



*Tobacco and Other Smoking Products Act 1998*

# **Tobacco and Other Smoking Products Regulation 2021**

**Current as at 1 September 2023**

## **Reprint note**

Cross-references in this reprint to the *Tobacco and Other Smoking Products Act 1998* have been updated to reflect the renumbering of that Act in the reprint dated 1 September 2023.

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Queensland

# Tobacco and Other Smoking Products Regulation 2021

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# Tobacco and Other Smoking Products Regulation 2021

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Tobacco and Other Smoking Products Regulation 2021*.

### 2 Commencement

- (1) This regulation, other than part 7, commences on 1 September 2021.
- (2) Part 7 commences on 1 March 2022.

## Part 1A Retail and wholesale licences

### 2A Approved copy of retail or wholesale licence—Act, s 48

- (1) For section 48(5) of the Act, definition *approved copy*, paragraph (a), the following requirements are prescribed—
  - (a) the symbols, images or words displayed on the copy of the licence must be in black on a white background;
  - (b) the copy of the licence must not contain symbols, images or words that would be likely to cause a reasonable person to believe the sale of smoking products is promoted by the State, other than to the extent the copy contains symbols, images or words contained in the licence granted under the Act;
  - (c) if the copy of the licence is displayed at a retail or wholesale outlet for the licence—the copy must be sized to fit an A4 page.

[s 2B]

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- (2) For section 48(5) of the Act, definition *approved copy*, paragraph (b), the following information is prescribed—
- (a) if the licensee displays a copy of the licence that contains extracts from the licence—the following information—
    - (i) for a retail licence other than a retail licence (liquor)—the words ‘*Tobacco and Other Smoking Products Act 1998* retail licence’;
    - (ii) for a retail licence (liquor)—the words ‘*Tobacco and Other Smoking Products Act 1998* retail licence (liquor)’;
    - (iii) for a wholesale licence—the words ‘*Tobacco and Other Smoking Products Act 1998* wholesale licence’;
    - (iv) the unique identification number of the licence;
    - (v) a link or code that a person may use to access the register kept by the chief executive under section 54 of the Act;
  - (b) if the licensee displays a copy of the licence that is a full copy of the licence granted under the Act—the information contained in the full copy.

## **2B Invoices for supply to retailers—Act, s 49**

- (1) For section 49(2) of the Act, the requirements prescribed are that the invoice must contain the following details—
- (a) the unique identifier for the invoice;
  - (b) the date of the supply of the smoking product;
  - (c) the brand name, type, variant and quantity of the smoking product;
  - (d) the following details of the retailer and licensee—
    - (i) business names;
    - (ii) contact details;

- (iii) ABNs or ACNs.
- (2) The details mentioned in subsection (1)(a) to (d) that are contained in the invoice must be clearly visible.

## Part 2                      Promotion of smoking products

### 3                      Smoking related products—Act, s 88

For section 88 of the Act, definition *smoking related product*, each of the following products is prescribed—

- (a) a cigarette paper (whether or not the paper is pre-rolled);
- (b) another product sold to enclose loose tobacco or a loose smoking blend;
- (c) flavouring sold for the purpose of flavouring a tobacco product or a loose smoking blend;
- (d) a machine for injecting loose tobacco or a loose smoking blend into a pre-rolled paper or another product sold to enclose loose tobacco or a loose smoking blend;
- (e) a cigarette filter;
- (f) a cigarette tip;
- (g) a machine for rolling a cigarette or herbal cigarette;
- (h) a mouthpiece used to hold a cigar, cigarette or herbal cigarette;
- (i) a cigar cutter;
- (j) a pipe used for smoking loose tobacco or a loose smoking blend;
- (k) a filter, grate or screen for a pipe mentioned in paragraph (j).

#### **4 Price ticket for relevant point of sale—Act, s 94**

- (1) For section 94(2)(b) of the Act, this section prescribes the requirements for a price ticket for a relevant point of sale.
- (2) The price ticket—
  - (a) must not be larger than 80mm x 40mm; and
  - (b) must be the same size and colour as the price tickets for all other smoking products being sold at the same retail outlet; and
  - (c) must use the same font size, style and typeface as the price tickets for all other smoking products being sold at the same retail outlet; and

*Example of a font size, style and typeface—*

10 point, bold and Times New Roman

- (d) must use the same spacing between words and letters as the price tickets for all other smoking products being sold at the same retail outlet; and
- (e) if the price ticket is for an immediate package of a product line, may only display—
  - (i) words that indicate 1 or more of the following—
    - (A) the name of the product line;
    - (B) the number of items in the immediate package;
    - (C) the price of the immediate package;
    - (D) the country of origin of the product line; and
  - (ii) a bar code, or similar identification code, for the product line; and
- (f) if the price ticket is for a carton of a product line, may only display—
  - (i) words that indicate 1 or more of the following—
    - (A) the name of the product line;
    - (B) the number of immediate packages in the carton;



- (C) the price of the carton;
  - (D) the country of origin of the product line; and
  - (ii) a bar code, or similar identification code, for the product line.
- (3) The words, bar code or similar identification code displayed on the price ticket must be—
- (a) in white on a black background; or
  - (b) in black on a white background.
- (4) However, if, in a retail outlet, price tickets for goods other than smoking products have information about the goods in 1 colour on a background of another colour, the words, bar code or similar identification code may be displayed in those colours.

## **5 Price ticket for tobacco product vending machine—Act, s 99**

- (1) For section 99(1) of the Act, this section prescribes the requirements for a price ticket for a tobacco product vending machine.
- (2) The price ticket—
- (a) must not be larger than 80mm x 40mm; and
  - (b) must be the same size and colour as the price tickets for all other tobacco products being sold from the same tobacco product vending machine; and
  - (c) must use the same font size, style and typeface as the price tickets for all other tobacco products being sold from the same tobacco product vending machine; and
- Example of a font size, style and typeface—*
- 10 point, bold and Times New Roman
- (d) must use the same spacing between words and letters as the price tickets for all other tobacco products being sold from the same tobacco product vending machine; and
  - (e) may only display—

[s 6]

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- (i) words that indicate 1 or more of the following—
    - (A) the name of a product line;
    - (B) the number of items in an immediate package;
    - (C) the price of an immediate package;
    - (D) the country of origin of a product line; and
  - (ii) a bar code, or similar identification code, for a product line.
- (3) The words, bar code or similar identification code displayed on the price ticket must be—
- (a) in white on a black background; or
  - (b) in black on a white background; or
  - (c) in any 1 colour on a background of any other 1 colour.
- (4) All the price tickets for a tobacco product vending machine must be in the same 2 colours.

## **6 Other indicator of price for a tobacco product vending machine—Act, s 99**

- (1) For section 99(1) of the Act, this section prescribes the requirements for an indicator of price, other than a price ticket, for a tobacco product vending machine.

*Example of an indicator of price that is not a price ticket—*

an electronic display in a tobacco product vending machine

- (2) An indicator of price may only display words that indicate 1 or more of the following—
- (a) the name of a product line;
  - (b) the number of items in an immediate package;
  - (c) the price of an immediate package;
  - (d) the country of origin of a product line.

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## Part 3 Signs

### Division 1 Form of signs

#### 7 Form of mandatory sign—Act, ss 97 and 101

- (1) For section 97(5) of the Act, definition *mandatory sign* and section 101 of the Act, a mandatory sign must—
  - (a) be at least 210mm x 297mm; and
  - (b) display only the following words in the following sequence—

‘It is an offence to supply a smoking product to a person under 18 years

Penalties apply

Proof of age may be required

Quitline 13 7848’.
- (2) The words required to be displayed under subsection (1)(b) must be—
  - (a) at least 8mm in height; and
  - (b) in, or in a combination of, the following—
    - (i) white on a black background;
    - (ii) black on a white background.
- (3) However, the words ‘Quitline 13 7848’ may be replaced by the following logo—



- (4) Despite subsection (1)(b), the mandatory sign may also display a reference to the State, the department or the Act.

## **8 Form of permitted sign—Act, s 97**

- (1) For section 97(5) of the Act, definition *permitted sign*, a permitted sign must—
- (a) be no larger than 210mm x 148mm; and
  - (b) display only the following words in the following sequence—  
‘Smoking products sold here’.
- (2) The words required to be displayed under subsection (1)(b) must be—
- (a) 17mm or less in height; and
  - (b) in Arial or Times New Roman typeface; and
  - (c) in black on a white background.
- (3) Also, the words required to be displayed under subsection (1)(b) must not be—
- (a) in bold or italics; or
  - (b) underlined.

## **9 Form of no smoking sign—Act, s 113**

- (1) For section 113(3) of the Act, definition *no smoking sign*, the following requirements are prescribed—
- (a) the sign must display one of the following symbols (each a *no smoking symbol*)—
    - (i) a circle and a diagonal line over a depiction of a cigarette and smoke;

*Example—*



- (ii) a circle and a diagonal line over a depiction of a cigarette and smoke and an electronic cigarette;

*Example—*



- (b) the sign may display words that indicate smoking is not permitted.
- (2) The no smoking symbol must be at least 70mm in diameter.
- (3) Nothing in subsection (1) prevents the sign displaying a reference to the State, the department or the Act.

## **Division 2                      Display of signs**

### **10                      Attachment of mandatory sign for tobacco product vending machine—Act, s 101**

For section 101 of the Act, a mandatory sign must be attached to the front of a tobacco product vending machine, or near the machine, so that the sign is easily visible to a person obtaining a tobacco product from the machine.

[s 11]

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**11 Display of no smoking sign at particular premises—Act, s 113**

For section 113(2) of the Act, a no smoking sign must be displayed in a place that is easily visible to a person who is about to enter premises mentioned in section 113(1)(a) or (b) of the Act.

## **Part 4 Smoke-free outdoor places**

**12 Government precincts—Act, s 140**

For section 140(3) of the Act, definition *government precinct*, paragraph (b), the following land is prescribed—

- (a) for the building known as 33 Charlotte Street, Brisbane—lot 3 on SP102562;
- (b) for the building known as 41 George Street, Brisbane—lot 1 on RP159900;
- (c) for the building known as 63 George Street, Brisbane—lot 23 on SP180748;
- (d) for the building known as 111 George Street, Brisbane—
  - (i) lot 2 on RP640; and
  - (ii) lots 1, 2, 3 and 4 on RP43986; and
  - (iii) lot 1 on RP641;
- (e) for the building known as Education House, 30 Mary Street, Brisbane—lot 14 on crown plan SL12186;
- (f) for the building known as 61 Mary Street, Brisbane—lot 22 on RP178621;
- (g) for the building known as 1 William Street, Brisbane—
  - (i) lot 1 on SP287539; and
  - (ii) land, including a footpath, that is adjacent to the land mentioned in subparagraph (i) and extends to

- the nearest kerb of a road or to lot 530 on crown plan SL7738; and
- (iii) lot 530 on crown plan SL7738, other than part of the lot that is a road;
  - (h) for the building known as Claude Wharton Building, 46 Quay Street, Bundaberg—lot 3 on SP131270;
  - (i) for the building known as William McCormack Place, 5B Sheridan Street, Cairns—lot 7 on SP146396;
  - (j) for the building known as Mike Ahern Building, 12 First Avenue, Maroochydore—lot 6 on SP207309;
  - (k) for the building known as Brendan Hansen Building, 50–54 Main Street, Pialba—lot 3 on SP108932;
  - (l) for the building known as James Larcombe Place, 209 Bolsover Street, Rockhampton—lot 1 on crown plan 801453;
  - (m) for the building known as Government Office Building No. 3, 187–209 Stanley Street, Townsville—lot 21 on crown plan EP2035;
  - (n) a footpath, or nature strip, adjacent to the land mentioned in any of paragraphs (a) to (f) or (h) to (m).

### 13 Prescribed outdoor swimming areas—Act, s 146

- (1) For section 146 of the Act, definition *prescribed outdoor swimming area*, the following areas are prescribed—
  - (a) each of the pools stated in schedule 1;
  - (b) each associated area for the pool.
- (2) An *associated area* for a pool is the area around the pool that includes 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) diving boards or water slides for the pool;

[s 14]

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- (d) an area adjacent to the pool that is provided for persons to observe swimmers in the pool, change their clothing or sunbathe;
  - (e) a kiosk or seating area adjacent to the pool;
  - (f) if the area surrounding the pool is enclosed by a fence or wall—the entire area enclosed by the fence or wall.
- (3) However, an *associated area* for a pool does not extend beyond—
- (a) the nearest of the following things to the pool, unless the thing provides access to the pool—
    - (i) a path, boardwalk, road or thoroughfare;
    - (ii) a building;
    - (iii) a watercourse or other body of water; and
  - (b) to the extent that paragraph (a) does not limit an associated area to 20m from the edge of the pool—20m from the edge of the pool.

## 14 National parks—Act, s 153

- (1) For section 153(1) of the Act, the following parts of a national park are prescribed—
- (a) a camp site provided by the department and the land around the site within 10m of it;
  - (b) a public facility provided by the department and the land around the facility within 10m of it.
- (2) In this section—

*camp site* means land on which camping equipment or a tent, caravan or other camping structure is intended to be situated, regardless of whether a person is camping there.

*department* means the department responsible for the management of national parks.

*public facility* means—

- (a) a barbecue; or



- (b) a jetty, boat ramp or landing stage; or
- (c) a picnic table; or
- (d) a roofed shelter; or
- (e) a toilet block; or
- (f) a visitor information centre.

## Part 5 Prohibited products

### 15 Display of hookahs—Act, s 160

For section 160(1) of the Act, the number prescribed is 3.

### 15A Commercial quantity for illicit tobacco—Act, s 161

For section 161(5) of the Act, definition *commercial quantity*, the quantity prescribed is—

- (a) for individual cigarettes—50 cigarettes; or
- (b) otherwise—50g of tobacco products other than cigarettes.

## Part 5A Fees

### 15B Definition for part

In this part—

*application* means an application mentioned in schedule 2 in relation to a retail or wholesale licence.

### 15C Fees payable generally

- (1) The fees payable under the Act in relation to a retail or wholesale licence are stated in schedule 2.

[s 15D]

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- (2) However, if an application is made for a term that is a period that is shorter than 1 year, the fee payable for the application is the proportion of the fee stated in schedule 2 for the application attributable to the number of months, rounded up to whole months, that are in the term.

### **15D Refused or withdrawn application**

- (1) This section applies if—
  - (a) an applicant has paid the fee for an application; and
  - (b) the application is refused by the chief executive or withdrawn by the applicant.
- (2) The chief executive must refund the fee for the application.

## **Part 6 Transitional provisions**

### **Division 1 Transitional provision for SL No. 111 of 2021**

#### **16 Mandatory signs**

- (1) This section applies if, immediately before the commencement—
  - (a) a mandatory sign was displayed at a relevant point of sale or attached to, or near, a tobacco vending machine; and
  - (b) the mandatory sign complied with the expired *Tobacco and Other Smoking Products Regulation 2010*, section 8.
- (2) The mandatory sign is taken to comply with section 7 until the earlier of the following—
  - (a) the sign needs to be replaced;

*Example—*

the sign is stolen, defaced or damaged

- (b) 1 September 2023.

## **Division 2                      Transitional provision for Tobacco and Other Smoking Products and Other Legislation Amendment Regulation 2023**

### **17            Application for retail or wholesale licence made between 1 September 2023 and 31 July 2024**

- (1) This section applies to an application for a retail or wholesale licence made between 1 September 2023 and 31 July 2024.
- (2) The fee for the application is—
- (a) if the application is for a retail licence—the fee stated in column 2 of the following table opposite the month in which the application is made stated in column 1 of the table; or
- (b) if the application is for a wholesale licence—the fee stated in column 3 of the following table opposite the month in which the application is made stated in column 1 of the table.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Month in which application is made</b>	<b>Fee for application for retail licence</b>	<b>Fee for application for wholesale licence</b>
September 2023	37.00 fee units	53.00 fee units
October 2023	75.00 fee units	106.00 fee units
November 2023	112.00 fee units	159.00 fee units
December 2023	149.00 fee units	212.00 fee units
January 2024	187.00 fee units	265.00 fee units

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Column 1	Column 2	Column 3
Month in which application is made	Fee for application for retail licence	Fee for application for wholesale licence
February 2024	224.00 fee units	318.00 fee units
March 2024	261.00 fee units	371.00 fee units
April 2024	299.00 fee units	424.00 fee units
May 2024	336.00 fee units	477.00 fee units
June 2024	373.00 fee units	530.00 fee units
July 2024	411.00 fee units	583.00 fee units

## 18 Renumbering of references to Act provisions

- (1) Each reference to a provision of the Act in any of the following legislation is amended by omitting the reference to the provision and inserting a reference to the provision as renumbered under the Act renumbering provision—
  - (a) this regulation;
  - (b) the *Corrective Services Regulation 2017*, section 19(1)(y);
  - (c) the *Land Regulation 2020*, section 82(3), definition *smoking product*;
  - (d) the *Marine Parks Regulation 2017*, section 152(4), definition *smoking product*;
  - (e) the *Nature Conservation (Protected Areas Management) Regulation 2017*, section 110(5), definition *smoking product*;
  - (f) the *State Penalties Enforcement Regulation 2014*, schedule 1, entry for *Tobacco and Other Smoking Products Act 1998*.
- (2) This section expires on 2 September 2024.
- (3) In this section—

*Act renumbering provision* means section 56(1) of the Act as inserted by the *Tobacco and Other Smoking Products Amendment Act 2023*, section 64.

## **Schedule 1      Prescribed outdoor swimming areas**

section 13(1)(a)

- 1 the pool or pools, known as Airlie Beach Lagoon, situated at 275 Shute Harbour Road, Airlie Beach
- 2 the pool or pools, known as Bluewater Lagoon, situated off River Street, Mackay
- 3 the pool or pools, known as Esplanade Lagoon, situated at the Esplanade, Cairns
- 4 the pool or pools, known as Riverway Lagoons, situated at Riverway Precinct, Village Boulevard, Thuringowa Central
- 5 the pool or pools, known as the Rockpool, situated at the Strand, Townsville
- 6 the pool or pools, known as Settlement Cove Lagoon, situated at Charlish Park, corner of Anzac Ave and Redcliffe Pde, Redcliffe
- 7 the pool or pools, known as Aquativity and Stream Surrounds, the Boat Pool or Main Lagoon, situated at South Bank Parklands, Brisbane
- 8 the pool or pools, known as Yeppoon Lagoon, situated at 3 Lagoon Place, Yeppoon

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**Schedule 2      Fees**

## section 15C

	<b>Fee units</b>
1    Application for a retail licence other than a retail licence (liquor) (Act, s 18(1)(h))	448.00
2    Application for a wholesale licence (Act, s 18(1)(h))	636.00
3    Application for renewal of a retail licence other than a retail licence (liquor) (Act, s 24(2)(b))	448.00
4    Application for renewal of a wholesale licence (Act, s 24(2)(b))	636.00
5    Application for restoration of a retail licence other than a retail licence (liquor) (Act, s 25(2)(b))	448.00
6    Application for restoration of a wholesale licence (Act, s 25(2)(b))	636.00