

Clause notes

PUBLIC HEALTH AMENDMENT (PREVENTION OF SALE OF SMOKING PRODUCTS TO UNDERAGE PERSONS) BILL 2018

Clause 1.	Short title and citation
Clause 2	The Act commences on Royal Assent.
Clause 3.	The <i>Public Health Act 1997</i> is the Principal Act
Clause 4.	<p>The definition of under-age person is introduced.</p> <p>Implementation occurs year by year from six months after the Act is proclaimed.</p> <p>The effect is that three years after the Act comes into effect the age at which smoking products may be sold to a person will be 21 years.</p> <p>This allows time for implementation and advice to retailers and the public.</p> <ul style="list-style-type: none">(a) For the first year it applies to a person who is 18 but not yet 19 years(b) For the second year it applies to a person who is 18 years but not yet 20 years(c) For the third year it applies to a person who is 18 years but not yet 21 years

<p>Clause 5.</p>	<p>Section 63 of the Act is amended to add “under-age person” or “person’s” after child, so that most of the provisions apply to under age persons in the same way as children.</p> <p>Neither children nor under-age persons are permitted to smoke, use a smoking product or possess a smoking product.</p> <p>Workers in smoking product retail premises are permitted to possess a smoking product.</p> <p>The difference in treatment between under-age persons and children is that nominated officers will not be able to seize smoking products from under-age persons, nor provide warnings, nor require the name and address of the underage person’s parents, nor who supplied the smoking product, nor notify a parent.</p> <p>These provisions still apply to children (seizure, warnings, advice to parents etc.)</p>
<p>Clause 6.</p>	<p>Section 64 is amended to prevent the sale or gift of smoking products by retailers or any other person to an under-age person.</p> <p>It does not prevent the gifting or supply of smoking products by friends or family members to under-age persons.</p> <p>Gifting or supply to children under 18 years remains an offence.</p>
<p>Clause 7.</p>	<p>Section 64A is amended to ensure that non-tobacco cigarettes (that is herbal and other similar products) are not sold to under-age persons.</p> <p>These products often contain nicotine even though their packaging says they do not. This provision has applied for many years to sales to children and is designed to avoid inadvertent addiction.</p>
<p>Clause 8.</p>	<p>Section 65 is inserted to ensure that an under-age person who attempts to purchase a smoking product must provide proof of age.</p> <p>A person who is over the restricted age is not obliged to provide proof of age.</p> <p>A person who provides false proof of age is in breach and can be fined.</p>
<p>Clause 9.</p>	<p>The Director is required to conduct a review of</p>

	<p>the whole of this Division which includes sales to children, within three years of the Act coming into effect.</p> <p>The Director must consider the operation of the Division, whether it is operating effectively to discourage smoking product usage by children and under age persons and whether further amendments are necessary.</p> <p>The Director must submit a report to the Minister within three years and six months, in relation to the review.</p> <p>The Director may make recommendations for amendments to improve the effective and efficient operation of this Division.</p> <p>The Minister must table the Director's report in Parliament.</p>
Clause 10.	Standard clause to repeal the Act so that becomes absorbed into the Principal Act.