



New South Wales

# Tobacco Legislation (Closure Orders) Amendment Bill 2025

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are to—

- (a) amend the *Public Health (Tobacco) Act 2008* (**the Act**) as follows—
  - (i) to provide that the Secretary of the Ministry of Health (the **Secretary**) may make an order (a **short-term closure order**) to close premises used in connection with offences under the Act, including the sale of illicit tobacco and illicit vaping goods,
  - (ii) to provide that the Local Court may make an order (a **long-term closure order**) to close premises used in connection with offences under the Act, including the sale of illicit tobacco and illicit vaping goods,
  - (iii) to increase penalties for offences under the Act and to align penalties with equivalent penalties under the *Poisons and Therapeutic Goods Act 1966* relating to vaping goods,
  - (iv) to provide protections for criminal intelligence given by the Commissioner of Police for the purposes of the Act,
  - (v) to update the provisions concerning seizure and disposal of products to provide that illicit tobacco and illicit vaping goods may be seized and disposed of,
  - (vi) to provide that the amendments to the Act providing for closure orders must be subject to review at the same time as the provisions of the Act providing for tobacco retailer and wholesaler licensing are reviewed, and
- (b) amend the *Retail Leases Act 1994* to provide that a lessor of retail premises may terminate the lease if the premises have been made the subject of a closure order under the *Public Health (Tobacco) Act 2008*.

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

## **Schedule 1      Amendment of Public Health (Tobacco) Act 2008 No 94**

**Schedule 1[1], [2] and [25]** make consequential amendments including by moving definitions to the proposed dictionary at the end of the Act.

**Schedule 1[3]** amends the Act, section 6, including to increase penalties for prohibited sales, and inserts proposed section 6A to create offences for the possession of commercial quantities of illicit tobacco.

**Schedule 1[4]** makes amendments to the Act, section 7, including amendments consequential to Schedule 1[3] and to increase the maximum penalty for selling tobacco without a health warning.

**Schedule 1[6]** makes an amendment of a statute law nature.

**Schedule 1[8]** inserts proposed section 31A to provide that criminal intelligence provided by the Commissioner of Police must not be disclosed without authorisation.

**Schedule 1[9] and [15]** increase penalties for offences of selling tobacco without a licence and falsely claiming to be licensed.

**Schedule 1[10]–[14]** make amendments to provide that previous closure orders may be taken into account by the Secretary when making decisions about granting, renewing or revoking licences under the Act.

**Schedule 1[18]** inserts proposed sections 45A–45D to clarify and expand the powers of inspectors to obtain documents and other information for functions under the Act. **Schedule 1[16] and [17]** are consequential amendments.

**Schedule 1[19]** inserts proposed section 46A to provide that a person is not excused from giving an inspector information or answering questions on the grounds of self-incrimination, and that the information must not be used against the person in criminal proceedings except in limited circumstances.

**Schedule 1[20]** inserts proposed Parts 6A and 6B. Proposed Part 6A provides for the Secretary to make a short-term closure order of up to 90 days for premises that have been or are likely to be used for the sale of illicit tobacco or illicit vaping goods or for sales without a licence. Proposed Part 6A also provides for the Local Court to make a long-term closure order of up to 12 months. Proposed Part 6B provides for the seizure and disposal of tobacco and vaping goods associated with offences under the Act. **Schedule 1[5] and [7]** are consequential amendments.

**Schedule 1[21]** inserts proposed section 53A to make licence holders liable for offences by agents.

**Schedule 1[22]** is consequential to the amendments proposed by Schedule 1[3] and [4].

**Schedule 1[23]** inserts proposed section 56A, which provides for the Commissioner of Police to give the Secretary information for the administration or enforcement of the Act, and proposed section 56B, which protects the State and agencies from liability for good faith action under the Act.

**Schedule 1[24]** makes an amendment to require proposed section 31A, which concerns the use of criminal intelligence, and proposed Part 6A, which concerns closure orders, to be reviewed when the provisions of the Act concerning the licensing of tobacco retailers and wholesalers are reviewed.

## **Schedule 2      Amendment of Retail Leases Act 1994 No 46**

**Schedule 2** inserts proposed section 45A, which provides that a lessor of premises under a retail shop lease may terminate the lease if the premises are subject to a closure order under the *Public Health (Tobacco) Act 2008*.

## **Schedule 3      Amendment of other Acts**

**Schedule 3.1** makes consequential amendments to the *Criminal Procedure Act 1986*.

**Schedule 3.2[2] and [3]** make consequential amendments to the transitional provisions of the *Medicines, Poisons and Therapeutic Goods Act 2022*.

**Schedule 3.3** makes an amendment to the *Poisons and Therapeutic Goods Act 1966* to align the maximum penalty for selling illicit vaping goods with the maximum penalty for selling illicit tobacco. **Schedule 3.2[1]** is a consequential amendment to the *Medicines, Poisons and Therapeutic Goods Act 2022*.