale licences and licensed retailers and wholesalers.

Schedule 1[14] inserts a transitional provision that allows persons who are currently authorised to sell tobacco products and non-tobacco smoking products to continue to sell tobacco under the existing provisions until the person's application for a licence under the new licensing scheme is determined.

Schedule 2 Amendment of Public Health (Tobacco) Regulation 2022

Schedule 2[1] and [2] amend section 11 to update cross-references as a consequence of the amendments made by Schedule 1[4] and [5].



New South Wales

Public Health (Tobacco) Amendment Bill (No 2) 2024

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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Public Health (Tobacco) Amendment Bill (No 2) 2024

No , 2024

A Bill for

An Act to amend the *Public Health (Tobacco) Act 2008* and the *Public Health (Tobacco) Regulation 2022* to establish a licensing scheme to regulate the sale of tobacco products and non-tobacco smoking products; to provide for clearer offences relating to the display of prices and brands and to increase penalties for particular offences; and for related purposes.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Public Health (Tobacco) Amendment Act (No 2) 2024*.

3

2 Commencement

4

This Act commences as follows—

5

- (a) for Schedule 1[2]–[7], [10] and [11] and Schedule 2—on the date of assent to this Act,
- (b) otherwise—on a day or days to be appointed by proclamation.

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Schedule 1 Amendment of Public Health (Tobacco) Act 2008 No 94

[1] Section 4 Definitions

Insert in alphabetical order in section 4(1)—

approved form, for Part 5—see section 31.

licence means a retail licence or a wholesale licence.

licensed online retail shop, for Part 5—see section 31.

licensed retail outlet, for Part 5—see section 31.

licensed retailer means a person who holds a retail licence.

licensed wholesaler means a person who holds a wholesale licence.

relevant person, for Part 5—see section 31.

retail licence—see section 32(a).

show cause notice, for Part 5, Division 2, Subdivision 5—see section 39H(1).

show cause period, for Part 5, Division 2, Subdivision 5—see section 39H(2).

vaping goods has the same meaning as in the *Therapeutic Goods Act 1989* of the Commonwealth.

wholesale licence—see section 32(b).

[2] Section 6 Certain sales prohibited

Omit the penalty. Insert instead—

Maximum penalty—

(a) for a corporation—1,000 penalty units, or

(b) for an individual—200 penalty units.

[3] Section 7 Packing and sale of tobacco product without health warning prohibited

Omit the penalty. Insert instead—

Maximum penalty—

(a) for a corporation—1,000 penalty units, or

(b) for an individual—200 penalty units.

[4] Section 16 Certain advertising prohibited

Omit “where the display complies with this Act and the regulations,” from section 16(3)(e).

[5] Section 16E

Insert after section 16—

16E Display of retail prices and names of tobacco products prohibited

(1) A person must not, in New South Wales, display the retail prices or names of tobacco products in, or so that the display can be seen from, any of the following—

(a) a public place,

(b) a place prescribed by the regulations.

Maximum penalty—

(a) for a corporation—500 penalty units, or

(b) for an individual—100 penalty units.

(2)	Subsection (1) does not apply to the display of the retail prices or names of tobacco products within a retail outlet if the prices and names are displayed in a way that complies with any requirements for the display of retail prices and names of tobacco products prescribed by the regulations.	1 2 3 4
[6]	Section 22 Sale of tobacco and non-tobacco smoking products to minors	5
	Omit section 22(2B), penalty. Insert instead—	6
	Maximum penalty—	7
	(a) for a corporation—	8
	(i) 1,000 penalty units for a first offence, and	9
	(ii) 2,000 penalty units for a second or subsequent offence, or	10
	(b) for an individual—	11
	(i) 200 penalty units for a first offence, and	12
	(ii) 1,000 penalty units for a second or subsequent offence.	13
[7]	Section 30 Smoking in motor vehicle prohibited if juvenile present	14
	Omit section 30(8), definition of <i>vaping goods</i> .	15
[8]	Part 5 Restrictions on tobacco retailing	16
	Omit Part 5, Divisions 1–3. Insert instead—	17
	Division 1 Preliminary	18
	31 Definitions	19
	In this part—	20
	<i>approved form</i> means a form approved by the Secretary under section 39M.	21
	<i>licensed online retail shop</i> , in relation to a retail licence, means the website specified in the licence as the online retail shop through which the licence holder is authorised to sell tobacco products or non-tobacco smoking products under the licence.	22 23 24 25
	<i>licensed retail outlet</i> , in relation to a retail licence, means the retail premises specified in the licence as the retail outlet from which the licence holder is authorised to sell tobacco products or non-tobacco smoking products under the licence.	26 27 28 29
	<i>relevant person</i> , for an applicant for the grant or renewal of a licence, means a person who holds or will hold any of the following positions of the applicant or in a business through which the applicant will sell tobacco products or non-tobacco smoking products under the licence if the licence is granted or renewed—	30 31 32 33 34
	(a) director,	35
	(b) another position prescribed by the regulations.	36
	<i>retail premises</i> means either of the following types of premises, whether or not the premises are used wholly or predominantly for the relevant purpose—	37 38
	(a) premises from which goods or services are available for supply, or are supplied, to a consumer, or	39 40
	(b) premises that are used in connection with the supply of goods or services to a consumer.	41 42
	<i>show cause notice</i> , for Division 2, Subdivision 5—see section 39H(1).	43
	<i>show cause period</i> , for Division 2, Subdivision 5—see section 39H(2).	44

Division 2	Licences for selling tobacco products or non-tobacco smoking products	1
		2
Subdivision 1	Retail and wholesale licences generally	3
32	Types of licences	4
	The Secretary may grant the following types of licences under this division—	5
(a)	a <i>retail licence</i> that authorises the licence holder to sell, in accordance with this Act and the conditions of the licence, tobacco products or non-tobacco smoking products by retail either—	6
	(i) from a single licensed retail outlet, or	7
	(ii) through a single licensed online retail shop,	8
(b)	a <i>wholesale licence</i> that authorises the licence holder to sell, in accordance with this Act and the conditions of the licence, tobacco products or non-tobacco smoking products by wholesale.	9
		10
		11
		12
		13
33	Form of licences	14
	A licence must be in the approved form and include the following details—	15
(a)	the type of licence,	16
(b)	the name of the licence holder,	17
(c)	for a retail licence—the licensed retail outlet or the licensed online retail shop for the licence,	18
		19
(d)	any conditions imposed on the grant or renewal of the licence,	20
(e)	the expiry date for the licence.	21
34	Duration of licences	22
(1)	The Secretary may grant or renew a licence for—	23
(a)	a period of 12 months, or	24
(b)	a shorter period specified in the licence.	25
(2)	A licence—	26
(a)	takes effect on the day stated in the licence, and	27
(b)	remains in effect for the period for which the licence has been granted or renewed, unless sooner revoked or surrendered.	28
		29
35	Licences cannot be transferred	30
	A licence cannot be transferred from the licence holder to another person.	31
36	Licence conditions	32
(1)	The Secretary may, at any time, by written notice to a licence holder—	33
(a)	impose a condition on the licence, or	34
(b)	vary a condition imposed on the licence by the Secretary, or	35
(c)	revoke a condition imposed on the licence by the Secretary.	36
(2)	The regulations may impose standard conditions on licences.	37

Subdivision 2	Principal offences relating to sale of tobacco products or non-tobacco smoking products	1
		2
37	Selling tobacco products or non-tobacco smoking products by retail without licence	3
		4
(1)	A person must not sell tobacco products or non-tobacco smoking products by retail unless the person holds a retail licence that is in effect.	5
	Maximum penalty—	6
	(a) for a corporation—2,000 penalty units, or	7
	(b) for an individual—400 penalty units.	8
(2)	A person does not commit an offence under subsection (1) if—	9
	(a) the person is employed by or otherwise engaged to work for a licensed retailer, and	10
	(b) the sale is made in accordance with—	11
	(i) this Act and the regulations, and	12
	(ii) a retail licence held by the licensed retailer.	13
(3)	A licensed retailer must not sell tobacco products or non-tobacco smoking products by retail other than in accordance with—	14
	(a) this Act and the regulations, and	15
	(b) a retail licence held by the licensed retailer.	16
	Maximum penalty—	17
	(a) for a corporation—2,000 penalty units, or	18
	(b) for an individual—400 penalty units.	19
38	Selling tobacco products or non-tobacco smoking products by wholesale without licence	20
		21
(1)	A person must not sell tobacco products or non-tobacco smoking products by wholesale unless the person holds a wholesale licence that is in effect.	22
	Maximum penalty—	23
	(a) for a corporation—2,000 penalty units, or	24
	(b) for an individual—400 penalty units.	25
(2)	A person does not commit an offence under subsection (1) if—	26
	(a) the person is employed by or otherwise engaged to work for a licensed wholesaler, and	27
	(b) the sale is made in accordance with—	28
	(i) this Act and the regulations, and	29
	(ii) the wholesale licence held by the licensed wholesaler.	30
(3)	A licensed wholesaler must not sell tobacco products or non-tobacco smoking products by wholesale other than in accordance with—	31
	(a) this Act and the regulations, and	32
	(b) the wholesale licence held by the licensed wholesaler.	33
	Maximum penalty—	34
	(a) for a corporation—2,000 penalty units, or	35
	(b) for an individual—400 penalty units.	36

Subdivision 3	Applications for licences	1
39	Applications for licences	2
(1)	A person (the <i>applicant</i>) may apply to the Secretary for—	3
(a)	a retail licence, or	4
(b)	a wholesale licence.	5
(2)	An application may not be made by an individual who is under the age of 18 years.	6 7
(3)	The application must—	8
(a)	be in the approved form, and	9
(b)	be accompanied by the fee, if any, prescribed by the regulations for the application, and	10 11
(c)	state the type of licence being applied for, and	12
(d)	state the applicant's name and business address, and	13
(e)	for an application for a retail licence—	14
(i)	if the applicant proposes a single retail premises be specified as the licensed retail outlet for the retail licence—state the address of the retail premises, and	15 16 17
(ii)	if the applicant proposes a single website be specified as the licensed online retail shop for the retail licence—include the details of the website, and	18 19 20
(iii)	include the details of a person with the day-to-day responsibility for running the proposed licensed retail outlet or licensed online retail shop who is nominated by the applicant to be the designated person for the retail licence, and	21 22 23 24
(f)	include any other information required by the Secretary, and	25
(g)	otherwise be made in accordance with the regulations.	26
(4)	The Secretary may, at any time before deciding the application, require the applicant to give the Secretary further information in relation to the application.	27 28 29
(5)	If, before the application is decided by the Secretary, a change occurs in the information provided in or in connection with the application, the applicant must immediately notify the Secretary of the details of the change.	30 31 32
39A	Deciding applications for licences	33
(1)	The Secretary must decide the application for the licence by—	34
(a)	granting the licence, or	35
(b)	refusing to grant the licence.	36
(2)	In deciding the application, the Secretary may consider the following—	37
(a)	whether the applicant, or a relevant person for the applicant, has been found guilty of an offence relating to the sale or supply of tobacco products, non-tobacco smoking products or vaping goods under—	38 39 40
(i)	this Act or the regulations, or	41
(ii)	another Act or law, including a law of the Commonwealth or another State or Territory,	42 43
(b)	any other matters prescribed by the regulations.	44

(3)	Despite subsection (1), the Secretary may refuse to decide the application if the applicant—	1
		2
(a)	does not comply with a requirement to give information under section 39(4), or	3
		4
(b)	fails to notify the Secretary of a change in information under section 39(5).	5
		6
(4)	Without limiting the grounds on which the Secretary may refuse to grant a licence, the Secretary may refuse to grant a licence on one or more of the following grounds—	7
		8
		9
(a)	the applicant, or a relevant person for the applicant, has been found guilty of an offence relating to the sale or supply of tobacco products, non-tobacco smoking products or vaping goods under—	10
		11
		12
(i)	this Act or the regulations, or	13
(ii)	another Act or law, including a law of the Commonwealth or another State or Territory,	14
		15
(b)	any information given by the applicant for this Act or the regulations is false or misleading in a material way,	16
		17
(c)	the applicant has failed to comply with another retail or wholesale licence currently or previously held by the applicant,	18
		19
(d)	another ground prescribed by the regulations.	20
(5)	The Secretary may grant a licence with or without conditions.	21
(6)	As soon as practicable after deciding the application, the Secretary must—	22
		23
(a)	give the applicant written notice of the decision, and	23
(b)	if the decision is to grant the licence—issue the applicant with a licence.	24
		24
Subdivision 4 Applications for renewal of licences		25
39B Applications to renew licences		26
(1)	A licence holder may, before the expiry of the licence, apply to the Secretary to renew the licence.	27
		28
(2)	Despite subsection (1), the Secretary may accept an application to renew a licence made within 30 days after the expiry of the licence if the Secretary is satisfied it is reasonable to accept the application in the circumstances.	29
		30
		31
(3)	The application must—	32
		33
(a)	be in the approved form, and	33
(b)	be accompanied by the fee, if any, prescribed for the application, and	34
(c)	include details of the licence sought to be renewed, and	35
(d)	include any other information required by the Secretary, and	36
(e)	otherwise be made in accordance with the regulations.	37
(4)	The Secretary may, at any time before deciding the application, require the applicant to give the Secretary further information in relation to the application.	38
		39
		40
39C Deciding applications to renew licences		41
(1)	The Secretary must decide an application to renew a licence by—	42
		43
(a)	renewing the licence, or	43

(b)	refusing to renew the licence.	1
(2)	In deciding the application, the Secretary must consider the following—	2
(a)	whether the applicant, or a relevant person for the applicant, has been found guilty of an offence relating to the sale or supply of tobacco products, non-tobacco smoking products or vaping goods under—	3
(i)	this Act or the regulations, or	4
(ii)	another Act or law, including a law of the Commonwealth or another State or Territory,	5
(b)	any other matters prescribed by the regulations,	6
(c)	any other matters the Secretary considers relevant.	7
(3)	Despite subsection (1), the Secretary may refuse to decide the application if the applicant does not comply with a requirement to give information under section 39B(3).	8
(4)	Without limiting the grounds on which the Secretary may refuse to renew a licence, the Secretary may refuse to renew a licence on 1 or more of the following grounds—	9
(a)	the applicant, or a relevant person for the applicant, has been found guilty of an offence relating to the sale or supply of tobacco products, non-tobacco smoking products or vaping goods under—	10
(i)	this Act or the regulations, or	11
(ii)	another Act or law, including a law of the Commonwealth or another State or Territory,	12
(b)	any information given by the applicant for this Act or the regulations is false or misleading in a material way,	13
(c)	the applicant has failed to comply with another retail or wholesale licence currently or previously held by the applicant,	14
(d)	another ground prescribed by the regulations.	15
(5)	The Secretary may renew a licence with or without conditions.	16
(6)	As soon as practicable after deciding the application, the Secretary must—	17
(a)	give the applicant written notice of the decision, and	18
(b)	if the decision is to renew the licence—issue the applicant the renewed licence.	19
39D	Continuation of licences subject of renewal applications	20
(1)	This section applies if—	21
(a)	a licence holder has applied for the renewal of the licence under section 39B(1) and the Secretary has not decided the application before the expiry of the licence, or	22
(b)	the Secretary accepts an application for the renewal of a licence from a person after the expiry of the licence under section 39B(2).	23
(2)	Despite section 34(2)(b)—	24
(a)	for a licence referred to in subsection (1)(a)—the licence continues in effect from the date of the expiry of the licence until the Secretary gives the applicant written notice of the Secretary’s decision on the application for renewal under section 39C(6), or	25
(b)	for a licence referred to in subsection (1)(b)—the licence is taken to have continued in effect from the date of the expiry of the licence and	26

	continues in effect until the Secretary gives the applicant written notice of the Secretary's decision on the application for renewal under section 39C(6).	1 2 3
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39E	Definitions	5
	In this subdivision—	6
	<i>show cause notice</i> —see section 39H(1).	7
	<i>show cause period</i> —see section 39H(2).	8
39F	Revoking licences	9
	The Secretary may revoke a licence held by a licence holder in accordance with this subdivision.	10 11
39G	Grounds for revoking licences	12
	The Secretary may revoke a licence on 1 or more of the following grounds—	13
	(a) the licence holder has been found guilty of an offence against—	14
	(i) this Act or the regulations or the provisions of another Act or regulation relating to the sale or supply of tobacco products, non-tobacco smoking products or vaping goods, or	15 16 17
	(ii) a law of the Commonwealth or another State or Territory that the Secretary reasonably considers to be similar to a law mentioned in subparagraph (i),	18 19 20
	(b) any information given by the licence holder for this Act or the regulations is false or misleading in a material way,	21 22
	(c) the licence holder has failed to comply with a condition of the licence,	23
	(d) the licence holder asks the Secretary to revoke the licence,	24
	(e) another ground prescribed by the regulations.	25
39H	Show cause notice for proposed revocations	26
	(1) If the Secretary proposes to revoke a licence, the Secretary must, before deciding whether to revoke the licence, give the licence holder written notice (a <i>show cause notice</i>) setting out the following—	27 28 29
	(a) the details of the proposed revocation,	30
	(b) the grounds for the proposed revocation,	31
	(c) an outline of the facts and circumstances forming the basis for the grounds for the proposed revocation,	32 33
	(d) any other information prescribed by the regulations.	34
	(2) The show cause notice must include a statement that the licence holder may make written submissions to the Secretary in relation to the proposed revocation within a period, being not less than 14 days after the date the show cause notice is given to the licence holder, stated in the notice (the <i>show cause period</i>).	35 36 37 38 39
39I	Decision to revoke licences	40
	(1) If, after considering any written submissions made by the licence holder within the show cause period, the Secretary is satisfied a ground for revoking the licence has been established, the Secretary may decide to—	41 42 43

(a)	revoke the licence, or	1
(b)	take no further action.	2
(2)	If the Secretary decides to revoke the licence, the Secretary must give the licence holder written notice stating the following—	3
(a)	the date on which the revocation takes effect,	4
(b)	the reasons for the revocation.	5
		6
	Subdivision 6 Surrender of licences	7
39J	Licence holder may surrender licence	8
(1)	A licence holder may, by written notice to the Secretary in accordance with the regulations, surrender a licence to the Secretary.	9
		10
(2)	The surrender of the licence takes effect on—	11
(a)	the day the licence holder gives the Secretary notice under subsection (1), or	12
		13
(b)	if a later day is specified in the notice—the later day.	14
	Subdivision 7 Register of licences	15
39K	Register of licences	16
(1)	The Secretary must keep a register of licences granted or renewed under this part.	17
		18
(2)	The register must be kept in the way approved by the Secretary.	19
(3)	The Secretary may—	20
(a)	include in the register any information in relation to a licence the Secretary considers appropriate, and	21
		22
(b)	correct any error in or omission from the register, and	23
(c)	on request, give information included in the register to members of the public in another way.	24
		25
(4)	The regulations may make further provision about the register, including the following—	26
		27
(a)	information that must, or must not, be included on the register,	28
(b)	the information included in the register that must be made publicly available, including on payment of a fee,	29
		30
(c)	the circumstances in which information on the register must be made available to particular persons, including on payment of a fee.	31
		32
	Subdivision 8 Miscellaneous	33
39L	Offence of falsely claiming to be licensed	34
	A person must not falsely claim to be a licensed retailer or a licensed wholesaler.	35
		36
	Maximum penalty—400 penalty units.	37
39M	Approved forms	38
	The Secretary may approve forms for use under this part.	39

[9] Section 40 Seizure of tobacco products for contravention of retailing prohibition	1
Omit “Division 2” from section 40(1). Insert instead “this part”.	2
[10] Section 47 Obstruction or impersonation of inspectors	3
Omit section 47(1), penalty. Insert instead—	4
Maximum penalty—100 penalty units.	5
[11] Section 47(2)	6
Omit the penalty. Insert instead—	7
Maximum penalty—100 penalty units.	8
[12] Section 54 Proceedings for offences	9
Omit “1,000 penalty units” from section 54(2). Insert instead “2,000 penalty units”.	10
[13] Section 58 Regulations	11
Omit “accessories.” from section 58(1)(k). Insert instead—	12
accessories,	13
(l) eligibility requirements for retail and wholesale licences,	14
(m) the standard terms and form of retail and wholesale licences,	15
(n) the imposition, variation and revocation of standard conditions on retail or wholesale licences,	16
(o) the renewal of retail or wholesale licences,	18
(p) the payment of fees in relation to retail or wholesale licences, including the following—	19
(i) annual fees for licences,	21
(ii) fees for applications relating to licences,	22
(iii) the waiving, discounting or refunding of fees,	23
(q) the display of retail or wholesale licences, or licence information, at places where tobacco products, non-tobacco smoking products or vaping goods are sold,	24
(r) the keeping, publication, inspection and sharing of documents or information relating to retail or wholesale licences,	27
(s) the monitoring and enforcement of compliance with Part 5,	28
(t) the review of decisions under Part 5,	29
(u) any other matters relating to licences or licence holders.	30
[14] Schedule 1 Savings, transitional and other provisions	31
Insert at the end of the schedule, with appropriate part and clause numbering—	32
Part Provisions consequent on enactment of Public Health (Tobacco) Amendment Act (No 2) 2024	34
Definitions	35
In this part—	36
<i>amended</i> , in relation to a provision, means the provision as amended by the <i>Public Health (Tobacco) Amendment Act (No 2) 2024</i> .	37
	38
	39

commencement means the commencement of the *Public Health (Tobacco) Amendment Act (No 2) 2024*, Schedule 1[8]. 1
2

relevant applicant means a person who— 3

(a) has, before the commencement, applied to the Secretary for a retail licence or wholesale licence under this part, or 4
5

(b) applies to the Secretary for a retail or wholesale licence within 3 months after the commencement. 6
7

transitional period, for a relevant applicant, means the period— 8

(a) starting on the day on which the relevant applicant makes, or is taken to have made, the application for a retail licence or wholesale licence under amended Part 5, Division 2, Subdivision 3, and 9
10
11

(b) ending on the earlier of the following days— 12

(i) if the Secretary refuses to decide the application under section 39A(3)—the day on which the Secretary gives the relevant applicant written notice of the refusal, 13
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(ii) if the relevant applicant withdraws the application—the day on which the relevant applicant gives the Secretary written notice of the withdrawal, 16
17
18

(iii) the day on which the Secretary gives the relevant applicant written notice of the Secretary’s decision on the application under section 39A(6). 19
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21

Applications for retail or wholesale licences may be made before commencement 22
23

(1) A person may apply to the Secretary for a retail licence or wholesale licence under amended Part 5, Division 2, Subdivision 3 before the commencement as if the provisions of amended Part 5 had commenced. 24
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26

(2) An application by a person under subclause (1) is taken to have been made on the commencement. 27
28

Application of amended Part 5 to applicants for retail and wholesale licences 29

(1) During the transitional period for a relevant applicant, amended Part 5 applies in relation to the relevant applicant and persons employed by or otherwise engaged to work for the relevant applicant as follows— 30
31
32

(a) if the relevant applicant has applied for a retail licence— 33

(i) as if the relevant applicant holds a retail licence that— 34

(A) is in force, and 35

(B) is not subject to any conditions, and 36

(ii) if the relevant applicant’s application proposes a single retail premises be specified as the licensed retail outlet for the retail licence—the premises specified in the application is the licensed retail outlet for the licence, and 37
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39
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(iii) if the relevant applicant’s application proposes a single website be specified as the licensed online retail shop for the retail licence—as if the website specified in the application were the online retail shop for the licence, 41
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43
44

(b) if the relevant applicant has applied for a wholesale licence—as if the relevant applicant holds a wholesale licence that— 45
46

(i) is in force, and 47

(ii) is not subject to any conditions. 48

Schedule 2	Amendment of Public Health (Tobacco)	1
	Regulation 2022	2
[1]	Section 11, heading	3
	Omit “the Act, s 16”. Insert instead “the Act, s 16E”.	4
[2]	Section 11(1)	5
	Omit “the Act, section 16(3)(e)”. Insert instead “the Act, section 16E(2)”.	6