



New South Wales

Tobacco Legislation Amendment Bill 2012

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Smoke-free Environment Act 2000* to extend the prohibition on smoking in enclosed public places so that from 7 January 2013 smoking will be prohibited in the following outdoor public places:
 - (i) within 10 metres of children's play equipment,
 - (ii) a swimming pool complex,
 - (iii) a spectator area at a sports ground or other recreational area being used for an organised sporting event,
 - (iv) public transport stops and stations (including ferry wharves and taxi ranks),
 - (v) within 4 metres of a pedestrian access point to a building (with effect from 6 July 2015 for licensed premises and restaurants under the *Liquor Act 2007*),
 - (vi) a commercial outdoor dining area (with effect from 6 July 2015),

- (vii) a place at a public hospital, health institution or health service designated as a smoke-free area by a by-law or regulation under the *Health Services Act 1997*,
- (viii) any other place prescribed by the regulations,
- (b) to limit the persons who are authorised to take proceedings for an offence under the *Smoke-free Environment Act 2000* to the Director-General of the Ministry of Health and persons authorised by the regulations,
- (c) to authorise the making of by-laws and regulations under the *Health Services Act 1997* to regulate or prohibit smoking at public hospitals, health institutions and health services under that Act and designate areas as smoke-free areas under the *Smoke-free Environment Act 2000*.

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 7 January 2013.

Schedule 1 Amendment of Smoke-free Environment Act 2000 No 69

Schedule 1 [8] inserts new section 6A which prohibits smoking in the outdoor public places referred to in paragraph (a) of the Overview. The new section also contains exceptions for smoking while passing through some of the outdoor public places where smoking will be prohibited. The regulations will be able to prescribe other exceptions. **Schedule 1 [7]** defines *commercial outdoor dining area*. **Schedule 1 [1]–[6], [12], [14] and [15]** make consequential amendments. The Act already prohibits smoking in enclosed public places.

Schedule 1 [9] extends the existing offence that is committed by the occupier of an enclosed smoke-free area if a person smokes in the smoke-free area so that the offence will apply if a person smokes in a commercial outdoor dining area.

Schedule 1 [10] creates exceptions from the requirement for the display of signs in smoke-free areas so that signs will not be required in most of the outdoor public places in which smoking will be prohibited. The amendment also provides for the Director-General to enter into arrangements with government and local government agencies and bodies for the display of signs relating to smoking in the areas that are exempt from the compulsory signage requirements.

Schedule 1 [11] prevents the taking of criminal proceedings under the Act except by the Director-General or persons prescribed by the regulations.

Schedule 1 [13] extends the provision that protects the State from compensation claims in connection with the operation of the Act and previous amendments to the Act so that the protection will extend to amendments made by the Bill and any future amending Act.

Schedule 1 [16] and [17] make savings and transitional amendments. Transitional provisions defer the smoking ban in commercial outdoor dining areas, and within 4 metres of a pedestrian access point to licensed premises or a restaurant, until 6 July 2015.

Schedule 2 Amendment of Health Services Act 1997 No 154

Schedule 2 [1] and [2] extend the existing by-law making powers of local health districts and statutory health corporations to include by-laws regulating or prohibiting smoking at public hospitals, health institutions or health services under their control and designating areas as smoke-free areas under the *Smoke-free Environment Act 2000*.

Schedule 2 [3] authorises the making of regulations to regulate or prohibit smoking at public hospitals controlled by the Crown and designate areas as smoke-free areas under the *Smoke-free Environment Act 2000*.

Schedule 2 [4] provides for the making of savings and transitional regulations.