

Tobacco and Other Smoking Products Amendment Regulation (No. 1) 2016

Explanatory notes for SL 2016 No. 145

made under the

Tobacco and Other Smoking Products Act 1998

General Outline

Short title

Tobacco and Other Smoking Products Amendment Regulation (No. 1) 2016

Authorising law

Section 53 of the *Tobacco and Other Smoking Products Act 1998*.

Policy objectives and the reasons for them

The objective of the *Tobacco and Other Smoking Products Amendment Regulation (No. 1) 2016* (the Amendment Regulation) is to amend the *Tobacco and Other Smoking Products Regulation 2010* (the Tobacco Regulation) to:

- prescribe 1 William Street as a smoke-free government precinct
- prescribe parts of national parks where smoking bans apply, and
- make minor and consequential amendments.

The *Tobacco and Other Smoking Products Act 1998* (the Tobacco Act) provides a framework to improve the health of members of the public by reducing their exposure to tobacco and other smoking products. This is achieved in part by reducing public exposure to smoke from tobacco and other smoking products.

The *Tobacco and Other Smoking Products (Smoke-free Places) Amendment Act 2016* (the Amendment Act) amended the Tobacco Act to create more smoke-free public places across Queensland, prohibit the sale of smoking products from temporary retail outlets, and make minor and technical amendments to clarify and strengthen Queensland's tobacco laws. The Amendment Act provides that smoking is prohibited at government precincts and national parks, or parts of national parks, where prescribed in a regulation. The ability to prescribe national parks and government precincts where people must not smoke will increase the enjoyment and safety of these areas by preventing exposure to second-hand smoke, particularly in areas that support a large number of visitors or employees.

Achievement of policy objectives

The Amendment Regulation prescribes matters necessary to support the Amendment Act. In particular, the Amendment Regulation prescribes the land surrounding the building known as 1 William Street as a government precinct where smoking is prohibited. This precinct includes the land adjoining the buildings known as 1 William Street, including footpaths around the buildings, and extends to the kerb of the road. Once completed, 1 William Street will accommodate over 5,000 Queensland public servants.

The Amendment Regulation also prescribes that a person must not smoke at the following parts of national parks operated by the department responsible for the management of national parks:

- a camp site and land within 10 metres beyond the boundary of the camp site, and
- a public facility and land within 10 metres beyond the public facility.

These are the places where national park visitors mostly congregate. The aim is to reduce visitor exposure to second-hand smoke, and ensure that the bans are easy for smokers to understand and comply with.

Naree Budjong Djara National Park and Teerk Roo Ra National Park are declared over, and co-exist with, Aboriginal freehold land. These two national parks are excluded from the smoking bans prescribed in the Amendment Regulation due to the freehold status of the land and joint management arrangements that are in place between the Department of National Parks, Sport and Racing (DNPSR) and the freehold Aboriginal land owners.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Tobacco Act.

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

The Amendment Regulation is the only effective means of achieving the policy objectives.

Benefits and costs of implementation

The Amendment Regulation supports the implementation of the Amendment Act, the benefits of which include improving the health of members of the public by reducing their exposure to tobacco and other smoking products.

There are no costs arising from the Amendment Regulation.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles in section 4 of the *Legislative Standards Act 1992*.

Consultation

Consultation was undertaken with Cbus Property 1 William Street Pty Ltd, the building owners, to prescribe 1 William Street as a government precinct. No significant issues were raised.

The Minister for National Parks and the Great Barrier Reef provided his written agreement to the making of the Amendment Regulation, as required by section 26ZKE of the Tobacco Act. DNPSR conferred with Quandamooka Yoolooburrabee Aboriginal Corporation in relation to excluding national parks that coexist with Aboriginal freehold land from the application of the Amendment Regulation. No significant issues were raised.

The Office of Best Practice Regulation was consulted on the Amendment Regulation and advised that a Regulatory Impact Statement is not required.

Notes on provisions

Short title

Clause 1 provides that the short title of the Amendment Regulation will be the *Tobacco and Other Smoking Products Amendment Regulation (No.1) 2016*.

Commencement

Clause 2 provides for commencement of the Amendment Regulation. Subsection (1) provides that sections 3, 4, 5 and 7 commence on 1 September 2016. Subsection (2) provides that section 6, which relates to national parks, commences on 1 February 2017.

Regulation amended

Clause 3 specifies that the Amendment Regulation amends the Tobacco Regulation.

Amendment of s 13 (Display of no smoking sign—Act, s 26S)

Clause 4 omits the word ‘licensed’ from section 13(1) to align the section with the revised wording in the Tobacco Act, as amended by the Amendment Act.

Replacement of s 15 (Outdoor pedestrian malls where smoking near an entrance to an enclosed place is not prohibited—Act, s26ZJ(3)(b))

Clause 5 omits existing section 15 and inserts new section 15 to prescribe a government precinct where a person must not smoke for the purposes of section 26ZD(2)(b) of the Tobacco Act. The prescribed government precinct is known as 1 William Street. The smoking prohibition applies to the land adjoining the buildings, including footpaths surrounding the land and extends to the kerb of the road.

Existing section 15 (outdoor pedestrian malls where smoking near an entrance to an enclosed place is not prohibited) is being removed as the Tobacco Act now bans smoking at all outdoor pedestrian malls in Queensland.

Insertion of new s 15A

Clause 6 inserts new section 15A, which prescribes parts of all national parks where a person must not smoke for the purposes of section 26ZKE(1) of the Tobacco Act.

The prescribed parts of national parks where a person must not smoke are:

- a camp site operated by the department responsible for the management of national parks and land within 10 metres beyond the boundary of the camp site, and
- a public facility operated by the department responsible for the management of national parks, and land within 10 metres beyond the public facility.

The smoking bans will not apply to camp sites and facilities on national park land that are operated by entities other than the department responsible for the management of national parks, for example, ecotourism facilities operated by private entities. The operators of those facilities will therefore be able to determine their own smoking policies.

Clause 6 provides that the smoking ban does not apply to Naree Budjong Djara National Park or Teerk Roo Ra National Park, as these national parks co-exist with Aboriginal freehold land.

Clause 6 also defines *camp site* and *public facility* for the purposes of the Amendment Regulation. The definition of *camp site* applies the smoking ban to a camp site with camping equipment present, even if it is unattended at the time. *Public facility* is specified as a barbeque, jetty, boat ramp or landing stage, picnic table, roofed shelter, toilet block or visitor information centre.

Omission of sch 2 (Prescribed outdoor pedestrian malls)

Clause 7 omits schedule 2 (prescribed outdoor pedestrian malls) from the Amendment Regulation as the Tobacco Act now bans smoking at outdoor pedestrian malls in Queensland.

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