

LEGISLATIVE COUNCIL

TOBACCO AMENDMENT BILL 2016

(Amendments and New Clauses to be proposed in Committee by Ms PATTEN in substitution for the Amendments previously circulated)

1. Clause 9, page 11, line 13, after "merchandise" insert "(other than any tobacco product)".
2. Clause 9, page 11, line 31, after "ignited" insert "or heated".
3. Clause 9, page 11, line 33, omit 'vapour;'. and insert "vapour;".
4. Clause 9, page 11, after line 33 insert—

'specialist e-cigarette outlet means a retail outlet that is certified by the Secretary as a specialist e-cigarette outlet under section 15U.".'.

5. Clause 9, page 14, after line 20 insert—

'() in section 6(2AA), for "tobacconist" **substitute** "tobacconist, a specialist e-cigarette outlet";'.

6. Clause 9, page 14, line 34, omit 'business;'. and insert 'business'.'.
7. Clause 9, page 14, after line 34 insert—

'() After section 6(2A) of the Principal Act **insert**—

"(2AB) A person carrying on an e-cigarette retailing business at a specialist e-cigarette outlet must not display a tobacco or e-cigarette advertisement of a product line of an e-cigarette product at a point of sale at that specialist e-cigarette outlet that is not in accordance with section 6B.

Penalty: In the case of a natural person, 60 penalty units;
In the case of a body corporate, 300 penalty units.

(2AC) A person carrying on an e-cigarette retailing business at a specialist e-cigarette outlet must not display a tobacco or e-cigarette advertisement of a product line of a tobacco product.

Penalty: In the case of a natural person, 60 penalty units;
In the case of a body corporate, 300 penalty units.

(2AD) A person carrying on an e-cigarette retailing business at a specialist e-cigarette outlet must not display a tobacco product.

Penalty: In the case of a natural person, 60 penalty units;
In the case of a body corporate, 300 penalty units.".'.

8. Clause 9, page 15, before line 1 insert—

"() In the Principal Act—".

9. Clause 9, page 15, after line 3 insert—

'() in section 6(2B), for "tobacconist" **substitute** "tobacconist, a specialist e-cigarette outlet";'.

10. Clause 9, page 15, after line 15 insert—

'() in section 6(2D), for "(2A)" **substitute** "(2A), (2AB), (2AC), (2AD)";'.

11. Clause 9, page 15, after line 27 insert—

'() in section 6(3)(cab), for "tobacconist" **substitute** "tobacconist, a specialist e-cigarette outlet";

() after section 6(3)(cb) **insert**—

"(cba) a tobacco or e-cigarette advertisement (other than a display of an e-cigarette product carried about on a person) at a point of sale inside a specialist e-cigarette outlet that is in accordance with section 6B; or

(cbb) one notice about e-cigarette products at one or more points of sale at a specialist e-cigarette outlet that complies with the prescribed requirements as to size, information contained in it and the manner in which the information is set out in it and the form in which the notice is displayed; or

(cbc) tickets or labels on, or adjacent to, immediate packages of e-cigarette products in a specialist e-cigarette outlet if the tickets or labels display retail prices and comply with the prescribed requirements as to size, information contained in them and the manner in which the information is set out or displayed; or";'.

12. Clause 9, page 21, after line 31 insert—

'(e) for the heading to Part 2A **substitute**—

"Part 2A Specialist tobacconists and specialist e-cigarette outlets";

(f) in section 15SA, after "section 15T" **insert** "in relation to a specialist tobacconist premises";

(g) in the heading to section 15T, after "**tobacconist**" **insert** "**or specialist e-cigarette outlet**".

() After section 15T(1) of the Principal Act **insert**—

"(1A) A person carrying on or proposing to carry on an e-cigarette retailing business at premises may apply to the Secretary for certification that the premises are a specialist e-cigarette outlet."

() In section 15U(1) of the Principal Act, after "tobacconist" **insert** "or a specialist e-cigarette outlet, as the case may be".

() After section 15U(2) of the Principal Act **insert**—

- "(2A) The Secretary may certify that premises are a specialist e-cigarette outlet if the Secretary is satisfied that—
- (a) an e-cigarette retailing business is carried on or proposed to be carried on at the premises; and
 - (b) if the e-cigarette retailing business is proposed to be carried on at the premises at the time of the application—
 - (i) no tobacco or e-cigarette advertisement or e-cigarette product that is proposed to be inside the premises will be visible to any person outside the premises; and
 - (ii) a sign referred to in subsection (2B) will be displayed in the manner set out in that subsection; and
 - (c) if the e-cigarette retailing business is carried on at the premises at the time of the application—
 - (i) no tobacco or e-cigarette advertisement or e-cigarette product that is inside the premises is visible to any person outside the premises; and
 - (ii) a sign referred to in subsection (2B) is displayed in the manner set out in that subsection; and
 - (d) certification of the premises is consistent with the objects of this Act; and
 - (e) certification of the premises is consistent with any strategic plan, policy statement, code or guideline relating to specialist e-cigarette outlets that has been adopted by the Minister; and
 - (f) the premises are separated from other retail premises by a wall and that any doorway or entrance to or exit from the premises does not open directly into any other retail premises.
- (2B) A sign referred to in subsection (2A) must—
- (a) contain the phrase "No Minors Admitted", or other wording that clearly indicates that persons under the age of 18 years are not permitted in the premises, in letters that are at least 20mm in height and are of a colour that contrasts with the background colour of the sign; and
 - (b) be displayed in a manner that ensures that a person is reasonably likely to see one or more of them either on entering the premises or from within the premises."

() In the Principal Act—

- (a) in section 15U(3), after "tobacconist" **insert** "or a specialist e-cigarette outlet, as the case may be,";
 - (b) in section 15U(3)(b), after "subsection (2)" **insert** "or (2A)";
 - (c) in section 15U(6), after "tobacconist" **insert** "or a specialist e-cigarette outlet, as the case may be,".
- () In the Principal Act, at the end of section 15V **insert**—
- "(2) A certification holder who proposed to carry on an e-cigarette retailing business at premises certified as a specialist e-cigarette outlet must notify the Secretary within 7 days after the business commences at those premises."
- () In the Principal Act—
- (a) in section 15W(1)(a) and (b), after "business" **insert** "or e-cigarette retailing business, as the case may be,";
 - (b) in section 15X(1)(b), after "section 15U(2)" **insert** "or (2A), as the case may be,".
- () After section 15X(5) of the Principal Act **insert**—
- "(5A) If premises are certified to be a specialist e-cigarette outlet and the certification holder does not commence carrying on an e-cigarette retailing business at the premises within 12 months after the premises being certified, the certification holder must request the Secretary to cancel the certification under subsection (4)."
- () In section 15ZB of the Principal Act, after "tobacconist" **insert** "or a specialist e-cigarette outlet, as the case may be,".
13. Clause 9, page 22, before line 1 insert—
- "() In the Principal Act—".
14. Clause 10, line 6, for "tobacconist" **substitute** "tobacconist, a specialist e-cigarette outlet".

NEW CLAUSES

15. Insert the following New Clauses to follow clause 10—

'A New section 15ZC inserted

After section 15ZB of the Principal Act **insert**—

"15ZC Specialist e-cigarette outlet—entry of persons under the age of 18 years not permitted

- (1) A person who carries on an e-cigarette retailing business at premises certified as a specialist e-cigarette outlet must not permit the entry of a person under the age of 18 years to the specialist e-cigarette outlet.

Penalty: 10 penalty units."

B Amendment of Schedule

- (1) In the Schedule to the Principal Act, after item 13 **insert**—

| | | | |
|------|------------------------------------|-----------------|--------------------|
| "13A | An offence against section 6(2AB) | 3 penalty units | 30 penalty units |
| 13B | An offence against section 6(2AC)) | 3 penalty units | 30 penalty units |
| 13C | An offence against section 6(2AD) | 3 penalty units | 30 penalty units". |

- (2) In the Schedule to the Principal Act, after item 32 **insert**—

| | | | |
|------|---------------------------------|----------------|------------------|
| "32A | An offence against section 15ZC | 1 penalty unit | Not applicable". |
|------|---------------------------------|----------------|------------------|