



Queensland

Tobacco and Other Smoking Products (Smoke-free Places) Amendment Bill 2015



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2015

A Bill

for

An Act to amend the *Tobacco and Other Smoking Products Act 1998* for particular purposes

[s 1]

	The Parliament of Queensland enacts—	1
Clause 1	Short title	2
	This Act may be cited as the <i>Tobacco and Other Smoking Products (Smoke-free Places) Amendment Act 2015</i> .	3 4
Clause 2	Commencement	5
	This Act commences on a day to be fixed by proclamation.	6
Clause 3	Act amended	7
	This Act amends the <i>Tobacco and Other Smoking Products Act 1998</i> .	8 9
Clause 4	Replacement of pt 2, div 1A, hdg (Point of sale at a retail outlet)	10 11
	Part 2, division 1A, heading—	12
	<i>omit, insert—</i>	13
	Division 1A	14
	Particular restrictions on sales by suppliers	15
Clause 5	Insertion of new s 13C	16
	Part 2, division 1A—	17
	<i>insert—</i>	18
	13C Supplier must not sell smoking products from temporary retail store	19 20
	(1) A supplier must not sell smoking products from a temporary retail store.	21 22
	Maximum penalty—140 penalty units.	23
	(2) In this section—	24

	<i>temporary retail store</i> means—	1
	(a) a temporary structure, regardless of whether any part of the structure is permanent; or	2 3
	<i>Examples of temporary structures—</i>	4
	a booth, tent, market stall or stand	5
	(b) a vehicle or mobile structure, including a trailer, caravan or other similar thing designed or modified to be easily attached to a vehicle for transportation.	6 7 8 9
Clause 6	Amendment of s 26Q (Definitions for pt 2B)	10
	Section 26Q, definition <i>licensed premises</i> , paragraph (b), ‘, section 97’—	11 12
	<i>omit.</i>	13
Clause 7	Amendment of s 26R (Person must not smoke in enclosed place)	14 15
	(1) Section 26R(4), definition <i>multi-unit residential accommodation</i> , ‘hotel accommodation, motels, hostels, boarding houses, nursing homes’—	16 17 18
	<i>omit, insert—</i>	19
	hotels, motels, hostels, boarding houses	20
	(2) Section 26R(4), definition <i>residential premises</i> —	21
	<i>omit, insert—</i>	22
	<i>residential premises</i> does not include multi-unit residential accommodation.	23 24
Clause 8	Amendment of s 26S (No smoking sign)	25
	(1) Section 26S(1), ‘licensed premises.’—	26
	<i>omit, insert—</i>	27
	any of the following premises—	28

[s 9]

- (a) premises to which a commercial hotel licence or community club licence under the *Liquor Act 1992* applies; 1
2
3
- (b) premises, to which a commercial special facility licence under the *Liquor Act 1992* applies, that contain all or part of a casino. 4
5
6
- (2) Section 26S(2), ‘licensed’— 7
omit. 8

Clause 9 **Insertion of new pt 2BB** 9
After section 26VE— 10
insert— 11

Part 2BB **Smoke-free facilities** 12

Division 1 **Application of part** 13

26VF Application of part 14

This part does not apply to an enclosed place, 15
other than an enclosed place that is a vehicle or 16
part of a vehicle. 17

Division 2 **Major sports facilities** 18

26VG Meaning of *major sports facility* 19

A major sports facility is a facility declared to be 20
a major sports facility under the *Major Sports* 21
Facilities Act 2001. 22

26VH Person must not smoke at major sports facility 23
24

- (1) A person must not smoke at a major sports 25
facility. 26
Maximum penalty—20 penalty units. 27

-
- (2) Subsection (1) does not apply to the following areas of a major sports facility—
- (a) a road or carpark;
 - (b) a picnic area or area of parkland.

26VI Person smoking must stop when directed

A person contravening section 26VH(1) must comply with a direction to stop the contravention by—

- (a) an authorised person; or
- (b) an occupier of the major sports facility, or the part of the facility, where the contravention is happening, or an employee or agent of the occupier.

Maximum penalty—20 penalty units.

26VJ Offence by occupier

- (1) If a person contravenes section 26VH(1), the occupier of the major sports facility, or of the part of the facility, where the contravention happened, commits an offence.

Maximum penalty—140 penalty units.

- (2) However, it is a defence for the occupier to prove—
- (a) the occupier was not aware, and could not have reasonably been expected to be aware, that the contravention was happening; or
 - (b) the occupier, or an employee or agent of the occupier—
 - (i) directed the person to stop smoking; and

[s 9]

- (ii) told the person it was an offence not to 1
comply with a direction to stop 2
smoking. 3

Division 3 Major event facilities 4

26VK Definitions for division 5

In this division— 6

major event facility means the major event area 7
prescribed by regulation for a major event under 8
the *Major Events Act 2014*, for the period the 9
area is a major event area under that Act. 10

major event organiser has the meaning given in 11
the *Major Events Act 2014*. 12

26VL Person must not smoke at major event 13 facility 14

- (1) A person must not smoke at a major event 15
facility. 16

Maximum penalty—20 penalty units. 17

- (2) Subsection (1) does not apply if the person— 18

- (a) is in a nominated outdoor smoking place; 19
and 20

- (b) is not consuming food or drink. 21

- (3) In this section— 22

nominated outdoor smoking place means a 23
clearly designated part, or parts, of an outdoor 24
area of a major event facility— 25

- (a) where smoking is not otherwise prohibited 26
under this Act; and 27

- (b) established by the major event organiser as 28
an area where— 29

- (i) smoking is permitted; and 30

(ii) food or drink is not to be consumed.	1
<i>Example for paragraph (a)—</i>	2
Smoking is prohibited within 10m of children's playground equipment.	3 4
26VM Person smoking must stop when directed	5
A person contravening section 26VL(1) must comply with a direction to stop the contravention by—	6 7 8
(a) an authorised person; or	9
(b) the major event organiser for the major event facility, or the part of the facility, where the contravention is happening, or an employee or agent of the major event organiser.	10 11 12 13 14
Maximum penalty—20 penalty units.	15
26VN Offence by major event organiser	16
(1) If a person contravenes section 26VL(1), the major event organiser of the major event facility, or the part of the facility, where the contravention happened, commits an offence.	17 18 19 20
Maximum penalty—140 penalty units.	21
(2) However, it is a defence for the major event organiser to prove—	22 23
(a) the major event organiser was not aware, and could not have reasonably been expected to be aware, that the contravention was happening; or	24 25 26 27
(b) the major event organiser, or an employee or agent of the major event organiser—	28 29
(i) directed the person to stop smoking; and	30 31

[s 9]

- (ii) told the person it was an offence not to
comply with a direction to stop
smoking. 1
2
3

Division 4 Health facilities 4

**26VO Person must not smoke at or near health
facility** 5
6

- (1) A person must not smoke at a health facility. 7
Maximum penalty—20 penalty units. 8
- (2) A person must not smoke on land within 5m 9
beyond the boundary of a health facility (the 10
buffer zone). 11
Maximum penalty—20 penalty units. 12
- (3) Subsection (2) does not apply to a person— 13
- (a) in the buffer zone at residential premises or 14
on land on which residential premises may 15
lawfully be built; or 16
- (b) in the buffer zone at business premises; or 17
- (c) travelling through the buffer zone in a motor 18
vehicle. 19
- (4) In this section— 20
- health facility* means— 21
- (a) land on which a private health facility is 22
situated; or 23
- (b) land on which a Service provides a health 24
service. 25
- health service* means a service for maintaining, 26
improving, restoring or managing people’s health 27
and wellbeing, but does not include a service 28
provided at a residential aged care facility. 29
- private health facility* see the *Private Health* 30
Facilities Act 1999, section 8. 31

<i>residential aged care facility</i> see section 26VW(5).	1 2
26VP Person smoking must stop when directed	3
A person contravening section 26VO(1) or (2) must comply with a direction to stop the contravention by an authorised person.	4 5 6
Maximum penalty—20 penalty units.	7
Division 5 School facilities	8
26VQ Person must not smoke at or near school facility	9 10
(1) A person must not smoke at a school facility. Maximum penalty—20 penalty units.	11 12
(2) A person must not smoke on land within 5m beyond the boundary of a school facility (the <i>buffer zone</i>). Maximum penalty—20 penalty units.	13 14 15 16
(3) Subsection (2) does not apply to a person—	17
(a) in the buffer zone at residential premises or on land on which residential premises may lawfully be built; or	18 19 20
(b) in the buffer zone at business premises; or	21
(c) travelling through the buffer zone in a motor vehicle.	22 23
(4) In this section—	24
<i>non-State school</i> means an accredited school or a provisionally accredited school under the <i>Education (Accreditation of Non-State Schools) Act 2001</i> .	25 26 27 28
<i>school facility</i> means land on which—	29

[s 9]

-
- (a) a State school provides an educational program under the *Education (General Provisions) Act 2006*; or
 - (b) a non-State school provides primary education, secondary education or special education under the *Education (Accreditation of Non-State Schools) Act 2001*; or
 - (c) a State school or non-State school provides other educational instruction or activities.
- State school** means a state educational institution within the meaning of the *Education (General Provisions) Act 2006*, schedule 4.

26VR Person smoking must stop when directed

- A person contravening section 26VQ(1) or (2) must comply with a direction to stop the contravention by an authorised person.
- Maximum penalty—20 penalty units.

Division 6 Public swimming facilities

26VS Person must not smoke at public swimming facility

- (1) A person must not smoke at a public swimming facility.
- Maximum penalty—20 penalty units.
- (2) In this section—
 - associated area**, for a swimming pool, means any of the following—
 - (a) an area rising from within the pool or a platform over the pool;
 - (b) an area providing access to the pool;

- (c) an area adjacent to the pool provided for persons to observe swimmers in the pool, change their clothing or sunbathe; 1
2
3
 - (d) diving boards and water slides for the pool; 4
 - (e) a kiosk and seating area adjacent to the pool; 5
 - (f) if the area surrounding the pool is enclosed by a fence or wall—the entire area enclosed by the fence or wall. 6
7
8
- public swimming facility***— 9
- (a) means a swimming pool that is owned or operated by a local government and is open to the public for swimming, whether or not on payment of money; and 10
11
12
13
 - (b) includes the associated area for the swimming pool. 14
15

26VT Person smoking must stop when directed 16

A person contravening section 26VS(1) must comply with a direction to stop the contravention by an authorised person. 17
18
19

Maximum penalty—20 penalty units. 20

Division 7 Early childhood education and care facilities 21
22

26VU Person must not smoke at or near early childhood education and care facility 23
24

- (1) A person must not smoke at an early childhood education and care facility. 25
26
- Maximum penalty—20 penalty units. 27
- (2) A person must not smoke on land within 5m beyond the boundary of an early childhood education and care facility (the ***buffer zone***). 28
29
30

[s 9]

- Maximum penalty—20 penalty units. 1
- (3) Subsections (1) and (2) do not apply to a person 2
 at an early childhood education and care facility 3
 if— 4
- (a) the facility is also residential premises; and 5
- (b) at the relevant time, the facility is not being 6
 used to provide an early childhood 7
 education and care service. 8
- (4) Subsection (2) does not apply to a person— 9
- (a) in the buffer zone at residential premises or 10
 on land on which residential premises may 11
 lawfully be built; or 12
- (b) in the buffer zone at business premises; or 13
- (c) travelling through the buffer zone in a motor 14
 vehicle. 15
- (5) For an early childhood education and care facility 16
 that is also residential premises, it is a defence to 17
 subsection (1) or (2) for a person to prove that the 18
 person was not aware, and could not have 19
 reasonably been expected to be aware, that the 20
 premises were an early childhood education and 21
 care facility. 22
- (6) In this section— 23
- early childhood education and care facility* 24
 means land on which an early childhood 25
 education and care service is provided. 26
- early childhood education and care service* 27
 means— 28
- (a) a Queensland approved education and care 29
 service under the *Education and Care* 30
Services Act 2013; or 31
- (b) an approved education and care service 32
 under the *Education and Care Services* 33
National Law (Queensland) Act 2011. 34

26VV Person smoking must stop when directed	1
A person contravening section 26VU(1) or (2)	2
must comply with a direction to stop the	3
contravention by an authorised person.	4
Maximum penalty—20 penalty units.	5
Division 8 Residential aged care	6
 facilities	7
26VW Person must not smoke at or near	8
 residential aged care facility	9
(1) A person must not smoke at a residential aged	10
care facility.	11
Maximum penalty—20 penalty units.	12
(2) A person must not smoke on land within 5m	13
beyond the boundary of a residential aged care	14
facility (the <i>buffer zone</i>).	15
Maximum penalty—20 penalty units.	16
(3) Subsection (1) does not apply to a person within	17
a nominated outdoor smoking place.	18
(4) Subsection (2) does not apply to a person—	19
(a) in the buffer zone at residential premises or	20
on land on which residential premises may	21
lawfully be built; or	22
(b) in the buffer zone at business premises; or	23
(c) travelling through the buffer zone in a motor	24
vehicle.	25
(5) In this section—	26
<i>home-based aged care</i> means residential	27
premises where aged care is provided to a person.	28

[s 10]

<i>nominated outdoor smoking place</i> means a	1
clearly designated part, or parts, of an outdoor	2
area of a residential aged care facility—	3
(a) where smoking is not otherwise prohibited	4
under this Act; and	5
(b) established by the occupier of the facility as	6
an area where smoking is permitted.	7
<i>Example for paragraph (a)—</i>	8
Smoking is prohibited within 10m of children’s	9
playground equipment.	10
<i>residential aged care facility—</i>	11
(a) means land on which a facility used to	12
provide aged care is situated; but	13
(b) does not include—	14
(i) a retirement village; or	15
(ii) home-based aged care.	16
<i>retirement village</i> means premises where older	17
members of the community or retired persons	18
reside, or are to reside, in independent living	19
units or serviced units.	20

26VX Person smoking must stop when directed 21

A person contravening section 26VW(1) or (2) 22
 must comply with a direction to stop the 23
 contravention by an authorised person. 24

Maximum penalty—20 penalty units. 25

Clause 10 Amendment of s 26W (Meaning of *outdoor eating or drinking place*) 26
 27

(1) Section 26W— 28

insert— 29

	(4A)	For subsection (4), a place can not be designated if smoking at the place is otherwise prohibited under this Act.	1 2 3
		<i>Example of a place—</i>	4
		a place within 5m of an entrance to an enclosed place where smoking is prohibited under section 26ZJ	5 6
	(2)	Section 26W(5)—	7
		<i>insert—</i>	8
		<i>multi-unit residential accommodation</i> means hotels, motels, hostels, boarding houses, residential accommodation comprising lots in a community titles scheme and other similar accommodation.	9 10 11 12 13
	(3)	Section 26W(5), definition <i>residential premises—</i>	14
		<i>omit, insert—</i>	15
		<i>residential premises</i> does not include multi-unit residential accommodation.	16 17
Clause 11		Replacement of pt 2C, divs 2 and 2A	18
		Part 2C, divisions 2 and 2A—	19
		<i>omit, insert—</i>	20
		Division 2 Government precincts	21
		26ZD Person must not smoke within government precinct	22 23
	(1)	A person must not smoke within a government precinct.	24 25
		Maximum penalty—20 penalty units.	26
	(2)	In this section—	27
		<i>government precinct</i> means land—	28
	(a)	adjoining a building occupied by—	29
	(i)	the State; or	30

[s 12]

- (ii) the Legislative Assembly; or 1
- (iii) a court or tribunal; or 2
- (iv) an entity that represents the State; or 3
- (v) another entity established by an Act; 4
and 5
- (b) prescribed by regulation. 6

26ZE Person smoking must stop when directed 7

A person contravening section 26ZD(1) must 8
comply with a direction to stop the contravention 9
by an authorised person. 10

Maximum penalty—20 penalty units. 11

**Clause 12 Amendment of s 26ZJ (Person must not smoke near an 12
entrance to an enclosed place) 13**

(1) Section 26ZJ(1), ‘4m’— 14

omit, insert— 15

5m 16

(2) Section 26ZJ(3)— 17

omit, insert— 18

(3) Subsection (1) does not apply to a person in a 19
motor vehicle passing the entrance. 20

(3) Section 26ZJ(6), definition *multi-unit residential 21
accommodation*, ‘nursing homes,’— 22

omit. 23

(4) Section 26ZJ(6), definition *residential premises—* 24

omit, insert— 25

residential premises does not include multi-unit 26
residential accommodation. 27

Clause 13	Insertion of new ss 26ZKA–26ZKE	1
	After section 26ZK—	2
	<i>insert—</i>	3
	26ZKA Person must not smoke at outdoor pedestrian mall	4
		5
	(1) A person must not smoke at an outdoor pedestrian mall.	6
		7
	Maximum penalty—20 penalty units.	8
	(2) In this section—	9
	<i>outdoor pedestrian mall</i> means each of the following—	10
		11
	(a) a mall established under the <i>City of Brisbane Act 2010</i> , section 88;	12
		13
	(b) a mall established under the <i>Local Government Act 2009</i> , section 80A;	14
		15
	(c) a mall continued as a mall under the <i>City of Brisbane Act 2010</i> , section 258.	16
		17
	26ZKB Person must not smoke at or near public transport waiting point	18
		19
	(1) A person must not smoke at a public transport waiting point.	20
		21
	Maximum penalty—20 penalty units.	22
	(2) A person must not smoke on land within 5m beyond a public transport waiting point (the <i>buffer zone</i>), unless the person has a reasonable excuse.	23
		24
		25
		26
	Maximum penalty—20 penalty units.	27
	(3) For subsection (2), a person outside the buffer zone is taken to be within the buffer zone if the person is in a queue that starts at the public transport waiting point or in the buffer zone.	28
		29
		30
		31

[s 13]

- (4) Subsections (1) and (2) do not apply to a person at a place where smoking is prohibited under the *Transport Infrastructure (Rail) Regulation 2006* or the *Transport Operations (Passenger Transport) Regulation 2005*.
- (5) Subsection (2) does not apply to a person—
- (a) in the buffer zone at residential premises or on land on which residential premises may lawfully be built; or
 - (b) in the buffer zone at business premises; or
 - (c) travelling through the buffer zone in a motor vehicle.
- (6) It is a reasonable excuse for subsection (2) that the person was not remaining in the buffer zone but was merely passing through the buffer zone.
- (7) In this section—
- public passenger vehicle** means any of the following, as defined in the *Transport Operations (Passenger Transport) Act 1994*, used to transport members of the public—
- (a) a fixed track vehicle;
 - (b) a bus;
 - (c) a ferry;
 - (d) a taxi;
 - (e) a limousine.
- public transport waiting point** means any of the following—
- (a) a sign indicating that it is a drop-off or collection point for a public passenger vehicle;
 - (b) shelter or seating provided for persons waiting at a drop-off or collection point for a public passenger vehicle;

-
- (c) a terminal, jetty, pontoon, platform or landing for the arrival and departure of a public passenger vehicle. 1
2
3

26ZKC Person must not smoke at or near skate park 4
5

- (1) A person must not smoke within 10m of any part of a skate park. 6
7
Maximum penalty—20 penalty units. 8
- (2) Subsection (1) does not apply to a person— 9
- (a) at residential premises or on land on which residential premises may lawfully be built; 10
or 11
12
- (b) at business premises; or 13
- (c) travelling in a motor vehicle. 14
- (3) In this section— 15
- skate park*— 16
- (a) means a part of a public place constructed for the purpose of riding or skating any of the following around or over obstacles, jumps and uneven surfaces— 17
18
19
20
- (i) bicycles; 21
- (ii) rollerblades or rollerskates; 22
- (iii) skateboards; 23
- (iv) scooters; but 24
- (b) does not include a bicycle path, a footpath or a path shared by cyclists and pedestrians. 25
26

26ZKD Person must not smoke at or near under-age sporting event 27
28

- (1) A person must not smoke at a sporting ground or the viewing area for a water sport during— 29
30

[s 13]

(a)	an organised under-age sporting event; or	1
(b)	a training or practice session to prepare for an organised under-age sporting event; or	2 3
(c)	any break or interval during the organised under-age sporting event or the training or practice session.	4 5 6
	Maximum penalty—20 penalty units.	7
(2)	A person must not smoke on land within 10m beyond the boundary of a sporting ground or the viewing area for a water sport (the <i>buffer zone</i>) during a period smoking is prohibited under subsection (1).	8 9 10 11 12
	Maximum penalty—20 penalty units.	13
(3)	Subsection (2) does not apply to a person—	14
(a)	in the buffer zone at residential premises or on land on which residential premises may lawfully be built; or	15 16 17
(b)	in the buffer zone at business premises; or	18
(c)	travelling through the buffer zone in a motor vehicle.	19 20
(4)	In this section—	21
	<i>organised under-age sporting event</i> means a sporting event—	22 23
(a)	organised in advance; and	24
(b)	organised or intended for, or predominately participated in by, persons under 18; and	25 26
(c)	conducted by a professional or amateur sporting body or educational institution according to established rules.	27 28 29
	<i>skate park</i> see section 26ZKC(3).	30
	<i>sporting ground</i> —	31
(a)	means 1 or more of the following places (each a <i>playing area</i>)—	32 33

-
- | | |
|--|----------------------|
| (i) a court, field or oval marked for use to play 1 or more sports; | 1
2 |
| <i>Examples—</i> | 3 |
| a soccer field, a cricket oval, a tennis or basketball court | 4
5 |
| (ii) a running track; | 6 |
| (iii) a racing track for bicycles; | 7 |
| (iv) a textured surface used for athletics; and | 8
9 |
| (b) includes— | 10 |
| (i) any area, seating or other structure provided for persons to observe players and competitors at the playing area; and | 11
12
13
14 |
| (ii) any area reserved for players, competitors, umpires or other officials for a game being played at the playing area; and | 15
16
17
18 |
| (iii) any waiting or warm-up area for players or competitors waiting to enter the playing area; but | 19
20
21 |
| (c) does not include a bicycle path, a skate park, a path shared by cyclists and pedestrians or a horse racing track. | 22
23
24 |
| <i>viewing area</i> , for a water sport, means the area set aside for viewing the water sport. | 25
26 |

26ZKE Person must not smoke at national park 27

- | | |
|---|----------------|
| (1) A person must not smoke at a national park, or part of a national park, prescribed by regulation. | 28
29 |
| Maximum penalty—20 penalty units. | 30 |
| (2) Before recommending the making of a regulation under subsection (1), the Minister must obtain written consent to its making from the Minister | 31
32
33 |

[s 14]

	responsible for the management of national parks.	1 2
	(3) In this section—	3
	<i>national park</i> means a national park under the <i>Nature Conservation Act 1992</i> .	4 5
Clause 14	Amendment of s 26ZL (Person smoking must stop when directed)	6 7
	Section 26ZL, ‘26ZJ(1) or 26ZK(1)’—	8
	<i>omit, insert—</i>	9
	26ZJ(1), 26ZK(1), 26ZKA(1), 26ZKB(1) or (2), 26ZKC(1), 26ZKD(1) or (2) or 26ZKE(1)	10 11
Clause 15	Omission of ss 26ZM–26ZP	12
	Sections 26ZM to 26ZP—	13
	<i>omit.</i>	14
Clause 16	Replacement of pt 2C, div 4 (Prohibition on smoking at public transport waiting points and malls by local governments)	15 16 17
	Part 2C, division 4—	18
	<i>omit, insert—</i>	19
	Division 4 Local government may prohibit smoking at other outdoor public places	20 21 22
	26ZPA Local government may make local laws prohibiting smoking at other outdoor public places	23 24 25
	(1) Subsection (2) applies if this Act does not regulate smoking at an outdoor public place.	26 27
	(2) A local government may make a local law, including a subordinate local law, prohibiting	28 29

smoking at the place if the place is in the local
government's local government area. 1
2

- (3) A local law made under subsection (2) must not
provide for a penalty of more than 20 penalty
units for a contravention of the law. 3
4
5

26ZPB Consultation 6

If— 7

(a) a local government proposes to make a local
law under section 26ZPA; and 8
9

(b) the local law is not subject to consultation
requirements under the *Local Government*
Act 2009, section 29A or the *City of*
Brisbane Act 2010, section 31; 10
11
12
13

the local government must consult with the
department about the proposed local law before
making it. 14
15
16

**26ZPC State may require report from local
government about local law** 17
18

(1) This section applies to a local law made by a
local government under this division. 19
20

(2) The chief executive, by written notice, may ask a
local government to give the chief executive
information about the local government's
administration and enforcement of the local law. 21
22
23
24

(3) The local government must comply with the
request. 25
26

**26ZPD Fines payable for contravention of local law
payable to local government** 27
28

If— 29

[s 17]

	(a) a proceeding for an offence is taken for a contravention of a local law made by a local government under this division; and	1 2 3
	(b) a court imposes a fine for the offence; the fine must be paid to the local government.	4 5
Clause 17	Amendment of s 26ZQA (Display of hookahs)	6
	Section 26ZQA—	7
	<i>insert—</i>	8
	(2) For subsection (1), the display of a part of a hookah is taken to be the display of a hookah.	9 10
Clause 18	Insertion of new pt 2E	11
	After section 26ZT—	12
	<i>insert—</i>	13
	Part 2E Administration of provisions by State and local governments	14 15 16
	26ZU State and local governments administer particular provisions	17 18
	(1) Both the State and local governments have a role in administering the following provisions (the <i>relevant provisions</i>)—	19 20 21
	(a) part 2BB, divisions 4 to 8;	22
	(b) part 2C, division 3.	23
	(2) However, nothing in the relevant provisions imposes a duty on a local government to enforce the relevant provisions.	24 25 26

26ZV Role of local government	1
In exercising its jurisdiction of local government	2
in enforcing the relevant provisions, the local	3
government has its executive role—	4
(a) to administer and enforce the relevant	5
provisions in the local government’s local	6
government area; and	7
(b) for a patrolled beach area of a patrolled	8
beach or a prescribed outdoor swimming	9
area—to administer and enforce part 2C,	10
division 3 for the area whether it is adjacent	11
to or within the local government’s local	12
government area.	13

26ZW State may require report from local government	14
	15
(1) This section applies to a matter under the relevant	16
provisions administered and enforced by local	17
governments.	18
(2) The chief executive, by written notice, may ask a	19
local government to give the chief executive	20
information about the local government’s	21
administration and enforcement of the matter.	22
(3) The local government must comply with the	23
request.	24

26ZX Fines payable to local government	25
If—	26
(a) a proceeding for an offence is taken for a	27
matter under the relevant provisions by a	28
local government; and	29
(b) a court imposes a fine for the offence;	30
the fine must be paid to the local government.	31

[s 19]

Clause 19	Amendment of s 28 (Appointment)	1
	Section 28(5) and (6)—	2
	<i>omit, insert</i> —	3
	(5) The functions of a health service authorised person are to investigate, monitor and enforce compliance with the following provisions in relation to a relevant facility—	4 5 6 7
	(a) section 26VO(1) and (2);	8
	(b) section 26VP;	9
	(c) section 26VW(1) and (2);	10
	(d) section 26VX.	11
	(6) In this section—	12
	<i>relevant facility</i> , for a health service authorised person, means a facility at which a service is provided by the Service managed by the health service chief executive who appointed the authorised person.	13 14 15 16 17
 Clause 20	 Amendment of s 40A (Power to direct person to stop smoking)	 18 19
	(1) Section 40A(1)—	20
	<i>omit, insert</i> —	21
	(1) This section applies if an authorised person finds a person contravening a relevant provision.	22 23
	(2) Section 40A—	24
	<i>insert</i> —	25
	(4) In this section—	26
	<i>relevant provision</i> means section 26R(1), 26VH(1), 26VL(1), 26VO(1) or (2), 26VQ(1) or (2), 26VS(1), 26VU(1) or (2), 26VW(1) or (2), 26X(1), 26ZD(1), 26ZH(1), 26ZI(1), 26ZJ(1), 26ZK(1), 26ZKA(1), 26ZKB(1) or (2), 26ZKC(1), 26ZKD(1) or (2) or 26ZKE(1).	27 28 29 30 31 32

Clause 21	Amendment of schedule (Dictionary)	1
(1)	Schedule, definitions <i>business premises</i> , <i>health facility land</i> , <i>health service</i> , <i>licensed premises</i> (both occurrences), <i>licensee</i> (both occurrences), <i>major event facility</i> , <i>non-State school</i> , <i>private health facility</i> , <i>residential premises</i> , <i>school land</i> , <i>Service</i> , <i>smoke</i> and <i>State school</i> —	2 3 4 5 6
	<i>omit.</i>	7
(2)	Schedule—	8
	<i>insert</i> —	9
	<i>business premises</i> —	10
	(a) means premises used, or intended to be used, for a commercial or industrial activity; and	11 12 13
	(b) includes land on which premises mentioned in paragraph (a) may lawfully be built.	14 15
	<i>licensed premises</i> —	16
	(a) for part 2B, see section 26Q; or	17
	(b) otherwise—see the <i>Liquor Act 1992</i> , section 4.	18 19
	<i>licensee</i> —	20
	(a) for part 2B, see section 26Q; or	21
	(b) otherwise—see the <i>Liquor Act 1992</i> , section 4.	22 23
	<i>major event facility</i> , for part 2BB, division 3, see section 26VK.	24 25
	<i>major event organiser</i> , for part 2BB, division 3, see section 26VK.	26 27
	<i>major sports facility</i> , for part 2BB, division 2, see section 26VG.	28 29
	<i>relevant provisions</i> , for part 2E, see section 26ZU(1).	30 31

[s 21]

	<i>residential premises</i> means premises used, or intended to be used, as a place of residence or mainly as a place of residence.	1 2 3
	<i>Service</i> means a Hospital and Health Service established under the <i>Hospital and Health Boards Act 2011</i> , section 17.	4 5 6
	<i>smoke</i> means—	7
	(a) for a smoking product other than a personal vaporiser or a hookah—smoke, hold or otherwise have control over an ignited smoking product; or	8 9 10 11
	(b) for a personal vaporiser—inhale through the vaporiser; or	12 13
	(c) for a hookah—inhale through the hookah.	14
(3)	Schedule, definition <i>hookah</i> , paragraph (a)— <i>omit, insert—</i>	15 16
	(a) for smoking tobacco or another thing by the drawing of smoke, fumes or vapour, resulting from heating or burning the tobacco or other thing in the device, through water or another liquid in the device; and	17 18 19 20 21
(4)	Schedule, definition <i>motor vehicle</i> , ‘, for part 2BA and part 2C, division 2A,’ <i>omit.</i>	22 23 24
(5)	Schedule, definition <i>road</i> , ‘, for part 2BA and part 2C, division 2A,’ <i>omit.</i>	25 26 27
(6)	Schedule, definition <i>road-related area</i> , ‘and part 2C, division 2A’ <i>omit.</i>	28 29 30
(7)	Schedule, definition <i>smoking product</i> , paragraph (c)— <i>omit, insert—</i>	31 32
	(c) otherwise—	33

- (i) except for a hookah—means a tobacco product, herbal cigarette, loose smoking blend or personal vaporiser; or
- (ii) for a hookah—means tobacco or another thing that may be smoked in the hookah.

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