



# Impact Analysis Statement

## Summary IAS

### Details

<b>Lead department</b>	Queensland Health
<b>Name of the proposal</b>	Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025
<b>Submission type</b> <i>(Summary IAS / Consultation IAS / Decision IAS)</i>	Summary IAS
<b>Title of related legislative or regulatory instrument</b>	<i>Tobacco and Other Smoking Products Act 1998</i> <i>State Penalties Enforcement Regulation 2014</i>
<b>Date of issue</b>	August 2025

Proposal type	Details
<b>Regulatory proposals where no RIA is required</b>	<p>The Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (Bill) proposes to amend the <i>Tobacco and Other Smoking Products Act 1998</i> (Act) and the <i>State Penalties Enforcement Regulation 2014</i> to introduce a range of amendments.</p> <p>The amendments to the Act will:</p> <ul style="list-style-type: none"> <li>expand the existing 72-hour ‘interim’ closure power, to allow the chief executive of Queensland Health to close a premises for three months if satisfied that illicit tobacco and illicit nicotine products are being supplied or possessed at the premises, or the unlicensed sale of smoking products is occurring (a ‘short-term closure order’);</li> <li>expand the existing six month ‘long-term’ closure power, to allow a Magistrate to order the closure of a premises for up to 12 months in the same circumstances (a ‘long-term closure order’);</li> <li>ensure businesses cannot circumvent the intent of closure orders, by providing that it is an offence to open to the public or supply products or services when a closure order is in effect;</li> <li>insert a statutory power for lessors of commercial premises to terminate a lease where the premises is subject to a closure order;</li> <li>create a criminal offence applying to lessors of commercial premises who knowingly permit the premises to be used for the supply or possession of illicit tobacco or illicit nicotine products;</li> <li>enable the chief executive to apply to the court for a civil penalty order if the chief executive is reasonably satisfied that a lessor has permitted premises to be used for the supply or possession of illicit tobacco or illicit nicotine products;</li> <li>deem executive officers to have personally committed certain offences committed by the corporation, unless they can satisfy the evidential burden of showing that they did not know, and could not have reasonably been expected to know, of the corporation’s conduct constituting the offence, or that they took all reasonable steps to ensure the corporation</li> </ul>



	<p>did not engage in that conduct, and this cannot be disproven by the State;</p> <ul style="list-style-type: none"> <li>• expand existing seizure and forfeiture powers to allow authorised persons, when seizing illicit tobacco and illicit nicotine products, to also seize legal smoking products, hookahs and components of hookahs as 'compromised goods' and forfeit them;</li> <li>• expand the existing entry powers to allow authorised persons to enter wholesale premises without a warrant or occupier's consent;</li> <li>• allow the chief executive of Queensland Health to appoint controlled purchase officers to participate in covert operations involving attempts to buy illegal and legal products to gather evidence and support more efficient and targeted enforcement;</li> <li>• introduce the ability for evidentiary aids to be utilised in court proceedings under the Act as evidence of certain matters;</li> <li>• allow authorised persons to request information from any person that is relevant to the monitoring or enforcement of certain provisions of the Act;</li> <li>• expand the offences related to bongs, ice pipes and their components to capture the storage or commercial possession of these products, and to allow the forfeiture of components of these products;</li> <li>• allow for acknowledgement of prevention measures taken for employees, relating to supply of smoking products to children, to be provided electronically; and</li> <li>• provide venues with a commercial hotel, community club or commercial special facility casino licence with the option to choose either a smoking-only area (where drinking is not permitted) or a designated outdoor smoking area (where drinking is permitted).</li> </ul> <p>Amendments to the State Penalties Enforcement Regulation will prescribe certain new offences as a penalty infringement notice (PIN) offences.</p> <p>These proposals either relate to police powers and administration, general criminal law, the administration of courts and tribunal and corrective services, or impose non-compliance costs rather than direct costs. No regulatory impact analysis is required for these proposals under <i>The Queensland Government Better Regulation Policy</i>.</p>
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**For all other proposals**

The majority of this Bill (detailed above) addresses the conduct regulated by the Act, including the supply and possession of illicit tobacco and illicit nicotine products.

However, the Bill also includes other amendments to improve the licensing scheme. A regulatory impact analysis is required for the following two proposals to amend the Act to:

- require licensed wholesalers to retain copies of invoices provided to licensed retailers for two years to ensure consistent requirements for all licensees and improve compliance monitoring; and
- expand the information required as part of an initial licence application to assist with assessing the entity for a licence and identifying lessors.



## What is the nature, size and scope of the problem? What are the objectives of government action?

### ***Licence application information***

#### The problem

Suppliers of retail and wholesale tobacco and other smoking products are required to hold a licence under the Act. Under section 18 of the Act, an application for a retail or wholesale licence must be submitted in the approved form and include:

- proof of identification;
- sufficient information to identify the directors, if the entity is a corporation;
- the location of the outlet;
- the website address of the online shop (if any);
- a copy of the liquor licence for the premises (if relevant); and
- sufficient information to identify all licences to supply a smoking product by retail or wholesale, if any, held by the applicant under a law of the Commonwealth or another State.

While applicants for a retail or wholesale licence are required to submit this information as part of initial licence applications, applicants are not currently required to submit proof of their right to occupy the business premises or provide details about their business.

This limits Queensland Health's ability to undertake the legislated fit and proper person assessment under section 40 of the Act, including analysing if an applicant is related to another organisation that has previously been found non-compliant with the Act or rejected as an applicant. It also does not assist in understanding if the applicant has genuine arrangements in place (including a genuine business and premises).

Under section 42 of the Act, the chief executive of Queensland Health can request further information within 30 days of an application, including proof of the applicant's right to occupy the premises, to inform a decision about the application. Due to the time limitation on this request, this is typically used on a case-by-case basis where additional details are required, rather than requesting this further information from all applicants. Use of this request to date shows an observed non-response from applicants, limiting the effectiveness of this provision to obtain further information.

The complexity of business structures observed in licence assessments and examples of deliberate attempts to avoid disclosure of the actual operations of a business indicate the need for more detailed information to be provided at the application stage to assist with making a fit and proper person assessment. The connection between an applicant and the business premises, including the legitimacy of a lease or other arrangement or right to occupy a premises, is considered relevant to the assessment.

Given the increased prevalence of illicit tobacco and illicit nicotine products, there is a need to strengthen checks at the licensing application stage. This will help assist with reviewing applicants with a history of repeated non-compliance or those operating without proper business registration to ensure they are identified during the fit-and-proper assessment process, and where appropriate, prevented from entering the licensing scheme. These measures are intended to help ensure that licenses are only granted to operators who are likely to comply with the regulatory requirements, reducing the risk of unlawful activity occurring at licensed premises. This approach complements other proposals in the Bill aimed at protecting public health and improving the integrity of the licensing system.

#### Objectives of Government action

The objectives of seeking additional licence information are two-fold: to enable Queensland Health to have better insight of an applicant's business and to provide an avenue for identifying the lessor of the premises (where relevant). This ensures Queensland Health is aware of the status of the business when assessing an application, which will assist in identifying links between businesses and preventing businesses with a history of non-compliant or criminal activity entering the licensing framework. It will also facilitate the



identification and notification of lessors of commercial premises who may be liable for an offence under the Bill if they allow their premises to be used for the supply or possession of illicit tobacco or illicit nicotine products.

### ***Wholesale invoices***

#### The problem

Under section 49 of the Act, wholesale licensees must provide retail licensees with invoices relating to the sale of smoking products. Retailers must retain the invoices for two years. The maximum penalty for non-compliance with either requirement is 140 penalty units. However, there are currently no requirements for wholesaler licensees to retain invoices sent to retail licensees. This means that authorised persons cannot verify whether retailer-held invoices are genuine and if any illicit products have been supplied by a licensed wholesaler.

#### Objectives of Government action

Capturing information from licensed smoking product wholesalers, as well as retailers, will provide a consistent approach across licence types, assist authorised persons to track the supply chain, ensure licensed wholesalers are only selling to licensed retailers and provide information that helps to identify networks of illicit supply.

### **What options were considered?**

#### ***Licence application information***

##### Option 1 – Status quo

No change. The current information required to be submitted in a licence application would continue to be required as part of the approved form.

##### Option 2 – Preferred

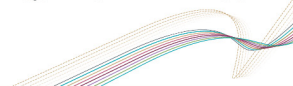
Amend sections 18 and 47 to require additional information to be submitted as part of the licensee application and to require notification of any changes to these matters.

The current application process would be expanded to require applicants to submit sufficient information to determine the:

- Australian Business Number (ABN) of the business;
- details for service for the lessor of the premises (if any);
- nature of the right to use the premises (for example, pursuant to a lease, or ownership of the premises).

Section 47 currently requires licensees to notify Queensland Health of certain matters—for example, changes to the name of the licensee or business, or changes to the executive officers of a licensee that is a corporation. A consequential amendment would require the licensee to notify Queensland Health of any changes to the ABN, details for the lessors of the premises, or nature of the applicant's right to occupy the premises to ensure Queensland Health has current information for monitoring and risk analysis purposes.

This would introduce further administrative work for the applicant as part of the application process and an ongoing notification requirement on all licensees who are issued with a licence following the commencement of the Bill.



### **Wholesale invoices**

#### Option 1 – Status quo

No change. This would mean that licensed wholesalers would not be required to keep any records of their sales.

#### Option 2 – Amend section 49 to require invoices to be kept for two years (preferred)

Licensed wholesalers are currently required to issue invoices to retailers. This amendment would require them to hold onto these invoices for two years. If a licensed wholesaler did not keep a copy of their invoices for the previous two years, they could be found liable for a maximum penalty of 140 penalty units if pursued at court.

#### Option 3 – Introduce a requirement for wholesale licensees to keep records of supply

An alternative option is to require a broader requirement to collect and retain records of sales for two years. This would involve prescribing greater detailed information than is currently prescribed for an invoice given to all retailers under section 49 of the Act. This would require an amendment to the *Tobacco and Other Smoking Products Regulation 2021* to itemise the information would be required in a record of sale.

### **What are the impacts?**

#### **Licence application information**

##### Option 1 – Status quo

As there would be no change, total costs would be nil. However, this option would not achieve the policy objective. There would be no improvement in the available information to make a fit and proper person assessment to assist Queensland Health to make a more informed decision on an application. Further, Queensland Health would be unable to identify lessors of premises for the purposes of enforcing an offence or contravention committed by the lessor, as introduced in the Bill.

##### Option 2 – Amend sections 18 and 47 to require additional information to be submitted as part of the licensee application and to require notification of any changes to these matters (preferred)

This option would achieve the policy objective in an effective and efficient manner.

Improving information submitted as part of an application and ongoing notifications would ensure that Queensland Health has current information about an applicant or licensee, and can more efficiently consider the status of the business and operating arrangements as part of its regulatory responses and decisions.

The availability of an ABN means the business's status can be verified and searched through online records, to ensure the business is active and operating in line with the other information provided in the licence application. This may assist with identifying any problematic applicants or related businesses that have previously been subject to compliance action under the Act or other regulatory action that has affected their business status. It will also assist with contacting the lessor for the purposes of serving a closure order notice on them (as required under the Bill), and undertaking enforcement action for any offences or contraventions that occur at the premises and relate to the lessor's conduct, as introduced in the Bill.

Compliant businesses are negatively impacted by non-compliant licensees who supply illicit tobacco or illicit nicotine products at significantly reduced prices. Measures that reduce continued trade by these businesses or prevent their entry into the licencing scheme under false pretences will benefit compliant suppliers by removing competing illegal products.

Requiring further information will also reduce costs for Government associated with assessing businesses suspected to be non-compliant or those with false, inactive or opaque businesses. A requirement for additional information is expected to facilitate more streamlined fit and proper assessment processes.



However, expanding information requirements will expose all businesses to further costs in terms of time for preparing the application, retrieving documents and creating copies in readiness for the application. For example, the application will need to be accompanied by evidence of the right to occupy the premises (for example, a copy of the lease, title search or title deed for the premises), evidence of business registration (a copy of the Australian Business Number search) and evidence of the details of the relevant lessor, if any (for example, the details in the lease, the contact details of the lessor's agent, or a copy of an ASIC company search for the lessor's company).

The application process will be extended, and further time will be required to include the additional information. While the vast majority of applicants (estimated 90 per cent) will already have these documents (for example, a lease agreement, title search, title deed or ABN record) for other business requirements outside of the Act, a small number (estimated 10 per cent) may need to retrieve this information and this would add time or cost impost as part of preparing the application.

It is estimated that costs of providing the additional information for a business adds:

- for all licence applicants – 30 more minutes per application to enter the additional information. This is estimated to cost \$34 per application per year (based on an estimate of \$68 an hour).
- for a small number of applicants (10 per cent) – a further 30 minutes will be required to retrieve the additional information. This is estimated to cost \$34 per application per year (based on \$68 an hour).

Queensland Health receives approximately 1,000 to 1,100 applications each quarter and currently has 5,309 approved licensees in the scheme. In the first year of the scheme, more than 6,500 applications were made for a licence. Some licences are withdrawn by the business (approximately 10 per cent), but the vast majority of licences (less than 80 per cent) are granted with the remainder referred to a committee for more detailed assessment before granting or refusal.

Queensland Health can accommodate processing this additional information as part of licence applications within existing resources. Changes would be required to the online application form and licensing system to reflect the changes to the application process. The existing licensing application fee is designed to anticipate a degree of adjustment to the system to accommodate changes as needed—as such, no additional costs would be incurred for Queensland Health.

### **Wholesale invoices**

#### Option 1 – Status quo

As there would be no change, total costs would be nil. This option would not achieve the policy objective. Licensed wholesalers would not be required to keep any records of their sales which would continue to frustrate enforcement efforts.

#### Option 2 – Amend section 49 to require invoices to be kept for two years (preferred)

This option would achieve the policy objective in an efficient and effective manner.

There are minor impacts resulting from this amendment, noting licensed wholesalers are already required to issue the invoice. The amendment requires retention of these invoices for two years. There is no requirement on wholesalers to keep a copy of these invoices in hard copy form so they may be held electronically to reduce impost and costs, which would be minimal.

The key impact will be the imposition of an offence on this cohort, noting they are subject to other offences, including an offence of the same penalty should they fail to provide the invoice to retailers under section 49(2) of the Act.

It is estimated that the costs for wholesalers of this proposal to retain invoices are based on:

- The known number of licensed wholesalers (n=132) that will be required to provide invoices to retailers.



- An allowance for 1 person of 30 minutes a week for record keeping at a cost of \$68 per hour (\$34 per wholesaler, per week).

Queensland Health has no additional costs related to the proposal as compliance monitoring will use existing enforcement efforts. Licensed wholesalers are currently required to issue invoices to retailers. This amendment would require them to hold onto these invoices for two years. If found not to have retained their invoices for the previous two years, they could be liable for a maximum penalty of 140 penalty units if prosecuted, or a PIN of 10 penalty units for an individual or 50 penalty units for a corporation. The Bill also proposes to introduce a PIN for retail licensees for failing to retain invoices.

#### Option 3 – Introduce a requirement for wholesale licensees to keep records of supply

This option would achieve the objective sought but would likely have a more significant impact on wholesalers to provide these details without delivering greater benefit than the information that could be obtained by using invoices.

Early analysis determined that it was not considered of benefit at this time to require wholesalers to collate and provide other details relating to supply, such as quantities ordered and distributed, importation tracking identifiers, or brand/variant supplied to retailers. It is noted that legitimate wholesalers are licensed by the Commonwealth for import and provide information through these channels. For the purpose of improving investigation of Queensland supply chains, requiring additional records of supply to be prepared and retained did not deliver sufficient additional benefit to investigate its regulatory impact in any further detail.

#### **Who was consulted?**

Early consultation on the options to address these two proposals occurred with select internal stakeholders and government representatives from other departments.

External consultation on the proposals in the Bill occurred between 22 May 2025 to 20 June 2025. A public consultation paper was prepared and published, with 80 stakeholders responding to the consultation paper.

Stakeholders provided minimal feedback on these two proposals, with the majority of feedback focusing on the other proposals in the Bill.

#### ***Licence application information***

Two stakeholders suggested additional scrutiny in the review of licence applications but did not provide any commentary on the additional matters proposed to be included in licence applications.

One stakeholder suggested licence applications should also include the registered trading name, while another recommended inclusion of passports, driver's licenses and criminal history checks to improve identity checks and to improve the fit and proper person assessments as part of the licensing scheme. Consideration has been given to requiring the business name or trading name of an applicant in the past. The provision of an ABN ensures Queensland Health can identify these further details.

In addition, applicants often provide copies of passports, driver's licenses, and other similar documents as part of identity checks in the application process such that a change to the Bill is not necessary. Queensland Health can request criminal history reports directly from the Commissioner of the Police under section 41 of the Act. This only occurs where there are concerns about the applicant such that it is not considered necessary for every applicant.

#### ***Wholesale invoices***

No concerns were raised regarding the proposal to require wholesalers to retain invoices for two years.

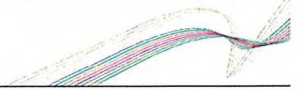


What is the recommended option and why?
<p><b>Licence application information (Option 2)</b></p> <p>The recommended option is to amend sections 18 and 47 of the Act to require additional information to be submitted as part of a licence application and to require notification of any changes to these matters following entry into the licensing scheme.</p> <p>The intent is to ensure Queensland Health has sufficient information to assist in making an informed licensing decision about the applicant and to be able to identify and notify the lessor of the premises (if any) should illegal activity be identified, to serve a closure order notice and for the enforcement of an offence or contravention of the Act against the lessor, if pursued.</p> <p>This is the most efficient use of government resources, noting the extensive work that occurs currently to verify businesses and lessors of premises as part of investigations and enforcement action. Ensuring this information is available from the outset and is regularly updated assists in the proper and efficient regulation of the sector. This option provides the greatest benefit to the community noting it provides improved licensing decisions for the regulation of smoking products.</p>
<p><b>Wholesale invoices (Option 2)</b></p> <p>The recommended option is to amend section 49 of the Act to require licensed wholesalers to keep invoices for two years. This will allow authorised persons to request these invoices under their powers under the Act and use this information to inform investigations and compliance monitoring.</p> <p>It is considered appropriate to extend the offence to require licensed wholesalers to retain these invoices for consistency across licensees. It also has a low impost on licensed wholesalers who are already required to produce invoices. This option is also more efficient than introducing a new offence and new obligation to prepare separate records of sales with greater details. This amendment is therefore the least impactful to achieve the policy intent.</p>

### Impact assessment

	First full year	First 10 years**
<b>Direct costs</b> <b>Compliance costs</b>	<p><b>\$243,100 for additional licence application information</b></p> <p>(90% applicants: extra application time 30 mins \$34 per applicant x 5,850 applicants = \$198,900)</p> <p>(10% applicants: extra application time 30 mins + retrieve information time 30 mins \$68 per applicant x 650 applicants = \$44,200)</p>	<p>90% applicants = \$1,494,780 10% applicants = \$332,173</p> <p><b>Total = \$1,826,953</b></p>
	<p><b>\$233,376 for wholesale invoices</b></p> <p>(52 x 34 = \$1,768 per wholesaler) (132 x 1,768 = \$233,376)</p>	<p><b>Total = \$1,724,634</b></p>
<b>Direct costs</b>	-\$0 (Nil – covered by existing licence fees)	\$0
<b>Government costs</b>	\$0 (Nil cost associated with wholesale invoices)	\$0

Note: A wage + non-wage rate of \$68 was used as part of estimating direct costs using the Queensland Treasury calculator.



**Signed**

A handwritten signature in black ink, appearing to read 'David Rosengren'.

Dr David Rosengren  
Director-General of Queensland Health  
Date: 28 August 2025

A handwritten signature in blue ink, appearing to read 'Tim Nicholls'.

The Honourable Tim Nicholls MP  
Minister for Health and Ambulance Services  
Date: 1/9/25