

CLAUSE NOTES

Public Health Amendment (Prohibited Tobacco and Other Products) Bill 2026

Part 1 – Preliminary

- Clause 1** **Short title**
- The Short Title states that the Act is to be cited as the *Public Health Amendment (Prohibited Tobacco and Other Products) Act 2026*.
- Clause 2** **Commencement**
- Provides for the Act to commence on a day to be proclaimed.
- Clause 3** **Principal Act**
- This clause identifies the *Public Health Act 1997* as the Principal Act for the purposes of the Bill.
- Clause 4** **Section 3 amended (Interpretation)**
- This clause amends section 3 of the Principal Act by omitting the definition of “electronic dispensing unit” and moving the existing definition from section 71 of the Act to the Interpretation section.
- Similarly, this clause amends section 3 of the Principal Act by omitting the definition of “vending machine” and moving the existing definition from section 71 of the Act to the Interpretation section.
- Clause 5** **Section 30A substituted (Powers of nominated officers)**
- This clause repeals section 30A (Powers of Certain Nominated Officers) of the Principal Act and substitutes a new section 30A (Powers of Nominated Officers) describing the powers of nominated officers. The effect is that all nominated officers under the Principal Act may exercise the existing powers available to authorised officers at section 36, without a special authorisation made under s30A. The powers of the Director of Public Health (the Director) to authorise a nominated officer to use other specified powers, set out in Division 5 of Part 2 of the Principal Act, is retained.

- Clause 6** **Section 64 amended (Sale to children)**
- This clause amends section 64(1) of the Principal Act by omitting the penalty and substituting a penalty of greater value for each type of offence.
- Clause 7** **Part 4, Division 2: Heading amended**
- This clause amends the heading at Division 2 of Part 4 of the Principal Act by omitting “Display, advertising, packaging, &c.” from the heading of that Division and substituting “Display, sale, advertising, packaging, &c.” in consequence of amendments that introduce an explicit ban on the sale of vaping and other prohibited products in retail and non-retail settings.
- Clause 8** **Section 69B inserted**
- This clause inserts a new section 69B after section 69A in the Principal Act. The new section 69B (Sale of smoking product by vending machine prohibited) prohibits the sale of smoking product by vending machine, which is defined in section 3 of the Principal Act, and creates an offence for causing or allowing a vending machine that sells smoking products to be in a premises that a person owns or controls.
- Clause 9** **Section 70A inserted**
- This clause inserts a new section 70A after section 70 in the Principal Act. The new section 70A prohibits a person from displaying smoking paraphernalia, in retail premises, so that it can be seen in or from a public place. The intent is to ensure that products associated with, or which may be used for, the inhalation or smoking of controlled drugs and controlled plants, such as bongos and hookahs, are hidden from public view in retail settings.
- Clause 10** **Section 71 amended (Restrictions on holding smoking products, &c., in specialist tobacconist premises and general retail premises)**
- This clause amends section 71 of the Principal Act by omitting subsections (5), (6) and (7) to remove provisions previously allowing vending machines at licenced premises and to remove duplication with the new section 69B.

Clause 11 Section 73 amended (Packaging of smoking products)

This clause amends section 73 of the Principal Act by omitting the penalty and substituting a penalty of greater value for each type of offence.

Clause 12 Section 74A amended (Licence to sell smoking products)

This clause amends section 74A(1) of the Principal Act by omitting the penalty and substituting a penalty of greater value for each type of offence.

Clause 13 Part 4, Divisions 3A and 3B inserted

This clause inserts new Divisions 3A and 3B into Part 4 of the Principal Act.

The new Division 3A (Prohibited tobacco products) is intended to prohibit the sale or supply of illicit tobacco products.

The new section 74LB contains the interpretive provisions for the Division.

The new section 74LC clarifies that the new Division 3A does not apply to tobacco products that have been lawfully obtained within Tasmania under State or Commonwealth laws or powers.

The new section 74LD(1) prohibits possession of a prohibited smoking product with intent to supply to another person, where there is no lawful excuse to possess the product in that person's possession.

The new section 74LD(2) prohibits the sale or supply, or offering the sale or supply, of a prohibited smoking product, where there is no lawful excuse to sell, supply, or offer for sale or supply the product.

The new section 74LE prohibits the sale, or offering the sale, of a prohibited smoking product or a product that purports to be a product that is a prohibited smoking product, including by electronic means or over other communication platforms outside of traditional retail settings. The intent is to ensure provisions capture all forms of advertising prohibited smoking product for sale or supply.

**Clause 13
(cont.)**

The new section 74LE(3) further prohibits the display of a prohibited smoking product, or a product that purports to be a product that is a prohibited smoking product, in retail premises.

The new Division 3B (Closure of certain premises) introduces powers to close a business that sells, supplies, or offers prohibited smoking products.

The new section 74LF contains the interpretive provisions for the Division.

The new section 74LG (Short-term premises closure order) provides that the Secretary responsible for administering the Principal Act may order the short-term closure of premises, for up to 90 days, where the Secretary reasonably suspects the unlawful sale, or likely unlawful sale, of smoking products at or from the premises. The Secretary may also attach conditions to the order. This section 74LG also sets out the requirements and limitations on such an order made by the Secretary. Decisions made under the new section 74LG are not reviewable under section 165 of the Principal Act.

The new section 74LH (Appeal Tribunal may order closure of premises) provides that the Minister may apply to the Appeal Tribunal for an order to be made to close a premises for up to 12 months. The application may be made whether or not the premises is subject to a short-term closure order made by the Secretary and may also establish steps that may be taken for the order to be revoked, as well as other conditions that may be attached by the Tribunal. Decisions made under the new section 74LH are not reviewable under section 165 of the Principal Act.

The new section 74LI sets out offences in relation to premises that are subject to a closure order under section 74LG or 74LH.

Clause 14**Section 154 amended (Offences against authorised officers)**

This clause amends section 154 of the Principal Act by omitting the penalty and substituting a penalty of greater value for each type of offence.

Clause 15 **Repeal of Act**

This clause repeals this Act on the first anniversary of the day on which this Act commenced.