



Smokefree Environments and Regulated Products Amendment Act 2024

Public Act 2024 No 6
Date of assent 5 March 2024
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Smokefree Environments and Regulated Products Amendment Act 2024.

2 Commencement

This Act comes into force on the day after Royal assent.

3 Principal Act

This Act amends the Smokefree Environments and Regulated Products Act 1990.

Part 1

Amendments to principal Act

4 Section 2 amended (Interpretation)

In section 2(1), repeal the definitions of **approved smoked tobacco retail premises, approved smoked tobacco retailer, entity, iwi-Māori partnership board, Māori Health Authority, and responsible person.**

5 Section 3A replaced (Purposes of this Act)

Replace section 3A with:

3A Purposes of this Act

The purposes of this Act are, in general, as follows:

- (a) to reduce the exposure of people who do not themselves smoke to any detrimental effect on their health caused by smoking by others; and
- (b) to prevent the normalisation of vaping; and
- (c) to reduce the appeal of regulated products to children and young people; and
- (d) to minimise harm from regulated products, in particular to children and young people; and

- (e) to regulate and control the marketing, advertising, and promotion of regulated products (whether directly, including through the appearance of regulated products and packages, or through the sponsoring of other products, services, or events) in order to improve public health by—
 - (i) discouraging people, especially children and young people, from taking up smoking; and
 - (ii) discouraging non-smokers, especially children and young people, from taking up vaping or using smokeless tobacco products; and
 - (iii) encouraging people to stop smoking, vaping, or otherwise using regulated products; and
 - (iv) discouraging people who have stopped smoking, vaping, or otherwise using regulated products from resuming smoking, vaping, or using regulated products; and
- (f) to support smokers to switch to regulated products that are significantly less harmful than smoking; and
- (g) to regulate the safety of regulated products; and
- (h) to monitor and regulate the presence of the constituents of regulated products and their emissions; and
- (i) to give effect to certain obligations and commitments that New Zealand has as a party to the WHO Framework Convention on Tobacco Control, done at Geneva on 21 May 2003.

6 Section 3AA amended (Guide to this Act)

- (1) Replace section 3AA(3) with:
 - (3) Part 1B regulates entry into the vaping products market.
- (2) Replace section 3AA(6) with:
 - (6) Part 3A provides for the regulation of constituents of smoked tobacco products.
- (3) In section 3AA(8)(b)(iii), replace “product approval and notification decisions” with “notifiable product decisions”.

7 Section 3AB amended (Te Tiriti o Waitangi (the Treaty of Waitangi))

Repeal section 3AB(a) to (c).

8 Part 1B heading amended

In the Part 1B heading, replace “smoked tobacco and vaping products markets” with “vaping products market”.

9 Subpart 1 of Part 1B repealed

Repeal subpart 1 of Part 1B.

10 Cross-heading above section 57A repealed

Repeal the cross-heading above section 57A.

11 Sections 57B to 57E repealed

Repeal sections 57B to 57E.

12 Section 57I repealed (Limits on nicotine for smoked tobacco products)

Repeal section 57I.

13 Section 81 amended (Regulations)

- (1) Repeal section 81(1)(20) to (21A) and the headings above section 81(1)(20) and (21A).
- (2) In section 81(1)(22)(i), replace “approved smoked tobacco retailers, and specialist vape retailers” with “and retailers of regulated products”.
- (3) Repeal section 81(22)(ia).

14 Section 82A repealed (Regulations for sale and distribution of smoked tobacco products)

Repeal section 82A.

15 Section 82B amended (Regulations relating to requirements for smoked tobacco products)

- (1) Repeal section 82B(1)(b) and (e).
- (2) In section 82B(2), replace “subsection (1)(a), (c), or (e)” with “subsection (1)(a) or (c)”.

16 Section 85 amended (Regulations imposing fees)

Repeal section 85(1)(a)(vi) and (vii).

17 Section 86 amended (Regulations imposing levies)

- (1) Replace section 86(1) with:
 - (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations providing for the levies that must be paid by a retailer, distributor, importer, or manufacturer of a notifiable product under Part 4.
- (2) In section 86(2)(b), replace “Parts 1B and 3A” with “Part 1B”.

18 Section 90A amended (Liability for action of employee)

Replace section 90A(1) with:

- (1) This section applies to an offence against section 40(2), 43(3), 44(4), 57F(2), 57H(6), or 69B(7).

19 Section 90B amended (Burden of proof of reasonable excuse)

- (1) In section 90B, delete “20G(3), 20H(2), 20J(8),” and “55(2), 57(6), 57C(8), 57D(8),”.
- (2) In section 90B, replace “43(4)” with “43(3)”.

20 Section 100 amended (Annual reporting requirements for manufacturers, importers, distributors, and retailers of regulated products)

Repeal section 100(2A).

21 Section 102 amended (Appeals against decision to suspend or cancel product approval or notification)

- (1) Replace section 102(1) with:
 - (1) If the Director-General decides to suspend or cancel a notification of a notifiable product, the notifier may appeal to the appeals committee against the decision.
- (2) In section 102(2), delete “holder of the approval or the”.

22 Section 103 amended (Appeals committee)

In section 103(2), delete “an approval of a smoked tobacco product or”.

23 Section 105 repealed (Ministry must review certain provisions of Act)

Repeal section 105.

24 Schedule 1 amended

- (1) In Schedule 1, repeal clause 17.
- (2) In Schedule 1, repeal clause 18(1)(a) and (c) and (2).

Part 2**Amendments to other enactments****Subpart 1—Amendments to Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Act 2022****25 Principal Act**

This subpart amends the Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Act 2022.

26 Section 2 amended (Commencement)

- (1) Repeal section 2(1) to (3).
- (2) In section 2(4), replace “The rest of this Act” with “This Act”.

- 27 Section 20 repealed (Subpart 7 heading in Part 2 amended)**
Repeal section 20.
- 28 Section 21 amended (Section 40 amended (Sale and delivery of regulated product to people younger than 18 years prohibited))**
Repeal section 21(1) and (2).
- 29 Sections 22 to 26 repealed**
Repeal sections 22 to 26.
- 30 Section 41 amended (Section 81 amended (Regulations))**
Repeal section 41(1) and (2).
- 31 Section 52 repealed (Section 94 amended (Enforcement officer may require identifying information))**
Repeal section 52.
- 32 Subpart 1 of Part 2 repealed**
Repeal subpart 1 of Part 2.
- 33 Sections 61 to 63 repealed**
Repeal sections 61 to 63.

Subpart 2—Amendments to Smokefree Environments and Regulated
Products Regulations 2021

- 34 Principal regulations**
This subpart amends the Smokefree Environments and Regulated Products Regulations 2021.
- 35 Subparts 2A, 2B, and 2C of Part 3 revoked**
Revoke subparts 2A, 2B, and 2C of Part 3.
- 36 Subpart 4 of Part 3 revoked**
Revoke subpart 4 of Part 3.
- 37 Part 6A revoked**
Revoke Part 6A.
- 38 Regulation 84 amended (Annual returns and reports)**
- (1) In regulation 84(1) and (2), replace “be in” with “contain the information required by” in each place.
 - (2) Replace regulation 84(3)(b) with:

- (b) for—
- (i) specialist vape retailers, contain the information required by form 4 of Schedule 9; and
 - (ii) other retailers of regulated products, contain the information required by form 5 of Schedule 9.

39 Schedule 1 amended

- (1) In Schedule 1, revoke clause 7.
- (2) In Schedule 1,—
 - (a) insert the Part set out in Schedule 1 of this Act as the last Part; and
 - (b) make all necessary consequential amendments.

40 Schedule 8 amended

In Schedule 8, revoke the items relating to an applicant to be an approved smoked tobacco retailer, an applicant for approval of a smoked tobacco product, and an applicant for temporary approval of a smoked tobacco product that cannot meet product requirements.

41 Schedule 9 amended

- (1) In Schedule 9, forms 3 and 4, replace “UPC” with “EAN/UPC”.
- (2) In Schedule 9, after form 4, insert the form 5 set out in Schedule 2 of this Act.

Subpart 3—Amendments to Smokefree Environments and Regulated
Products Amendment Regulations 2023

42 Principal regulations

This subpart amends the Smokefree Environments and Regulated Products Amendment Regulations 2023.

43 Regulation 2 amended (Commencement)

Revoke regulation 2(2).

44 Regulation 7 revoked (Regulation 63 revoked (Conduct of tests of manufactured cigarettes))

Revoke regulation 7.

Schedule 1
New Part 3 inserted into Schedule 1

s 39(2)

Part 3
**Provisions relating to Smokefree Environments and Regulated
Products Amendment Act 2024**

16 Interpretation

In this Part, unless the context otherwise requires,—

amendment Act means the Smokefree Environments and Regulated Products Amendment Act 2024

commencement date means the date on which section 42 of the amendment Act comes into force.

17 Refund of fee paid by applicant to be approved smoked tobacco retailer

- (1) This clause applies in respect of a fee paid before the commencement date by an applicant to be an approved smoked tobacco retailer under regulation 82 and Schedule 8 of the Smokefree Environments and Regulated Products Regulations 2021.
- (2) The Director-General may refund the fee paid (inclusive of goods and services tax), in whole or in part, if the Director-General considers that it is fair and reasonable to do so in the circumstances.

Schedule 2

New form 5 inserted into Schedule 9

s 41(2)

Form 5

Annual return (sales-related information) for retailers of regulated products
other than specialist vape retailers

Business name:

Account number for Ministry database (if available and applicable):

NZ Business Number:

Calendar year:

Product class: smoked tobacco/vaping device/vaping substance/kit/smokeless tobacco
product/cigars/herbal cigarettes/dry herbal mix/herbal shisha/other [*specify*]*

*Delete as appropriate

Information about products sold (for each product sold):

Product class	EAN/UPC	Brand	Variant	Nicotine strength (if applicable)	Container size (if applicable)	Quantity sold
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I, [*full name*] of [*address*], [*position held*], certify that the information contained
in/and attached to* this return is correct for the purposes of the Smokefree Environ-
ments and Regulated Products Regulations 2021.

*Delete as appropriate

Place:

Date:

Legislative history

27 February 2024

Introduction (Bill 22–1), first reading, second reading,
committee of the whole House, third reading

5 March 2024

Royal assent

This Act is administered by the Ministry of Health.