

1999
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health and Community Care)

Tobacco Amendment Bill (No 2) 1999

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1999
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(Minister for Health and Community Care)

Tobacco Amendment Bill (No 2) 1999

A BILL

FOR

**An Act to amend the *Tobacco Act 1927* and to repeal the
Tobacco Licensing Act 1984, and for other purposes**

The Legislative Assembly for the Australian Capital Territory enacts
as follows:

PART 1—PRELIMINARY

1 Name of Act

5 This Act is the *Tobacco Amendment Act (No 2) 1999*.

2 Commencement

- (1)** This Part commences on the day this Act is notified in the Gazette.
- (2)** Section 7 commences on 1 September 2000.
- (3)** The remaining provisions commence on 1 July 2000.

PART 2—AMENDMENTS OF THE TOBACCO ACT 1927

3 Act amended

This Part amends the *Tobacco Act 1927*.

4 Insertion

5 After section 12S the following Part is inserted:

“PART 7—LICENCES

“Division 1—Preliminary

“43 Interpretation

“(1) In this Part, unless the contrary intention appears—

10 *approved form* means a form approved by the registrar.

determined fee means a fee determined under section 67.

licensee means the holder for the time being of a tobacco licence.

15 *record* includes any book, account, deed, writing and document and any other source of information compiled, recorded or stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means.

retail tobacconist's licence means a retail tobacconist's licence granted under section 45.

20 *tobacco retailing* means the business of selling tobacco products by retail.

tobacco wholesaling means the business of selling tobacco products for the purpose of resale or wholesale, and includes any supply of tobacco products by way of wholesale to a person or premises within the Territory.

25 *wholesale tobacco merchant's licence* means a wholesale tobacco merchant's licence granted under section 45.

“(2) For the definition of *tobacco retailing*, each of the following facts or circumstances is immaterial:

30 (a) that the tobacco products are sold alone or in conjunction with any other merchandise;

(b) that the business is carried on as part of, or in conjunction with, any other business.

“(3) For the definition of *tobacco wholesaling*, each of the following facts or circumstances is immaterial:

- (a) that the tobacco products are sold alone or in conjunction with any other merchandise;
- (b) that the business is carried on as part of, or in conjunction with, any other business;
- 5 (c) that any relevant contract is made outside the Territory or governed by a law other than a law of the Territory;
- (d) that the wholesaler is located or registered, or carries on business (wholly or in part), outside the Territory;
- 10 (e) that the wholesaler, or another person, has transported the tobacco products from outside the Territory.

“(4) For this Part, if an employee of a person (the *employer*)—

- (a) sells tobacco; or
- (b) carries on the business of selling tobacco;

15 in the course of his or her employment, the employer is taken to sell tobacco or to carry on the business of selling tobacco (as the case may be), but the employee is not liable for an offence under this Part by reason only of having done so.

“44 **Vending machines**

20 For this Part, the occupier of premises on which a vending machine is located is taken to be carrying on tobacco retailing.

“Division 2—General

“45 **Application for, and grant of, licence**

“(1) A person may apply to the registrar, in accordance with subsection (2), for—

- 25 (a) a wholesale tobacco merchant’s licence; or
- (b) a retail tobacconist’s licence.

“(2) The applicant must—

- (a) make the application in the approved form; and
- 30 (b) provide any particulars that the registrar, in writing, requires the applicant to provide; and
- (c) pay to the registrar the determined fee for the application.

“(3) For paragraphs (2) (a) and (b), the form may include, and the registrar may require particulars about, any matters related to the administration of this Act.

35 “(4) Subject to section 48, the registrar must, if the applicant has complied with subsection (2), grant to the applicant the licence applied for.

“(5) A licence must—

- (a) be in the approved form; and
- (b) specify the premises that are to be used for, or in connection with, the business in respect of which the licence is granted.

“(6) A licence operates as follows:

- 5 (a) a wholesale tobacco merchant’s licence authorises the licensee to carry on tobacco wholesaling at the premises, or each of the premises, specified in the licence;
- (b) a retail tobacconist’s licence authorises the licensee to carry on tobacco retailing at the premises, or each of the premises, specified in the licence.

“(7) The registrar must amend the details in a tobacco licence of the premises so specified, if the holder, or any of the holders, of the licence—

- (a) gives to the registrar a request, in the approved form, to do so; and
- 15 (b) pays to the registrar the determined fee (if any).

“(8) A licence cannot be transferred.

“46 Conditions of licence

“(1) The registrar may specify, in a particular licence, any conditions to which the licence is subject.

20 “(2) In particular, the conditions may include, for a retail tobacconist’s licence in respect of premises—

- (a) the maximum number of points of sale permitted on the premises; and
- (b) the permissible locations, on those premises, of the points of sale.

25 “(3) If paragraph 48 (2) (b) applies in respect of an applicant, the registrar may, instead of refusing under that paragraph to grant a tobacco licence to the applicant, issue the licence subject to the condition that the applicant must undertake, within the specified time, a specified approved training program in relation to the obligations under this Act of a licensee.

30 “(4) The registrar may, by notice in writing served on a licensee—

- (a) specify conditions or further conditions to which the licence is subject; or
- (b) vary or cancel any conditions specified in the licence.

“47 Duration of a tobacco licence

35 “(1) A licence commences on the date specified in the licence as its commencement date.

“(2) Subject to this Act, a tobacco licence (including a renewed or revived licence) remains in force until the end of 31 August next following the grant of the licence.

“48 Refusal to grant licence

5 “(1) The registrar must not grant the licence if the registrar is satisfied, on reasonable grounds, that—

- 10 (a) the licence applied for would authorise the sale of tobacco products at premises while the operation of vending machines at those premises has been prohibited by a direction under paragraph 54 (2) (a) or (4) (c); or
- (b) if the applicant holds another licence—the licence applied for would authorise the sale of tobacco products at premises while, under a variation of the other licence under paragraph 54 (2) (b)—
 - 15 (i) the sale of tobacco products at the premises has been prohibited; or
 - (ii) the operation of vending machines at the premises has been prohibited; or
- 20 (c) the applicant holds another licence that is currently suspended under paragraph 54 (2) (c); or
- (d) the applicant is disqualified under section 54 from holding a tobacco licence (other than a disqualification relating to particular premises); or
- 25 (e) the licence would be a licence for particular premises and the applicant is disqualified under section 54 from holding a licence for those premises.

“(2) The registrar may refuse to grant a tobacco licence to an applicant if the registrar is satisfied, on reasonable grounds, that—

- 30 (a) the applicant does not sufficiently understand the obligations under this Act of a licensee; or
- (b) within the period of 2 years immediately preceding the date when the application is made, 2 offences relating to the sale or supply of tobacco products to a person under the age of 18 have been found proved, in the Territory or elsewhere, in respect of the applicant; or
- 35 (c) the registrar would have grounds, if the applicant already held such a licence, for cancelling it under paragraph 54 (2) (d) or (4) (a) or subsection 55 (2).

40 “(3) For paragraph (2) (b), it is immaterial that a conviction was not recorded against the applicant in respect of any offence mentioned in the paragraph.

“(4) In subsections (1), (2) and (3), a reference to an applicant for a licence includes—

- (a) if the applicant is a corporation—a reference to any director, secretary or other officer of the corporation; and
- 5 (b) in any case—a reference to any person who would be concerned in the direction, management or control of the business that would use, or operate under, the licence.

“(5) If the registrar refuses to grant a tobacco licence under this section, the registrar must refund to the applicant any fee paid in relation to the application.

“49 Renewal of a tobacco licence

“(1) Subject to section 48 and this section, the registrar must renew a current tobacco licence on the application of the licensee.

“(2) The licensee must—

- 15 (a) apply in the approved form; and
- (b) give to the registrar—
 - (i) any particulars that the registrar, in writing, requires the applicant to provide; and
 - (ii) payment of the determined fee.

20 “(3) The licensee must give the application and fee, and any required particulars, to the registrar at least 7 days before the date of expiry of the licence.

“(4) A licence that has been surrendered or cancelled cannot be renewed.

25 “(5) If the registrar refuses to renew a tobacco licence, the registrar must refund any fee paid for a renewal.

“(6) For this section—

tobacco licence includes a retail tobacconist’s licence granted under the *Tobacco Licensing Act 1984*.

“50 Revival of expired retail tobacconist’s licences

30 “(1) This section applies if—

- (a) a retail tobacconist’s licence has expired within the last 12 months; and
- (b) the former licensee gives the registrar any particulars that the registrar, in writing, requires the applicant to provide; and
- 35 (c) the former licensee pays the fee that would have been required if the licensee had applied for a grant of the licence.

“(2) If this section applies—

- (a) the former licensee is taken to have applied under section 45 for a retail tobacconist's licence; and
- (b) subject to sections 48 and 49, the registrar must grant a retail tobacconist's licence to the former licensee; and
- 5 (c) a licence so granted is taken to have commenced on the day after the former licence expired.

“(3) For this section—

retail tobacconist's licence includes a retail tobacconist's licence granted under the *Tobacco Licensing Act 1984*.

10 “51 **Register of tobacco licences**

“(1) The registrar must keep a register containing particulars of—

- (a) the name of each licensee; and
- (b) the number allotted to each licence; and
- (c) the prescribed particulars (if any).

15 “(2) The registrar must make the register available for public inspection at the office of the registrar during the times when the office is open to the public.

“52 **Surrender and termination of a tobacco licence**

20 “(1) A holder of a tobacco licence may, at any time, by notice in writing to the registrar, surrender his or her licence, and the licence then ceases to be in force.

“(2) A licence ceases to be in force if the amount of a fee for the grant or renewal of the licence that is due and payable remains unpaid.

“Division 3—Disciplinary action

25 “53 **Prior notice of proposed disciplinary action**

“(1) The registrar must not take disciplinary action under subsection 54 (2) or (4) or 55 (2) in relation to a person without first giving the person written notice inviting the person and any interested person to make representations, within a specified period of at least 14 days after the notice is given, why specified action should not be taken under that subsection.

30 “(2) The notice must contain—

- (a) particulars of the facts and circumstances relied on by the registrar to establish that a ground for taking action exists; and
- (b) particulars of the action proposed to be taken; and
- 35 (c) a statement to the effect that the person or any interested person may, within the specified period, give the registrar written particulars of the facts and circumstances relied on to show that

the proposed action should not be taken, or that less severe action should be taken.

5 “(3) In making a decision about disciplinary action under subsection 54 (2) or (4) or 55 (2) the registrar must take into account any representation made in accordance with the invitation under subsection (1).

“(4) In this section—

10 *interested person*, in relation to a notice given to another person under subsection (1), means any person involved in the direction, management or control of a tobacco retailing business in which the notified person is also involved.

54 Disciplinary action—general

“(1) This section applies if the registrar has reasonable grounds for believing that—

- 15 (a) a person who is a licensee has contravened this Act, a condition of the licence, or a direction under paragraph (2) (a) or (4) (c); or
(b) a person who holds a liquor or gaming licence for premises where tobacco products are available for sale by means of a vending machine has contravened this Act.

20 “(2) If the registrar considers that it is reasonable, the registrar may take 1 or more of the following actions:

- (a) direct the person not to permit, for a specified period of not longer than 5 years, the operation of a vending machine on specified premises, or on any premises, occupied by the person;
25 (b) vary any tobacco licence held by the person with effect for a specified period of not longer than 5 years—
(i) to impose more stringent requirements than otherwise apply under this Act in relation to points of sale, point of sale displays, product information notices, price tickets, vending machines or tobacco advertising on or adjacent to
30 all or any of the premises specified in the licence; or
(ii) to impose a condition prohibiting point of sale displays, vending machines, or tobacco advertising on or adjacent to all or any of the premises specified in the licence; or
35 (iii) to impose conditions relating to the sale of tobacco products to under 18 year olds; or
(iv) to impose a condition prohibiting the sale of tobacco products at all or any of the premises specified in the licence;
40 (c) suspend any tobacco licence held by the person for a specified period of not longer than 3 months;

- (d) cancel any tobacco licence held by the person with effect from the date specified in the notice;
- (e) disqualify the person from holding a tobacco licence, or from holding a tobacco licence for particular premises, for a specified period of not longer than 5 years.

“(3) The registrar may only take action under subsection (2) against a person in relation to facts and circumstances specified in a notice under subsection 53 (1) if the action taken—

- (a) is the action proposed in the notice; or
- (b) would, in the registrar’s opinion based on reasonable grounds, be less severe than the proposed action.

“(4) If this section applies to a person because the person has been convicted of an offence against this Act for the second time within 2 years (whether or not the convictions are for offences against the same provision of this Act), the registrar must—

- (a) cancel each tobacco licence held by the person; and
- (b) disqualify the person from holding any tobacco licence for 5 years after the notice is given to the person; and
- (c) direct the person not to permit the operation of a vending machine on any premises occupied by the person for 5 years after the notice is given to the person.

“(5) In this section—

liquor or gaming licence means a licence issued under any of the following Acts:

- (a) *Liquor Act 1975*;
- (b) *Casino Control Act 1988*;
- (c) *Gaming Machine Act 1987*.

“55 Cancellation of licence—additional grounds

“(1) This section applies to a person if the registrar has reasonable grounds for believing that—

- (a) a tobacco licence was granted to the person in error or in consequence of a false statement made, or misleading information furnished, by or on behalf of the person; or
- (b) the person who holds a tobacco licence has been convicted of an offence under this Part; or
- (c) in the case of a natural person who holds a tobacco licence—
 - (i) the person has been convicted of any offence punishable by imprisonment for a period of not less than 12 months; or

- (ii) the person is an undischarged bankrupt; or
- (d) if the person is a corporation that holds a tobacco licence—the corporation is being wound up.
- 5 “(2) If the registrar considers that it is reasonable, the registrar may cancel any tobacco licence held by the person with effect from the date specified in the notice.
- “ (3) For subsection (2), the following provisions apply:
- 10 (a) if this section only applies to a person because a tobacco licence was granted to the person in error—only a licence so granted may be cancelled;
- (b) the registrar may cancel the licence of a person even if the registrar has taken other action against the person, under section 54, on grounds on which this section applies to the person.

“Division 4—Offences

15 **“56 Permitting operation of a vending machine on premises contrary to a direction**

A person must not contravene a direction under paragraph 54 (2) (a) or (4) (c).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

20 **“57 Failure to return licence after variation, suspension or cancellation**

“ (1) If the registrar varies a tobacco licence held by a person to whom this section applies, the person must return the licence to the registrar for endorsement with the variation within 14 days after the person is given
25 notice of the variation.

Maximum penalty: 5 penalty units.

“ (2) If the registrar suspends or cancels a tobacco licence held by a person to whom this section applies, the person must return the licence to the registrar within 14 days after the person is given notice of the
30 suspension or cancellation.

Maximum penalty: 5 penalty units.

“58 Disqualification

“ (1) A person disqualified under Division 3 from holding a tobacco licence must not be concerned in the direction, management or control of a tobacco retailing business during the period of disqualification.
35

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

“(2) A person disqualified under Division 3 from holding a tobacco licence in relation to particular premises must not be concerned in the direction, management or control of a tobacco retailing business operated at those premises during the period of disqualification.

5 Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

“59 **Selling tobacco products without, or in contravention of, a tobacco licence**

“(1) A person must not sell tobacco products unless the person is a licensee.

10 Maximum penalty: 50 penalty units.

“(2) A licensee who contravenes a condition to which the tobacco licence is subject commits an offence.

Maximum penalty: 50 penalty units.

“60 **Tobacco wholesaling—offences**

15 “(1) A person other than the holder of a wholesale tobacco merchant’s licence who carries on tobacco wholesaling commits an offence.

Maximum penalty: 100 penalty units.

20 “(2) A person who, by way of tobacco wholesaling, or in the course of tobacco wholesaling, sells tobacco products to a person who is not a licensee commits an offence.

Maximum penalty: 100 penalty units.

“(3) On a prosecution under subsection (2), it is a defence to show that—

25 (a) under the contract of sale, the tobacco products were to be delivered by the seller to the purchaser outside the Territory and that no part of the tobacco products has been delivered by the seller to the purchaser within the Territory; or

30 (b) if the contract did not specify that matter—the parties intended the tobacco products to be so delivered and that no part of the tobacco products has been delivered by the seller to the purchaser within the Territory; or

(c) the defendant reasonably believed that the person to whom the tobacco products were sold was a licensee.

35 “(4) A person other than the holder of a wholesale tobacco merchant’s licence who sells tobacco products to another person for the other person to place in a vending machine commits an offence.

Maximum penalty: 100 penalty units.

“61 Tobacco retailing—offences

“(1) A person other than the holder of a retail tobaccoconist’s licence who carries on tobacco retailing commits an offence.

Maximum penalty: 50 penalty units.

5 “(2) A person other than the holder of a retail tobaccoconist’s licence who is the occupier of premises on which a vending machine is in operation commits an offence.

Maximum penalty: 50 penalty units.

10 “(3) A licensee who carries on the business of selling tobacco products on premises that are not specified in the licence as premises to be used for that business commits an offence.

Maximum penalty: 50 penalty units.

“62 Licence particulars to be displayed

15 “(1) A licensee must at all times display in a prominent place, at each premises at which the licensee carries on business as a licensee, a notice specifying—

- (a) the licensee’s name; and
- (b) the licence number; and
- 20 (c) any conditions applying for the time being in respect of the licence.

Maximum penalty: 5 penalty units.

25 “(2) For subsection (1), if the licensee carries on business at premises under a retail tobaccoconist’s licence, the notice must be displayed at or in close proximity to the point of sale (or, if there is more than 1 point of sale, 1 of the points of sale) on the premises.

“ (3) Subsection (1) does not apply to premises at which the licensee carries on business as a licensee only by means of a vending machine.

30 “(4) A licensee who offers tobacco products for sale from a vending machine must at all times display in a prominent place on the machine a notice specifying the matters mentioned in paragraphs (1) (a) and (b) and, if applicable, paragraph (1) (c).

Maximum penalty: 5 penalty units.

“(5) Subsection (4) applies—

- (a) in relation to each vending machine on particular premises; and
- 35 (b) even if a notice mentioned in subsection (1) is displayed on those premises.

“63 Licence cancelled or licensee ceasing to carry on business

“(1) If a tobacco licence is cancelled the licensee must not fail, without reasonable excuse, to return the licence promptly to the registrar.

Maximum penalty: 5 penalty units.

- 5 “(2) If a licensee ceases to carry on business under the licence, the licensee must, within 7 days, give the registrar written notice that the licensee has ceased to carry on business under the licence.

Maximum penalty: 5 penalty units.

“64 Invoices

- 10 “(1) A holder of a wholesale tobacco merchant’s licence must endorse or cause to be endorsed on every invoice issued by the licensee in relation to the sale of tobacco products the statement, in upper case letters, ‘SOLD BY LICENSED ACT WHOLESALE’.

Maximum penalty: 5 penalty units.

- 15 “(2) A person who is not the holder of a wholesale tobacco merchant’s licence must not, in connection with the sale of tobacco, issue an invoice that bears the statement, in upper case letters, ‘SOLD BY LICENSED ACT WHOLESALE’.

Maximum penalty: 50 penalty units.

- 20 **“64A Retail tobaccoist must only obtain tobacco products from licensed wholesaler**

“(1) A holder of a retail tobaccoist’s licence must not purchase, or otherwise obtain, tobacco products from a person who is not the holder of a wholesale tobacco merchant’s licence.

- 25 Maximum penalty: 50 penalty units.

“(2) It is a defence to a prosecution under subsection (1) to show that the defendant purchased, or otherwise obtained, the tobacco products for a purpose other than sale by retail.

“Division 5—Administrative review

- 30 **“65 Review of decisions**

Application may be made to the Administrative Appeals Tribunal for review of any of the following decisions of the registrar:

- 35 (a) under subsection 46 (1)—to specify conditions or further conditions to which a tobacco licence is subject, to vary or cancel conditions specified in a tobacco licence;

- (b) under subsection 48 (1) or (2)—to refuse to grant a tobacco licence;
- (c) under section 49—to refuse to renew a tobacco licence;
- (d) to issue a direction under paragraph 54 (2) (a);
- 5 (e) to vary a tobacco licence under paragraph 54 (2) (b);
- (f) to suspend a tobacco licence under paragraph 54 (2) (c);
- (g) to cancel a tobacco licence under paragraph 54 (2) (d) or subsection 55 (2);
- 10 (h) to disqualify a person from holding a tobacco licence under paragraph 54 (2) (e);
- (i) to take the actions mentioned in subsection 54 (4).

“66 Notice of decisions

“(1) If the registrar makes a decision—

- 15 (a) under subsection 46 (1)—to specify conditions or further conditions to which a tobacco licence is subject, to vary or cancel conditions specified in a tobacco licence; or
- (b) under subsection 48 (1) or (2)—to refuse to grant a tobacco licence; or
- (c) under section 49—to refuse to renew a tobacco licence; or
- 20 (d) under subsection 54 (2)—to take 1 or more of the actions mentioned in that subsection; or
- (e) under subsection 54 (4)—to take the actions mentioned in that subsection; or
- (f) under subsection 55 (2)—to cancel a tobacco licence;

25 the registrar must give notice in writing of the decision to the applicant or licensee (as the case requires).

“(2) The notice must comply with the code of practice for the time being in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

30 **“Division 6—Miscellaneous**

“67 Fees

“(1) The Minister must determine—

- (a) the fee payable annually for the grant or renewal of a wholesale tobacco merchant’s licence; and
- 35 (b) the fee payable annually for the grant or renewal of a retail tobacconist’s licence.

“(2) The Minister may determine the fee payable for a retail tobacconist’s licence by reference to the number of premises, or points of sale, specified in the licence.

“(3) A determination under this section—

- 5 (a) must be notified in the Gazette; and
- (b) takes effect on the date of notification or, if a later date is specified in the determination, on that later date.

“68 Recovery of unpaid fees from unlicensed persons

10 “(1) If a person was required by this Part to hold a tobacco licence in respect of any period, but did not do so, the person is liable to pay to the registrar an amount equal to the fee that would have been payable for the licence had he or she applied for or held the licence.

“(2) The registrar may assess the amount of the fee as if the person had applied for the licence, notwithstanding that the registrar may have made or purported to have made such an assessment.

“(3) Notice of the assessment under this section must be served by the registrar on the person.

“(4) Any amount assessed under this section that is unpaid is a debt due to the Territory.

20 “(5) Proceedings may not be commenced for the purpose of recovering an amount assessed under this section until the expiration of 1 month after service of notice of the assessment under subsection (3).

“(6) A certificate purporting to be signed by the registrar and stating that a specified amount is the amount assessed under this section in respect of a specified person is evidence of the matters so certified.”.

5 Regulations

Section 15 is amended by adding at the end the following subsections:

“(2) In particular, the Executive may make regulations for Part 7—

- 30 (a) exempting specified persons or classes of person from that Part or specified provisions of that Part; and
- (b) prescribing books, accounts and records to be kept by specified persons or classes of person or specified provisions of that Part.

“(3) A provision of a regulation may—

- 35 (a) apply generally or be limited in its application by reference to specified conditions, exceptions or factors; or
- (b) apply differently according to different factors of a specified kind; or

- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body.

“(4) The regulations may prescribe a maximum penalty for an offence against the regulations of 10 penalty units.”.

5 **6 Renumbering—Parts and sections**

(1) The number of an existing section of the *Tobacco Act 1927* specified in Schedule 1 is renumbered by omitting that number and substituting the new number specified in relation to the section.

10 (2) The number of an existing Part of the *Tobacco Act 1927* specified in Schedule 2 is renumbered by omitting that number and substituting the new number specified in relation to the Part.

PART 3—MISCELLANEOUS

7 Repeal

(1) The following Acts are repealed:

- *Tobacco Licensing Act 1984 No 38*
- 5 • *Business Franchise (Tobacco and Petroleum Products) (Amendment) Act 1985 No 36*
- *Business Franchise (Tobacco and Petroleum Products) (Amendment) Act 1986 No 86*
- 10 • *Business Franchise (Tobacco and Petroleum Products) (Amendment) Act 1987 No 38*
- *Business Franchise (Tobacco and Petroleum Products) (Amendment) (No. 2) Act 1987 No 58*
- *Business Franchise (Tobacco and Petroleum Products) (Amendment) (No. 3) Act 1987 No 65*
- 15 • *Business Franchise (Tobacco and Petroleum Products) (Amendment) Act 1988 No 37*
- *Business Franchise (Tobacco and Petroleum Products) (Amendment) Act 1993 No 79*
- 20 • *Business Franchise (Tobacco and Petroleum Products) (Amendment) Act 1995 No 22*
- *Tobacco Licensing (Amendment) Act 1998 No 18.*

(2) Part 3 of the *Tobacco (Amendment) Act 1999* is repealed.

8 Consequential amendments

25 (1) The Acts specified in Part 1 of Schedule 3 are amended as set out in that Part.

(2) The regulations specified in Part 2 of Schedule 3 are amended as set out in that Part.

9 Secrecy

30 (1) The commissioner, a delegate of the commissioner, and any person acting under the direction or by the authority of the commissioner or a delegate, may provide information to the registrar if the information—

- 5 (a) is in the possession of the commissioner; and
(b) came into the possession of the commissioner under, or for the purposes of, the *Tobacco Licensing Act 1984*; and
(c) is reasonably required by the registrar for the purposes of this Act.

(2) Subsection (1) applies despite any provision of—

- (a) Division 4 of Part 9 of the *Taxation Administration Act 1999*; or
(b) any other law of the Territory.

(3) In this section—

10 **commissioner** has the meaning given by the *Taxation Administration Act 1999*.

SCHEDULE 1

(See s 6 (1))

RENUMBERING—SECTIONS OF THE TOBACCO ACT 1927

| Existing No | New No | Existing No | New No |
|-------------|--------|-------------|--------|
| 3 | 2 | 11 | 24 |
| 3A | 3 | 11A | 25 |
| 3B | 4 | 11B | 26 |
| 3C | 5 | 11C | 27 |
| 3D | 6 | 12 | 28 |
| 3E | 7 | 12A | 29 |
| 3F | 8 | 12B | 30 |
| 3G | 9 | 12F | 31 |
| 3H | 10 | 12G | 32 |
| 3J | 11 | 12H | 33 |
| 3K | 12 | 12J | 34 |
| 3L | 13 | 12K | 35 |
| 4 | 14 | 12L | 36 |
| 5 | 15 | 12M | 37 |
| 6 | 16 | 12N | 38 |
| 7 | 17 | 12P | 39 |
| 8 | 18 | 12Q | 40 |
| 9 | 19 | 12R | 41 |
| 9A | 20 | 12S | 42 |
| 9B | 21 | 13 | 69 |
| 9C | 22 | 15 | 70 |
| 10 | 23 | | |

SCHEDULE 2

(See s 6 (2))

RENUMBERING—PARTS OF THE TOBACCO ACT 1927

| Existing No | New No | Existing No | New No |
|-------------|--------|-------------|--------|
| I | 1 | 3 | 4 |
| 1A | 2 | 3B | 6 |
| II | 3 | IV | 8 |

SCHEDULE 3

(See s 8)

CONSEQUENTIAL AMENDMENTS

PART 1—AMENDMENTS OF ACTS

Administrative Decisions (Judicial Review) Act 1989

5 **Schedule 1, paragraph (c) (first occurring)—**

Omit “*Tobacco Licensing Act 1984*”.

Health Promotion Act 1995

Subsection 3 (3) (definition of *tobacco franchise fees*)—

Omit the definition.

10 ***Taxation Administration Act 1999***

Paragraph 4 (l)—

Omit the paragraph.

Tobacco Act 1927

15 [NOTE—References are to provisions before renumbering in accordance with Schedules 1 and 2.]

Section 3 (definition of *authorised officer*)—

Omit “12G”, substitute “32”.

Section 3 (definition of *Deputy Registrar*)—

Omit the definition, substitute the following definition:

20 “*deputy registrar* means a Deputy Registrar of Tobacco under section 30.”.

Section 3 (definition of *group licence*)—

Omit the definition.

Section 3 (paragraph (c) of the definition of *identity card*)—

25 Omit “12J”, substitute “34”.

Section 3 (definition of *point of sale display*)—

Omit “1A”, substitute “2”.

SCHEDULE 3—continued

Section 3 (definition of *price ticket*)—

Omit “3A”, substitute “3”.

Section 3 (definition of *product information notice*)—

Omit “3B”, substitute “4”.

5 **Section 3 (definition of *Registrar*)—**

Omit the definition, substitute the following definition:

“*registrar* means the Registrar of Tobacco under section 29, and includes a deputy registrar.”.

Section 3 (definition of *sell*)—

10 Omit “3C”, substitute “5”.

Section 3 (definition of *tobacco advertisement*)—

Omit “3D”, substitute “6”.

Section 3 (definition of *tobacco licence*)—

Omit the definition, substitute the following definition:

15 “*tobacco licence* means a licence under Part 7 that is—

- (a) a retail tobacconist’s licence; or
- (b) a wholesale tobacco merchant’s licence.”.

Paragraph 3K (2) (a) and (b)—

Omit “3H”, substitute “10”.

20 **Subsection 6 (2)—**

Omit “A person who owns or possesses a vending machine shall”, substitute “The occupier of premises on which a vending machine is located must”.

Subsection 11 (1)—

25 Omit “10”, substitute “23”.

Paragraph 11 (1A) (a)—

Omit “10”, substitute “23”.

Subsections 11 (1D), (2) and (3)—

Omit “10”, substitute “23”.

SCHEDULE 3—continued

Subsections 12A (4) and (5)—

Omit the subsections.

Heading to Part 3A—

Omit the heading, substitute the following heading:

5 “PART 5—REGISTRAR AND DEPUTY REGISTRARS”.

Sections 12C, 12D and 12E—

Repeal the sections.

Paragraphs 12K (1) (c)—

Omit “12Q”, substitute “40”.

10 Subsection 12L (2A)—

Omit “12K”, substitute “35”.

Section 12M—

Omit “12K”, substitute “35”.

Subsection 12N (1)—

15 Omit “12M”, substitute “37”.

Paragraphs 12Q (2) (c) and (4) (c)—

Omit “12M”, substitute “37”.

Subsection 12R (2)—

Omit “12M”, substitute “37”.

20 Subsection 12S (4) (definition of *seized item*)—

Omit “12M”, substitute “37”.

Part 3C—

Repeal the Part.

SCHEDULE 3—continued

PART 2—AMENDMENTS OF REGULATIONS

Tobacco Regulations

Regulation 1—

Repeal the regulation, substitute the following regulation:

5 **“1 Name of regulations**

These regulations are the *Tobacco Regulations 1991*.”.

Regulation 4—

Omit “6”, substitute “16”.

Endnotes

Act amended

- 1 Republished as in force on 31 December 1993. See also Acts 1997 No 70; 1998 No 54; 1999 No 57.

Penalty units

- 2 Section 33AA of the *Interpretation Act 1967* deals with the meaning of offence penalties that are expressed in penalty units.