

# Public Health (Tobacco) Regulation 2022

[2022-469]



New South Wales

## Status Information

### Currency of version

Current version for 3 November 2025 to date (accessed 8 December 2025 at 7:15)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **See also**  
[Public Health \(Tobacco\) Amendment \(Illicit Tobacco\) Bill 2025](#) [Non-government Bill— Ms K A Sloane, MP]
- **Staged repeal status**  
This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2027

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Public Health (Tobacco) Regulation 2022



New South Wales

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# Public Health (Tobacco) Regulation 2022



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Public Health (Tobacco) Regulation 2022*.

### 2 Commencement

This Regulation commences on 1 September 2022.

#### Note—

This Regulation replaces the *Public Health (Tobacco) Regulation 2016*, which is repealed on 1 September 2022 by the *Subordinate Legislation Act 1989*, section 10(2).

### 3 Definitions

In this Regulation—

**authorised product** has the same meaning as in the Act, section 22.

**relevant person**, for Part 2A—see section 14A.

**the Act** means the *Public Health (Tobacco) Act 2008*.

#### Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

### 4, 5 (Repealed)

## Part 2 Packing, advertisement and sale of tobacco and other smoking products

### 6 Prescribed quantities of tobacco products—the Act, s 6

For the Act, section 6(2), the following amounts of tobacco products are prescribed—

- (a) for a tobacco product that is not in the package in which it was packed by the manufacturer—100g,

- (b) for illicit tobacco—
  - (i) cigarettes—50 cigarettes, or
  - (ii) otherwise—50g.

## **7 (Repealed)**

## **8 Display of tobacco products, non-tobacco smoking products and smoking accessories—the Act, s 9**

For the Act, section 9(2)(c), the display of authorised products on premises on which tobacco products or non-tobacco smoking products are sold is exempt from the Act, section 9.

## **9 Wholesalers excluded from requirement for single point of sale—the Act, s 58(2)**

For the Act, section 10, premises on which tobacco products, non-tobacco smoking products or smoking accessories are sold only by wholesale are not premises.

## **10 Advertisements in registered clubs prohibited—the Act, s 16**

- (1) For the Act, section 16(1), the premises of a registered club are prescribed to the extent the premises are not a public place.

- (2) In this section—

**registered club** has the same meaning as in the [Registered Clubs Act 1976](#).

## **11 Display of retail prices of tobacco products—the Act, s 16E**

- (1) For the Act, section 16E(2), the retail prices of tobacco products may be displayed in a shop or other retail outlet from which tobacco products are sold, but only if all the prices are displayed on only 1 of the following—

- (a) price tickets that comply with subsection (2),
- (b) a single board that complies with subsection (3).

- (2) A price ticket must—

- (a) only display the following information—
  - (i) the name of a product line, displayed once,
  - (ii) the price of a product line, displayed once,
  - (iii) a barcode or other identifying codes,
  - (iv) a symbol indicating the country of origin, and

- (b) use only 2 colours, being 1 colour for the ticket and 1 colour for information

permitted under paragraph (a), and

- (c) not be coloured in fluorescent colours or in a more distinctive manner than price tickets used for other merchandise in the retail outlet, and
- (d) not be more than 35cm<sup>2</sup> in area, and
- (e) not contain text that is more than—
  - (i) 2cm in height, or
  - (ii) 1.5cm in width, and
- (f) use only 1 font, and
- (g) be attached to a sales unit, and
- (h) not have other articles or things attached to it, and
- (i) not be arranged with other price tickets to create an image or visual effect that would be incomplete if a ticket were removed, and
- (j) not be highlighted by lighting.

(3) The board must—

- (a) only be used to display the following information—
  - (i) the name of a product line, displayed once,
  - (ii) the price of a product line, displayed once, and
- (b) not contain moving images or text, and
- (c) not be more than 2,000cm<sup>2</sup> in area, and
- (d) have only 1 of the following—
  - (i) a black background with white text,
  - (ii) a white background with black text, and
- (e) not contain text that is more than—
  - (i) 2cm in height, or
  - (ii) 1.5cm in width, and
- (f) use only 1 font, and
- (g) be placed directly next to a sales unit, and

(h) not have other articles or things attached to it, and

(i) not be highlighted by lighting.

(4) In this section—

**product line** means a kind of tobacco product that differs from other kinds by 1 or more of the following characteristics—

(a) its trademark,

(b) its brand name,

(c) its nicotine content,

(d) its tar content,

(e) its flavour,

(f) the quantity of the kind of tobacco product in the retail package in which it is sold.

**sales unit** means a receptacle, an area of shelving or another thing from which tobacco products are dispensed when sold by retail, but does not include a tobacco vending machine.

## **12 Smokeless tobacco, confectionery and toys—the Act, s 21**

For the Act, section 21(1A), the prescribed amount is 35 grams.

## **13 Certain advertising prohibited on package containing tobacco products—the Act, s 58(1)(a) and (h)**

(1) A person must not pack a tobacco product in a package that—

(a) contains a statement alluding to sporting, sexual or business success, or

(b) depicts, wholly or in part, people, or

(c) depicts, wholly or in part, cartoon characters, or

(d) depicts scenes or activities, or contains words, representations or illustrations, that have appeal to children or young persons, or

(e) displays a hologram.

Maximum penalty—20 penalty units.

(2) Subsection (1)(b) does not apply to a package containing cigars if the cigars were packed in the package before 31 August 1999.

## **14 Packing certain tobacco products without health warning prohibited—the Act, s**

**58(1)(a) and (h)**

- (1) A person must not pack a tobacco product in a package that contains a tobacco advertisement on the package's external or internal surfaces unless the advertisement also displays a health warning that—
  - (a) occupies at least one quarter of the area used for the text and space of the advertisement, and
  - (b) has a white background, and
  - (c) contains text in black characters in the form set out in Schedule 1, Form 1 in approximately the same proportions of character size and empty space as the form.

Maximum penalty—20 penalty units.

- (2) Subsection (1) does not apply to an advertisement printed only on tobacco products in the package.

## **Part 2A Licences for selling tobacco and other smoking products**

### **14A Definition of “relevant person”—the Act, s 31**

For the Act, section 31, definition of **relevant person**, paragraph (b), the following positions are prescribed—

- (a) if the applicant is an incorporated association—committee member,
- (b) if the applicant is a partner in a partnership and partnership property includes the business through which the applicant will sell tobacco products or non-tobacco smoking products under the licence—partner,
- (c) if the applicant is a registered club—secretary,
- (d) if the applicant is a trustee of a trust and the trust holds as property the business through which the applicant will sell tobacco products or non-tobacco smoking products under the licence—trustee.

### **14AA Additional grounds for refusing to grant or renew licences—the Act, ss 39A(4)(e) and 39C(4)(e)**

- (1) This section prescribes grounds on which the Secretary may—
  - (a) refuse to grant a licence under the Act, section 39A(1)(b),
  - (b) refuse to renew a licence under the Act, section 39C(1)(b).
- (2) The Secretary may refuse to grant or renew the licence if—



- (a) the Secretary requires the applicant to give the Secretary further information in relation to the relevant application under the Act, section 39(4) or 39B(4), and
  - (b) the applicant fails to give the Secretary the further information within 14 days after the Secretary requests the further information.
- (3) For subsection (2), the Secretary may extend the period of 14 days if the Secretary is satisfied the applicant requires more time to comply.

**14B Licence application fees—the Act, ss 39(3)(b) and 58(1)(p)(iii)**

- (1) For the Act, section 39(3)(b), the prescribed fee is \$1,100.
- (1A) If an applicant withdraws an application for a licence or surrenders a licence, the Secretary may refund the part of the fee for the licence the Secretary considers appropriate.
- (1B) The Secretary may waive the fee for a licence application (the **later application**) if an applicant has been requested to withdraw an earlier licence application and the fee for the earlier application has not been refunded at the time the later application is submitted.
- (2) If, under the Act section 39A, the Secretary refuses to grant a licence, the applicant may apply to the Secretary for a refund of not more than \$770.
- (3) An application under subsection (2) must be made in the way determined by the Secretary.
- (4) The Secretary may, at the Secretary's discretion—
- (a) grant the refund applied for in full or in part, or
  - (b) refuse a refund.

**14C Licence renewal fees—the Act, s 39B(3)(b) and 58(1)(p)(iii)**

- (1) For the Act, sections 39B(3)(b), the prescribed fee is—
- (a) for an application made before the licence expires—\$1,100, or
  - (b) for an application made within 30 days after the licence expires—\$1,280.
- (1A) If an applicant withdraws an application for renewal of a licence, the Secretary may refund the part of the fee for the renewal the Secretary considers appropriate.
- (2) If, under the Act section 39C, the Secretary refuses to renew a licence, the applicant may apply to the Secretary for a refund of not more than \$770.
- (3) An application for a refund must be made in the way determined by the Secretary.

- (4) The Secretary may, at the Secretary's discretion—
  - (a) grant a refund applied for under subsection (2) in full or in part, or
  - (b) refuse a refund.

**14D Applicants must consent to criminal record checks—the Act, ss 39, 39B and 58**

- (1) For the Act, sections 39(3)(g), 39B(3)(e) and 58(1)(l) and (o), an applicant for the grant or renewal of a licence and any relevant persons for the applicant must consent to the conduct of a nationwide criminal record check to enable the Secretary to consider the matters specified in the Act, sections 39A(2)(a) and 39C(2)(a).
- (2) The Secretary may—
  - (a) require an application for the grant or renewal of a licence to be accompanied by a nationwide criminal record check conducted within 3 months of the day the application is made, or
  - (b) recover the reasonable costs of conducting or obtaining a nationwide criminal record check from the applicant.

**14E Sharing of documents and information by and with law enforcement and other agencies—the Act, s 58(1)(r)**

- (1) A law enforcement agency may, under the Act, sections 39A(4)(d) and 39C(4)(d), share with the Secretary relevant documents or information relating to an applicant for the grant or renewal of a licence or a relevant person for the applicant that the agency considers the Secretary should have regard to in deciding the application.
- (2) A law enforcement agency may, under the Act, section 39G(a) and (e), share with the Secretary relevant documents or information relating to a licence holder that the agency considers the Secretary should have regard to in connection with the operation of the licensing scheme, including in considering whether to revoke the holder's licence.
- (3) A government sector agency involved in the administration and management of the licensing scheme may share relevant documents and information with—
  - (a) another government sector agency for those purposes, including to assist the Secretary in deciding applications and keeping a register of licences, and
  - (b) an agency of the Commonwealth or another State or Territory in connection with the administration and management of a similar scheme relating to the sale or supply of tobacco products, non-tobacco smoking products or vaping goods.
- (4) In this section—

***licensing scheme*** means the licensing scheme established by the Act, Part 5,

Division 2.

**14F Notification of offences—the Act, s 36(2)**

- (1) It is a standard condition of retail licences and wholesale licences that the licence holder must notify the Secretary of a relevant offence within 14 days after a relevant person is found guilty or convicted of the offence.

- (2) In this section—

**relevant offence** means an offence—

- (a) related to tobacco products, non-tobacco smoking products or vaping goods, and
- (b) committed in the State or elsewhere.

**14G Display of licences on premises—the Act, s 58(1)(q)**

- (1) The holder of a retail licence must ensure a copy of the licence is conspicuously displayed at the point of sale of tobacco products or non-tobacco smoking products on the retail premises to which the licence relates.

Maximum penalty—25 penalty units.

- (2) The holder of a wholesale licence must ensure a copy of the licence is conspicuously displayed on premises on which tobacco products or non-tobacco smoking products are sold by wholesale or kept by the wholesaler.

Maximum penalty—25 penalty units.

- (3) The copy of a licence displayed in accordance with this section must—

- (a) be printed on a standard A4 sheet of paper, and
- (b) have a white background, and
- (c) contain text in black characters, and
- (d) be an exact copy that is neither shrunk or enlarged and have no other marks or additions, not including a clear and colourless laminated covering.

**Example—**

stickers and decorative frames are prohibited

**14H Sale of products by licensed wholesalers—the Act, ss 36 and 58**

- (1) For the Act, section 58(1)(u), a licensed wholesaler must not sell tobacco products or non-tobacco smoking products by wholesale to persons who are not licensed retailers or licensed wholesalers.
- (2) A licensed wholesaler is taken to have complied with subsection (1) if, at the time of

the sale, the licensed wholesaler verified that the person held a licence using the register of licences kept under the Act, section 39K.

- (3) For the Act, section 36(2), it is a standard condition of a retail licence that the licence, or evidence of the licence, is shown to a licensed wholesaler when obtaining a tobacco product or non-tobacco smoking product from the wholesaler.
- (4) It is a standard condition of a wholesale licence that the licensed wholesaler show the licence, or evidence of the licence, to a licence holder when—
  - (a) selling a tobacco product or non-tobacco smoking product by wholesale to the licence holder, or
  - (b) obtaining a tobacco product or non-tobacco smoking product from the licence holder.
- (5) For the Act, sections 36(2) and 58(1)(r), it is a standard condition of a wholesale licence that, as soon as practicable after a sale of tobacco products or non-tobacco smoking products by wholesale, the licensed wholesaler must give the other licence holder an invoice that includes the wholesaler's licence number.

#### **14I Register of licences—the Act, s 39K**

For the Act, section 39K(4)(c), the Secretary must make information on the register available to a licence holder to enable the licence holder to verify whether the licence holder is selling a tobacco product or non-tobacco smoking product to, or obtaining the product from, another licence holder.

#### **14J Keeping and production of wholesale invoices—the Act, ss 36 and 58**

- (1) For the Act, sections 36(2) and 58(1)(r), it is a standard condition of a licence that the licence holder keep a copy of invoices given, or invoices received, in accordance with section 14H(5) for at least 2 years after the date of the relevant sale.
- (2) The licence holder must produce the invoices for inspection if requested by the Secretary or an inspector.

#### **14K Additional grounds for revoking licences—the Act, s 39G**

For the Act, section 39G(f), the Secretary may revoke a retail licence for a licensed retail outlet if, after making reasonable inquiries, the Secretary is satisfied—

- (a) the licensed retailer is no longer conducting business at the retail premises specified in the licence, or
- (b) illicit tobacco or illicit vaping goods have been sold on the retail premises specified in the licence.

**Note—**

See the Act, section 4, definition of “sell”.

## **Part 3 Health warnings and other notices**

### **15 Health warning at point of sale—the Act, s 58(1)(c)**

- (1) The occupier of a shop or other retail outlet from which tobacco products are sold must ensure that a single health warning is displayed in accordance with this section.

Maximum penalty—25 penalty units.

- (2) The health warning must—

- (a) be at least 50cm but not more than 100cm wide, and
- (b) be at least 2,000cm<sup>2</sup> but not more than 3,200cm<sup>2</sup> in area, and
- (c) have a white background, and
- (d) contain text in black characters in the form set out in Schedule 1, Form 1 in approximately the same proportions of character size and empty space as the form.

- (3) The health warning must be conspicuously displayed at the point of sale of tobacco products in the shop or other retail outlet.

### **16 Notice about sales to minors at point of sale—the Act, s 58(1)(c)**

- (1) The occupier of a shop or other retail outlet from which tobacco products are sold must ensure that a notice about sales to minors is displayed in accordance with this section.

Maximum penalty—25 penalty units.

- (2) The notice must—

- (a) be at least 15cm high and at least 21cm wide, and
- (b) have a white background, and
- (c) contain text in black characters in the form set out in Schedule 1, Form 2 in approximately the same proportions of character size and empty space as the form.

- (3) The notice must be conspicuously displayed at the point of sale of tobacco products in the shop or other retail outlet.

### **17 Statements to be displayed on tobacco vending machines—the Act, s 14**

For the Act, section 14(1), a statement including the following is prescribed—

- (a) a health warning that—
  - (i) is at least 1,000cm<sup>2</sup> in area, and
  - (ii) has a white background, and
  - (iii) contains text in black characters in the form set out in Schedule 1, Form 1 in approximately the same proportions of character size and empty space as the form,
- (b) a notice about sales to minors that—
  - (i) is at least 15cm high and at least 21cm wide, and
  - (ii) has a white background, and
  - (iii) contains text in black characters in the form set out in Schedule 1, Form 2 in approximately the same proportions of character size and empty space as the form.

**18 Statement about point of sale of tobacco on retail premises—the Act, s 58(1)(c)**

- (1) A single statement may be displayed in accordance with this section at a shop or other retail outlet from which tobacco products, non-tobacco smoking products or smoking accessories are sold if—
  - (a) products other than tobacco products, non-tobacco smoking products or smoking accessories are also sold by retail from the shop or other retail outlet, and
  - (b) the shop or other retail outlet has more than 1 cash register.
- (2) The statement must comprise only the following text displayed on a sign—

Tobacco sold at this cash register only.
- (3) The sign must—
  - (a) not be more than A4 size, being 21cm by 30cm, and
  - (b) have a white background with black text that is not more than 60 point type.

**Part 3A Seizure and disposal**

**18A Matters to be included in certificate—the Act, ss 50P and 50T**

For the Act, sections 50P(1)(c) and 50T(4)(c), the following matters are prescribed—

- (a) the name and job title of the person who completed the certificate,
- (b) the date of inspection of the seized product,

(c) a statement—

- (i) that the person is authorised to issue the certificate, and
- (ii) that the person has inspected the seized product, and
- (iii) that the person is satisfied that the identity and quantity of the seized product specified in the certificate are correct, and
- (iv) indicating whether a sample of the seized product is kept, and
- (v) if a sample of the seized product is kept—that the sample is representative of the product.

**18B Persons who may issue certificates—the Act, ss 50P and 50T**

For the Act, sections 50P(3)(b) and 50T(6), the following, if authorised by the Secretary to issue certificates, are prescribed—

- (a) persons employed in the Ministry of Health,
- (b) members of the NSW Health Service within the meaning of the [Health Services Act 1997](#),
- (c) persons contracted by the Ministry of Health or a public health organisation within the meaning of the [Health Services Act 1997](#).

**18C Requirements for disposal of illicit goods—the Act, ss 50Q and 50T**

For the Act, sections 50Q(3)(b) and 50T(3)(b), the following requirements apply—

- (a) reasonable steps must be taken to—
  - (i) notify the apparent owner of the illicit goods, or the person from whom the goods were seized, of the proposed disposal, and
  - (ii) give the apparent owner of the illicit goods, or the person from whom the goods were seized, a chance to make submissions, and
  - (iii) give the apparent owner of the illicit goods, or the person from whom the goods were seized, a copy of the certificate obtained under the Act, section 50P(1),
- (b) if notice is given under paragraph (a)(i)—any submission made within 28 days after notice is given must be considered before disposing of the illicit goods,
- (c) photographs of the illicit goods must be retained as evidence.

## Part 4 Miscellaneous

### 19 Review of decisions under the Act, Part 5—the Act, s 58(1)(t)

- (1) This section applies to the following decisions—
  - (a) a decision under the Act, section 39A(1)(b) to refuse to grant a licence,
  - (b) a decision under the Act, section 39C(1)(b) to refuse to renew a licence,
  - (c) a decision under the Act, section 39I(1)(a) to revoke a licence.
- (2) The following persons may apply for a review of a decision—
  - (a) for a decision to refuse to grant a licence—the applicant for the licence,
  - (b) for a decision to refuse to renew a licence—the applicant for the renewal,
  - (c) for a decision to revoke a licence—the person who held the licence immediately before it was revoked.
- (3) An application must be—
  - (a) made to the Secretary, and
  - (b) made within 28 days after the day on which the applicant is given notice of the decision, and
  - (c) made in the form specified by the Secretary, and
  - (d) accompanied by the submissions, information or documents the applicant wishes to be considered in the review.
- (4) The Secretary must refer the application to a person (the **internal reviewer**) who, as far as reasonably practicable—
  - (a) was not substantially involved in making the decision under review, and
  - (b) is, in the Secretary's opinion, suitably qualified to conduct the review.
- (5) In conducting the review, the internal reviewer—
  - (a) must consider the submissions, information or documents accompanying the application, and
  - (b) may consider other information the internal reviewer considers relevant.
- (6) After conducting the review, the internal reviewer may—
  - (a) affirm the decision, or
  - (b) set aside the decision and substitute the decision with a decision to—



- (i) if the decision reviewed was a decision to refuse to grant a licence—grant the licence, or
  - (ii) if the decision reviewed was a decision to refuse to renew a licence—renew the licence, or
  - (iii) if the decision reviewed was a decision to revoke a licence—not revoke the licence.
- (7) In making a decision under subsection (6)(b), the internal reviewer may impose conditions on the licence.
- (8) The internal reviewer must, as soon as reasonably practicable after conducting the review, notify the applicant of the decision under subsection (6).
- (9) The decision of the internal reviewer is final and not subject to further review.

## 20 Savings

An act, matter or thing that, immediately before the repeal of the *Public Health (Tobacco) Regulation 2016*, had effect under that Regulation continues to have effect under this Regulation.

## Schedule 1 Form of warning and notices

sections 14–17

### Form 1 Health warning

Smoking kills  
Call the Quitline  
137 848 or 13 QUIT

### Form 2 Notice about sales to minors

NOTICE

*Public Health (Tobacco) Act 2008*

SELLING TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE IS A CRIMINAL OFFENCE

MAXIMUM PENALTY \$220,000

Report offences to the Ministry of Health on 1800 357 412 or to your nearest police station.

Ministry of Health

## Schedule 2 Penalty notice offences

### 1 Application of Schedule

- (1) For the Act, section 50—

- (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
- (b) the amount payable for the penalty notice is the amount specified opposite the provision.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
- (a) the limited kind of offence, or
- (b) an offence committed in the limited circumstances.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty—individuals</b>	<b>Penalty—corporations</b>
<b>Offences under the Act</b>		
Section 9(1)	\$1,100	\$5,500
Section 10(1)	\$1,100	\$5,500
Section 14(1)	\$1,100	\$5,500
Section 16E(1)	\$1,100	\$5,500
Section 30(1)	\$250	—
Section 30(2)	\$250	—
Section 37(1)	\$5,500	\$22,000
Section 37(3)	\$5,500	\$22,000
Section 38(1)	\$5,500	\$22,000
Section 38(3)	\$5,500	\$22,000
Section 46(1)	\$1,100	\$5,500
Section 50G(4)	\$1,100	—
<b>Offences under this Regulation</b>		
Section 14G(1)	\$275	\$275
Section 14G(2)	\$275	\$275
Section 15(1)	\$250	\$1,250
Section 16(1)	\$250	\$1,250