

Serial 56
Tobacco Control Legislation Amendment Bill 2018
Ms Fyles

A Bill for an Act to amend the *Tobacco Control Act* and *Tobacco Control Regulations*

NORTHERN TERRITORY OF AUSTRALIA

TOBACCO CONTROL LEGISLATION AMENDMENT ACT 2018

Act No. [] of 2018

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2018

An Act to amend the *Tobacco Control Act* and *Tobacco Control Regulations*

[Assented to [] 2018]
[Introduced [] 2018]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Tobacco Control Legislation Amendment Act 2018*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Tobacco Control Act

3 Act amended

This Part amends the *Tobacco Control Act*.

4 Section 4A inserted

After section 4

insert

4A Application to e-cigarettes

- (1) This Act applies in relation to the following as if they were tobacco products:
 - (a) e-cigarettes;
 - (b) e-cigarette accessories;
 - (c) any other device or accessory prescribed by the Regulations.
- (2) A reference in this Act that relates to smoke or smoking of tobacco products is to be read as including:
 - (a) a reference to vaping or other use of e-cigarettes; and
 - (b) a reference to the use of any other device or accessory prescribed by the Regulations.

5 Section 5 amended (Definitions)

- (1) Section 5

insert (in alphabetical order)

e-cigarette means:

- (a) a device, other than a device excluded by the Regulations, that is designed for vaping; or
- (b) another device of a kind prescribed by the Regulations that is designed to be used in a way that replicates, or produces an experience similar to, the use of a tobacco product.

e-cigarette accessory means:

- (a) a cartridge, capsule or other container designed to contain a liquid, aerosol, gas or vapour for use in an e-cigarette; or
- (b) a cartridge, capsule or other container designed to contain tobacco or a similar product for use in an e-cigarette; or
- (c) a heating element designed for use in an e-cigarette; or

- (d) another component of an e-cigarette of a kind prescribed by the Regulations.

entry and boundary area of a place means:

- (a) an area within 10 m of the gate or similar entry point to the place; and
- (b) if there is a boundary to the place, or a boundary is indicated by signs (including no smoking signs), an area within 10 metres of the boundary.

vaping, in relation to an e-cigarette, means using the e-cigarette to generate or release an aerosol or vapour by electronic means for inhalation by the user in a manner that replicates, or produces an experience similar to, smoking.

- (2) Section 5, at the end

insert

Note for section 5

The Interpretation Act contains definitions and other provisions that may be relevant to this Act.

6 Section 7 amended (Smoke-free area)

- (1) Section 7(1)(h), after "facility"

insert

and the entry and boundary area of the facility

- (2) Section 7(1)(l)

omit

area.

insert

area;

- (3) After section 7(1)(l)

insert

- (m) the entry and boundary area of a community event or community facility prescribed by the Regulations.

7 Section 26 amended (Vending machine restrictions)

(1) Section 26(2)(c)

omit, insert

(c) the area is not a children free area.

(2) Section 26(3)

omit

(3) Section 26(4)

omit

, (2) or (3)

insert

or (2)

(4) Section 26(5), definition ***supervised children area***

omit

8 Part 5 heading amended (Sale or supply to children)

Part 5 heading, after "**Sale**"

insert

by children and sale

9 Section 42 amended (Sale to children prohibited)

(1) Sections 42(4) and (5)

omit

(2) Section 42(6)

omit

(4)(b) or (c) or (5)(a) or (b),

10 Section 42A inserted

After section 42

insert

42A Sale of tobacco product by child employee

(1) This section applies if a child employee of a licensed tobacco retailer sells a tobacco product.

(2) The licensed tobacco retailer commits an offence.

Maximum penalty: If the purchaser was, at the time of sale, an adult – 100 penalty units.

If the purchaser was, at the time of sale, a child – 200 penalty units.

(3) If, at the time of the sale, the child employee was being supervised by an adult employee of the licensed tobacco retailer – the adult employee also commits an offence.

Maximum penalty: If the purchaser was, at the time of sale, an adult – 100 penalty units.

If the purchaser was, at the time of sale, a child – 200 penalty units.

Part 3 Amendment of Tobacco Control Regulations**11 Regulations amended**

This Part amends the *Tobacco Control Regulations*.

12 Regulation 5A inserted

After regulation 5, in Part 1

insert

5A Prescribed community events and community facilities

For section 7(1)(m) of the Act, Schedule 1 prescribes the community events and community facilities.

13 Regulation 6 amended (Form of signs)

(1) Regulation 6

omit

For the purposes of section 8(1) of the Act,

insert

(1) For section 8(1) of the Act, in relation to the smoke-free areas mentioned in section 7(1)(a) to (l) of the Act,

(2) Regulation 6, at the end

insert

(2) For section 8(1) of the Act, in relation to the smoke-free areas mentioned in section 7(1)(m) of the Act, the sign indicating that the area is a smoke-free area is to comply with the following requirements:

(a) the requirements mentioned in subregulation (1); and

(b) the sign is to contain the phrase "within 10 metres of the entry and boundary" written immediately under the phrase "NO SMOKING" marked in a sans serif font in black capital and lower case letters at least 7.5 millimetres and 6 millimetres high respectively.

14 Regulation 27 (When infringement notice may be served)

Regulation 27

omit

the Schedule, he or she

insert

Schedule 2, the authorised officer

15 Regulation 28 amended (Prescribed amount)

Regulation 28

omit

the Schedule

insert

Schedule 2

16 Schedule 1 inserted

After regulation 36

insert

Schedule 1 Prescribed community events and community facilities

regulation 5A

BMX and motorbike racing facilities

Car racing facilities

Community festivals

Community markets

Horse racing facilities

Playground equipment

Public swimming pools

Show grounds

Skate parks

Sports fields

17 Schedule amended (Infringement notices prescribed offences and amounts)

(1) Schedule, heading

omit

Schedule

insert

Schedule 2

(2) Schedule

omit

Section 26(3) Vending machine restrictions	0.8 penalty unit
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Part 4 Repeal of Act

18 Repeal of Act

This Act is repealed on the day after it commences.