QUEENSLAND PARLIAMENT
COMMITTEES

Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025

Health, Environment and Innovation Committee

Report No. 16

58th Parliament, November 2025

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Health, Environment and Innovation Committee

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All references and webpages are current at the time of publishing.

Acknowledgements

The committee acknowledges the assistance provided by Queensland Health and the Queensland Police Service.

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Chair's Foreword

This report considers proposed amendments in the Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025 (the Bill).

The committee's task was to consider the policy to be achieved by the legislation, and the Bill's compatibility with human rights and consistency with fundamental legislative principles.

The primary policy intent of the Bill is to provide Queensland Health with additional enforcement tools required to dismantle the illegal trade in illicit tobacco, vapes and nicotine products.

This problem has exploded over the last 5 years as organised crime has entered the market, offering cheap products to young and old alike. The availability of illicit products is undermining decades of success in reducing the smoking rate across Australia. Furthermore, organised crime is using money made from the illicit trade to fuel more nefarious activities.

The committee heard evidence which demonstrates that more than half of tobacco and nicotine products which are sold to consumers are not of lawful origin. It appears this figure is rising year on year. Strong measures are needed to address this problem. This Bill provides Queensland Health with the powers necessary to address this significant problem. As a result, the committee's sole recommendation is that the Bill be passed.

While the primary focus on the Bill is to dismantle illicit trade through increased enforcement powers, the committee heard compelling evidence that more can be done. In particular, the committee were urged by a number of submitters to recommend changes to the current licensing framework to address widespread availability of tobacco. At the public hearing, the committee were told that a tobacco licence costs only $419, and that:

> *while eight per cent of Australians are smoking daily, that eight per cent is serviced by over 40,000 outlets across the country. To put that in perspective, roughly 70 per cent of the population drive petrol cars and that 70 per cent is serviced by 7,000 petrol stations. There are also fewer than 3,000 major supermarkets in this country. [Tobacco] is more available than alcohol or bread and milk, and there is no other product that kills two in three of its long-term users that is so readily available on almost every street corner.*

These sobering statistics demonstrate that there are simply too many stores selling tobacco. While some of those stores would be operating without licenses, others would have likely gone through the proper channels. While the government is to be applauded on strengthening enforcement powers to stop illicit traders, future consideration should be given to further amending the licensing framework with a view to reducing the number of licensed retailers servicing the community, and providing increased barriers to entry, for example, increased licence fee or caps on the number of stores within a particular geographical area.

The committee have not made recommendations in this report regarding the licensing framework. This is because Queensland Health's response to submissions noted that this was outside the scope of the Bill, which was intended to target the illegal trade.

However, the committee hopes that in future revisions of TOSPA consideration may be given to submissions which addressed the licensing framework and changes are progressed which may be needed to address the issues raised as a matter of priority. This was subject to a committee comment on page 67 of this Report.

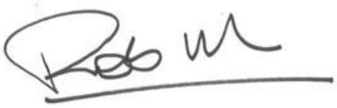
I would also take this opportunity to flag a couple of other issues discussed in this report.

Firstly, the CCC and QCCL both raised potential concerns about corruption risks arising from the introduction of controlled purchase operations. While the committee ultimately concluded that the additional PPRA safeguards were not necessary, there is cogency to the arguments heard by the committee that such extraordinary powers should be exercised cautiously and transparently. Queensland Health told the committee that compromised goods seized and forfeited would be reported in its Annual Report. Such reporting should also extend to controlled purchase operations to ensure accountability and transparency.

Secondly, the committee heard from some submitters that the new landlord criminal offence and civil penalty provisions, and the associated defence of 'reasonable excuse', lacked sufficient clarity. While the committee has not recommended any amendments to the Bill, there would be significant public benefit in ensuring that prosecutorial guidelines and other education material is made available during operationalisation of the Bill. This will ensure that landlords know what is expected of them. It will also promote consistency in the exercise of prosecutorial discretion.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill, and who appeared before the committee at the public hearing. I also thank my committee colleagues, our secretariat, Queensland Health and the Queensland Police Service who assisted the committee during this inquiry.

I commend this report to the House.



Rob Molhoek MP

Chair

Executive Summary

On 16 September 2025, the Honourable Timothy Nicholls MP, Minister for Health and Ambulance Services, introduced the *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* (the Bill) into the Legislative Assembly. The Bill was referred to the Health, Environment and Innovation Committee (the committee) for detailed consideration.

The Bill responds to the growing public health and safety concerns arising from the illegal trade of illicit tobacco and illicit nicotine (including vapes). The committee heard compelling evidence about the scale of the problem faced by enforcement agencies. This highly profitable enterprise has been taken over by organised crime who make millions from their unlawful activities. Queensland Health told the committee:

> *…this is not a traditional regulatory problem. We have organised crime involved—deeply involved. We have enormous financial incentives for these illegal operators to continue to do what they are doing. They are showing outright contempt for the law. It is not a secret that these products are illegal—they have been for a number of years now—yet you can walk down the street and still see a vape shop. You can go to a pub and half the people there are smoking illicit tobacco.*

These activities are not only endangering the gains made over recent decades to reduce smoking, particularly amongst young people, but also threaten public safety. The committee heard evidence of rising violence, arson attacks and ram-raids.

The Bill responds to challenges faced by Queensland Health in enforcing the TOSP Act in response to this emerging problem. While recent amendments to the TOSP Act have provided authorised officers with additional tools for enforcement, these have proved inadequate to address the scale of the illegal trade in tobacco and nicotine products.

The Bill provides for a range of new or improved measures including:

- expanding administrative closure orders to 3 months and amending the closure order offence to ensure that 'closed means closed'
- providing a statutory lease termination power to enable lessors to terminate leases where premises have been subject to a closure order
- introducing a new criminal offence and civil penalty provision to hold landlords accountable for permitting premises to be used for the illicit trade
- introducing type 2 executive liability to ensure executive officers are held accountable for the conduct of the corporations they lead
- introducing powers to allow the seizure and forfeiture of compromised goods (which are lawful smoking products found alongside illicit tobacco or illicit nicotine)
- introducing controlled purchase operations to allow authorised officers to collect evidence of TOSP Act offences.

These new measures will provide significant deterrence, improve enforcement, reduce the availability of commercial premises, and, if used effectively, reduce the emerging threat to public health and safety posed by the illegal trade.

During its inquiry, the committee received and considered the following evidence:

- a written briefing provided by Queensland Health on 23 September 2025
- 45 written submissions accepted from stakeholders (and Queensland Health's response to submissions, received 20 October 2025)
- two public briefings provided by Queensland Health on 8 October 2025 and 21 October 2025 (including responses to questions taken on notice at those hearings)
- a public briefing provided by the Queensland Police Service on 21 October 2025
- evidence provided by 18 witnesses at a public hearing on 21 October 2025.

Some of the measures in the Bill are novel or extraordinary. The committee carefully considered compliance with fundamental legislative principles and limits on human rights which arise from the measures in the Bill. The committee is satisfied that the Bill has sufficient regard to the rights and liberties of individuals and the institution of Parliament as required by the *Legislative Standards Act 1992.* The committee recognises that the Bill limits certain human rights but is satisfied that the limits are reasonable and proportionate and that the Bill complies with the *Human Rights Act 2019*.

The committee made 1 recommendation, found at page x: that the Bill be passed.

Recommendations

Glossary

2024 Act	*Tobacco and Other Smoking (Vaping) and Other Legislation Amendment Act 2024*
AACS	Australian Association of Convenience Stores
ACOSH	Australian Council of Smoking & Health
Authorised officer	Queensland Health Environmental Health Officers
Bill	Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025
CCC	Crime and Corruption Commission
CCQ	Cancer Council Queensland
Committee	Health, Environment and Innovation Committee
FLP	Fundamental Legislative Principle
HRA	Human Rights Act 2019
LSA	Legislative Standards Act 1992
NHMRC	National Health and Medical Research Council Centre for Research Excellence on Achieving the Tobacco Endgame
OIC	Office of the Information Commissioner
PIA	Privacy Impact Assessment
PIN	Penalty Infringement Notices
PPRA	*Police Powers and Responsibilities Act 2000*
QCCL	Queensland Council on Civil Liberties
QLS	Queensland Law Society
QNADA	Queensland Network of Alcohol and Other Drug Agencies Ltd
QPS	Queensland Police Service
REIQ	Real Estate Institute of Queensland
SCCA	Shopping Centre Council of Australia
TOSP Act	*Tobacco and Other Smoking Products Act 1998*
TSG	TSG Franchise Management

1. Overview of the Bill

The *Tobacco and Other Smoking Products (Dismantling Illegal Trade) and Other Legislation Amendment Bill 2025* (the Bill) was introduced by the Honourable Timothy Nicholls MP, Minister for Health and Ambulance Services, and was referred to the Health, Environment and Innovation Committee (the committee) by the Legislative Assembly on 16 September 2025.

1.1. Aims of the Bill

The sale of illicit tobacco and illicit nicotine products in Queensland is a public health crisis. Furthermore, the involvement of organised crime, with reports of threats, fire bombings and coercion, means this is also a public safety issue.[1] The widespread availability of cheap tobacco and vapes is 'undermining decades of progress in reducing smoking rates in Queensland, especially for our young people'.[2]

The objectives of the Bill are to:[3]

- protect public health by reducing the supply and possession of illicit tobacco and illicit nicotine products
- strengthen existing powers and offences to ensure they provide an appropriate financial deterrent to the supply and possession of illicit tobacco and illicit nicotine products
- reduce the availability of commercial premises used for the illegal trade
- hold lessors who permit the supply and possession of illicit products accountable
- improve enforcement and investigation efficiencies, and
- make minor and technical amendments to improve the operation of the Act.

1.2. Context of the Bill

The *Tobacco and Other Smoking Products Act 1998* (TOSP Act) provides the legislative framework for tobacco control in Queensland. Over the last 5 years, the TOSP Act has been substantially amended to introduce a licensing framework for retailers and wholesalers and expand the range of offences and associated penalties for those not complying with law.[4] It also provides the enforcement tools required by Queensland Health to monitor compliance.

[1] Public briefing transcript, Brisbane, 8 October 2025, p 2.
[2] Public briefing transcript, Brisbane, 8 October 2025, p 1.
[3] Explanatory notes, p 3.
[4] For a further overview of amendments to the TOSP Act from 2012 to September 2024, please see Queensland Health's response to questions taken on notice at the public briefing on 8 October 2025, question 1.

The Bill proposes significant amendments to the TOSP Act to broaden the enforcement tools available to Queensland Health to address the emerging problem of illicit tobacco and illicit nicotine. Proposed amendments include:

- Expanding the duration of closure orders and amending the closure order offence to ensure businesses cannot operate during a closure order
- Introducing a new statutory lease termination power to allow lessors to terminate leases for premises subject to a closure order
- Introducing a lessor criminal offence and lessor civil penalties to ensure accountability for lessors who knowingly permit premises to be used for the illicit trade, or who are reckless or turn a blind eye to unlawful activity
- Introducing type 2 executive liability for executive officers
- Expanding entry powers to allow authorised officers to enter wholesale premises without warrant or consent
- Introducing new powers that will allow authorised officers to seize and forfeit 'compromised goods', which are lawful smoking products found alongside illicit tobacco and illicit nicotine
- Introducing controlled purchase operations to assist authorised officers gather evidence to support prosecutions
- Introducing new powers to allow authorised officer to request certain information relevant to enforcement and compliance activities.

The significant issues raised during the committee's examination of the Bill,[5] which are discussed in Section 2 of this Report, include:

- The appropriateness of administrative closure orders being issued for 3 months where there is no requirement for procedural fairness or merits review available
- Whether the statutory lease termination power should be available in cases where an administrative closure order has been issued, as opposed to a court order
- The practical reality faced by landlords, and their ability to monitor lessee's activities, where the Bill proposes to hold them liable civilly or criminally
- Whether terms used in the Bill are adequately defined
- Potential corruption risks attendant in the seizure of lawful goods and the power to conduct covert operations in the absence of certain safeguards seen in comparable legislation

[5] Note that this section does not discuss all consequential, minor, or technical amendments.

- The need to tighten the tobacco licensing framework to reduce the availability of smoking products in Queensland.

1.3. Inquiry process

During its inquiry into the Bill, the committee received and considered a variety of evidence. This included:

- 45 written submissions accepted from stakeholders
- a written briefing provided by Queensland Health on 23 September 2025
- two public briefings provided by Queensland Health on 8 October 2025 and 21 October 2025 (including responses to questions taken on notice at those hearings)
- a written response to stakeholder submission provided by Queensland Health
- a public briefing provided by the Queensland Police Service on 21 October 2025
- evidence provided by 18 witnesses at a public hearing on 21 October 2025.

This evidence can be accessed on the committee's webpage.

1.4. Legislative compliance

The committee's deliberations included assessing whether the Bill complies with the requirements for legislation as contained in the *Parliament of Queensland Act 2001*, the *Legislative Standards Act 1992* (LSA),[6] and the *Human Rights Act 2019* (HRA).[7]

The powers contained in this Bill are 'novel or may be considered extraordinary'.[8] Where powers limit human rights and potentially infringe fundamental legislative principles, there must be clear justification. In this case, there is such justification.

1.4.1. Legislative Standards Act 1992

Assessment of the Bill's compliance with the LSA identified issues listed below, which are analysed in Section 2 of this Report:

- legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review
- legislation should not, without sufficient justification, unduly restrict ordinary business activities

[6] *Legislative Standards Act 1992* (LSA).
[7] *Human Rights Act 2019* (HRA).
[8] Public briefing transcript, Brisbane, 8 October 2025, p 3.

- legislation should be consistent with principles of natural justice and procedural fairness
- the consequences of legislation should be relevant and proportionate
- legislation should have sufficient regard to the rights and liberties of individuals, including that legislation should only confer the power to enter premises, and search and seize property, where a warrant has been issued by a judicial officer.

The committee is satisfied that the explanatory notes tabled with the Bill comply with the requirements of Part 4 of the LSA. The explanatory notes contain a sufficient level of information, background and commentary to facilitate understanding of the Bill's aims and origins.

1.4.2. Human Rights Act 2019

Assessment of the Bill's compatibility with the HRA identified issues with the following human rights, which are analysed further in Section 2:

- the right to property
- the right to privacy and reputation
- freedom of movement
- the right to liberty and security of person
- the right to a fair hearing
- rights in criminal proceedings.

The committee assessed the Bill's compatibility with the HRA. While the Bill limits various human rights, the limits are proportionate and justifiable. The committee concluded that the Bill is compatible with human rights.

A statement of compatibility was tabled with the introduction of the Bill as required by section 38 of the HRA. The committee is satisfied that the statement of compatibility tabled with the Bill provides a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

1.5. Should the Bill be passed?

The committee is required to determine whether or not to recommend that the Bill be passed.

Recommendation 1

The committee recommends that the Bill be passed.

2. Examination of the Bill

This section discusses the Bill's proposed measures and the key themes which were raised during the committee's examination of the Bill.

It starts with a consideration of the scale of the illicit tobacco and illicit nicotine problem and why it presents a significant public health and community safety issue which justifies the measures in the Bill.

It then considers the suite of measures proposed in this Bill which are designed to strengthen enforcement measures to achieve the Bill's policy intent of dismantling the illegal trade. While the measures are considered separately, each of the measures work in conjunction with other proposed measures, and within the existing enforcement framework in the TOSP Act.

2.1. The scale of the illicit tobacco and illicit nicotine problem

2.1.1. The public health crisis presented by illicit tobacco and illicit nicotine

Smoking kills. Two out of every three people who smoke will die from tobacco related illness.[9] Tobacco use is the leading cause of preventable death in Australia, claiming the lives of 66 Australians daily.[10] Smoking costs Australian society more than $136 billion annually in treatment and lost productivity.[11]

Australia has made considerable gains over recent decades and substantially reduced the rate of smoking amongst our population.[12] However, the gains made through public health initiatives are under threat; 'illicit tobacco trade and vapes are the biggest threat to undoing decades of success'.[13] There has been a substantial increase in the use of e-cigarettes by the younger generation.[14] The committee heard evidence that smoking rates are increasing as a result of the illicit market.[15]

On 21 October 2025, Cancer Council Queensland (CCQ) told the committee troubling statistics concerning the availability of illicit vapes at the public hearing:

> *… the Generation Vape national study, led by the University of Sydney and Cancer Council NSW's Daffodil Centre, provided us with Queensland-specific data on youth vaping that offers compelling evidence for passing this bill in full. In the most recent wave of the study, conducted in April this year, two-thirds of Queenslanders aged between 14 and 17 said that it was easy or very easy to buy vapes and only one per cent said that it was difficult. This is 14- to 17-year-olds. The findings reflect a representative mix of vapers and non-vapers, giving*

[9] Submission 29, p 4; Submission 25, p 1.
[10] Submission 25, p 1.
[11] Australian Institute of Health and Welfare, Tobacco smoking in the NDSHS Report, accessed at www.aihw.gov.au/reports/smoking/tobacco-smoking-ndshs, accessed on 22 October 2025.
[12] Submission 32, p 3; Submission 31, p 2.
[13] Submission 32, p 3. These concerns were echoed by other submitters, e.g. Submission 39.
[14] Submission 23, p 2.
[15] Public hearing transcript, Brisbane, 21 October 2025, p 14.

> *a clear picture of just how widespread vaping has become across Queensland. The current controls simply are not enough. Suppliers can easily get around the law, and existing penalties are too light to act as a real deterrent. This bill closes those gaps.*[16]

In the last 5 years, the Australian market has been flooded with illicit tobacco and illicit nicotine products (including vapes).[17] The committee were told that the illicit market represented $6.7 billion in lost excise revenue, that consumption of illicit tobacco represents over 50% of total consumption in Australia, and that the illicit market is generating about $10 billion in revenue.[18]

2.1.2. The involvement of organised crime and the risk to public safety

The enormous profits which can be made from the sale of illicit nicotine and illicit tobacco has seen the illicit market infiltrated by organised crime.[19] The committee were told:

> *The profit motive is vast. It is a little bit difficult to comprehend the amount of money you can make out of illicit tobacco but, quite literally, if you imported nine shipping containers full of illicit tobacco you could afford to lose eight of those containers and still make money.*[20]

The Crime and Corruption Commission (CCC) told the committee:

> *The link between illicit tobacco and organised crime syndicates in Queensland and Australia is well established, using profits from the illegal trade to bankroll other criminal activities. Evidence of small businesses across Australia being threatened or coerced into supplying the products and even having their business premises fire-bombed is a major concern for the community—elevating this market to go beyond a public health issue into matters of public safety.*[21]

The involvement of organised crime has also seen an increase in violent crime. The Queensland Police Service (QPS) told the committee about the scale of the problem:

> *The prevalence of violence associated with the illicit tobacco trade unfortunately represents a considerable threat to the community's safety. … profits from illicit tobacco sales are often channelled into other criminal enterprises both here and offshore.*[22]

The illicit tobacco and illicit nicotine market therefore poses a significant threat not only to public health, but also to public safety.

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[16] Public hearing transcript, Brisbane, 21 October 2025, p 2.
[17] Public hearing transcript, Brisbane, 21 October 2025, p 4.
[18] Submission 20, p 2.
[19] Public briefing transcript, Brisbane, 8 October 2025, p 8.
[20] Public briefing transcript, Brisbane, 8 October 2025, p 8.
[21] Public hearing transcript, Brisbane, 21 October 2025, p 25.
[22] Public briefing transcript, Brisbane, 21 October 2025, pp 1-2.

2.1.3. The impact on legitimate business

In addition to the harms to public health and safety, the widespread availability of illicit tobacco and illicit nicotine is crippling legitimate small businesses who strive to comply with the law.[23] The involvement of organised crime, and the rise in associated criminal behaviour, not only threatens the personal safety of legitimate retailers, but also access to insurance and banking facilities.[24]

One retailer told the committee that the emergence of illegal stores in their area has seen legal tobacco sales decline by 90% since 2020.[25] Another business owner told the committee:

> *As a lawful retailer operating within this industry, I have witnessed first-hand the increasing challenges legitimate business face as a result of ongoing illegal tobacco trade. While the intent of recent legislative changes is sound, enforcement has not kept pace with the adaptability of organised crime networks. … legislation and its implementation could be strengthened to protect compliant retailers and restore fairness to the marketplace.*[26]

Cignall told the committee that legitimate retailers are facing rising levels of intimidation, harassment and extortion and that some have been coerced into selling illegal products, while others have been forced out of business.[27]

And it is not just lawful tobacconists being affected. Corner stores, newsagents and other businesses have seen declining sales due to lost foot traffic, potentially making their businesses financially unviable.[28] This poses a threat to such businesses who provide employment opportunities and essential services, particularly in rural and remote areas. The presence of illicit traders is also impacting local communities, deterring families from certain shopping precincts, and resulting in anti-social behaviour and property damage.[29]

2.1.4. Enforcement action by Queensland Health and the Queensland Police Service

Queensland Health have just over 159 environment health officers (‘authorised officers’) across 11 public health units and the central compliance team.[30] It is also currently recruiting another 41 officers, taking the workforce responsible for enforcement to approximately 200 staff.[31] The TOSP Act gives officers the power to enter premises,

[23] Submission 21, p 1.
[24] Submission 21, p 2.
[25] Submission 4.
[26] Submission 28, p 1.
[27] Submission 21, p 2.
[28] Submission 8, p 2.
[29] Submission 27.
[30] Public briefing transcript, Brisbane, 21 October 2025, p 9.
[31] Public briefing transcript, Brisbane, 8 October 2025, p 3.

including without warrant, seize products and collect evidence, issue 72-hour closure orders, issues PINs (Penalty Infringement Notices) and commence proceedings.[32]

Prior to entering a store, a risk assessment is undertaken and a decision made about whether police support is required. A suitable time is then negotiated with police to conduct the inspection. Where closure orders are to be issued, police attendance is preferred.[33]

Queensland Health, supported by the QPS and Australian Border Force, seized more than 420,000 vapes, 52.4 million illicit cigarettes, and 7,500 kilograms of loose tobacco between November 2024 and August 2025.[34] Between 1 November 2024 and 31 August 2025, a total of $48.1 million in PINs were issued, but only $8.3 million has been collected.[35]

To respond to the involvement of organised crime in the illicit trade, in July 2024, the QPS established Taskforce Masher, a special taskforce focused on investigating and disrupting organised crime syndicates targeting legitimate retail tobacco businesses through serious offending.[36] The Taskforce provides support to regional police and Queensland Health and works with other enforcement agencies.[37]

The committee were told:

> *Since its launch in July 2024, Taskforce Masher has conducted investigations across Queensland in collaboration with regional investigators leading to the arrest of 29 individuals for a total of 92 offences, including 26 counts of arson. Additionally, other work units within the QPS and regional detectives continue to target individuals who involve themselves in the illicit tobacco market in a number of different types of offending, from extortion to firearm offences and arson.*
>
> *As I mentioned at the outset, Taskforce Masher also provides support and assistance to Queensland Health. In 2024 Taskforce Masher staff assisted with 65 compliance actions with Queensland Health and other agencies, seizing over 3½ million cigarettes, 1.6 tonne of loose tobacco and 3½ million e-cigarettes, also known as vapes. This was an estimated value of $4.8 million, with $7 million excise avoidance. However, this year up until 20 October 2025—and this just shows the extent of the problem—Taskforce Masher has assisted with 94 compliance actions and assisted Queensland Health and other agencies to seize 48,732,364 cigarettes, just under five tonne of loose leaf tobacco and 264,122 e-cigarettes, with an estimated total value of $56 million, with $80 million excise avoidance.*[38]

[32] Public briefing transcript, Brisbane, 8 October 2025, p 3.
[33] Public briefing transcript, Brisbane, 8 October 2025, pp 8-9.
[34] Submission 39, p 2.
[35] Queensland Health, responses to questions taken on notice, 16 October 2025, p 8.
[36] Public briefing transcript, Brisbane, 8 October 2025, p 9. Public briefing transcript, Brisbane, 21 October 2025, p 2.
[37] Public briefing transcript, Brisbane, 21 October 2025, p 6.
[38] Public briefing transcript, Brisbane, 21 October 2025, p 3.

While Queensland Health authorised officers work alongside QPS, its enforcement officers are not dealing with the organised crime component, or the more serious offences, like arson or theft, arising from the involvement of organised crime in the illegal trade.[39]

Some submitters raised concerns about how legitimate business, subject to standover tactics from organised crime, would be impacted by the measures in the Bill. The committee asked Queensland Health how it intended to deal with otherwise legitimate businesses who have been caught up in the illicit trade through the standover tactics of organised crime:

> *It is difficult to differentiate. There have been media reports from retailers and advocates for the retail sector that talk about the risk of dabbling, if you like: 'We need to do it to keep our margins for our tobacco product. People want cheaper cigarettes and if they do not come to my store, they will go to another store.'*
>
> *… Our key message is that you cannot be doing that; you cannot be dabbling. It is very significant organised crime. It is the proceeds of crime, if you like, coming through the supply chain. It has been illegal for many years. There is no doubt that they are handling illegal product and that it is not on anymore. We need to all step up and step away from the illegal trade. Everyone needs to step up. I spoke earlier about enforcement responses and the fact that the team take a balanced approach. They go through the breaches and the circumstances of what is going on. When a breach is detected, it is usual to issue a fine. They are significant fines.*[40]

2.1.5. The call to action

It is these problems that make the proposed amendments in this Bill necessary. Support for the measures in the Bill to respond to this growing crisis was found across a broad category of submitters, from academics, community health professionals, non-for-profits, tobacconists, business owners, and community members. One submitter noted that 'a stronger legislative framework that enables health authorities, councils and police to act promptly against illegal vape and tobacco sellers would have an immediate positive impact'.[41]

Dr Jongenelis told the committee:

> *The proposed amendments represent a critical paradigm shift in the way illegal tobacco and nicotine trade is addressed in Queensland and will ensure the state is recognised as one of the national leaders in tobacco and nicotine control. I urge the Queensland Government to pass this Bill without delay and to begin enforcement efforts in earnest.*[42]

Professor Matthew Rimmer applauded the measures in the Bill observing:

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[39] Public briefing transcript, Brisbane, 8 October 2025, p 9.
[40] Public briefing transcript, Brisbane, 8 October 2025, p 10.
[41] Submission 27.
[42] Submission 13.

> *…the suite of legislative and regulatory reforms proposed by the Queensland Government will constitute best practice in terms of international health law.*[43]

2.2. Expanded closure powers

Closure orders are administrative or court orders which are issued to shut down premises who are not complying with the law.

Closure orders, as an enforcement tool, were introduced by the *Tobacco and Other Smoking (Vaping) and Other Legislation Amendment Act 2024* (2024 Act) which received assent on 19 September 2024.

The TOSP Act currently provides for:

- Interim closure orders – issued administratively, for a period of 72 hours, where the chief executive has a reasonable suspicion that illicit tobacco or illicit nicotine products have been supplied at the premises as part of a business activity, or where smoking products are being supplied without a licence[44]
- Long-term closure orders – issued by the Magistrates Court, on application by Queensland Health, where the court is satisfied (on the balance of probabilities) that illicit tobacco or illicit nicotine products have been supplied at the premises as part of a business activity, or where smoking products are being supplied without a licence

The Bill proposes the following changes to the closure order provisions:[45]

- Converts 'interim closure orders' of 72 hours to 'short term closure orders' of 90 days (3 months) and changes the threshold of satisfaction for the chief executive from 'reasonable suspicion' to 'satisfied'
- Extends the period for which long term closure orders can be issued by a court from 6 months to 12 months
- Broadens the grounds for the making of a closure order, adding possession of illicit tobacco or nicotine as an added ground on which an order may be made, in addition to supply of illicit tobacco or illicit nicotine and supplying without a licence.

Since closure orders were introduced, there have been 189 interim closure orders issued administratively by Queensland Health across a variety of stores, mostly tobacconists.[46] All interim closure orders issued under the existing framework were issued to businesses

[43] Submission 16, p 11.
[44] Section 209A(1), TOSP Act.
[45] Bill, cl 23, 24.
[46] Queensland Health, responses to questions taken on notice, 16 October 2025, p 1.

who did not have a licence to sell smoking products under the TOSP Act.[47] None of the interim closure orders issued have been found to be wrongly issued.[48]

The policy rationale for converting interim orders to short term orders, and increasing their duration to 3 months, is to provide greater deterrence and stop illicit traders from operating for a longer period.[49] The committee were told that the problem with the current interim orders were that they 'do not have teeth' and that stores issued such orders immediately restock, which is difficult to detect unless authorised officers are constantly present to monitor for potential breaches.[50]

While interim closure orders have proved to be an effective and uncomplicated enforcement tool, the committee heard evidence that they are not achieving the desired policy intent, with many premises treating the 72 hours as a 'long weekend' and resuming their illegal activities after a brief closure.[51] While long term orders were intended to address this problem and ensure judicial oversight, the process of obtaining long term orders has been fraught.

Queensland Health told the committee that long term closure orders have been obtained for 6 premises (in two separate applications).[52] The process for obtaining these orders took approximately 6 months and was an arduous process requiring the collation of substantial evidence, prolonged by a need for personal service of the originating application and adjournments of hearings.[53]

The Bill also introduces new notification requirements regarding closure orders which requires Queensland Health to provide a relevant lessor with a copy of the closure order, if reasonably practicable. The notice must include details of the reasons for the order, advise them of their statutory right to terminate the lease, and inform the lessor of their potential criminal or civil liability if they continue to permit the premises to be used for illicit trade.[54] A reciprocal obligation is imposed on lessors to notify Queensland Health within 7 days of the lease ending, subject to a defence of reasonable excuse.[55] The ability to identify a relevant lessor is supported by other measures in the Bill which require tobacco licence holders to provide these details to Queensland Health.[56]

Under the existing closure order provisions, the need to prove supply has frustrated the effectiveness of this tool. This issue is addressed by adding possession as a relevant ground which ensures 'that closure powers can be used to target operators who

[47] Public briefing transcript, Brisbane, 21 October 2025, p 11.
[48] Public briefing transcript, Brisbane, 8 October 2025, p 6.
[49] Explanatory notes, p 5.
[50] Public briefing transcript, Brisbane, 8 October 2025, p 11.
[51] Explanatory notes, p 23.
[52] Public briefing transcript, Brisbane, 8 October 2025, p 4.
[53] Response to QON 3.
[54] Explanatory notes, p 6. Bill, cl 26, new s 209CB.
[55] Bill, cl 26 (new s 209CD(1)).
[56] Bill, cl 5 (amended s 18).

deliberately evade enforcement action by storing illicit products in storerooms or vehicles and making them available for purchase on request of customers'.[57] The introduction of controlled operations to gather evidence, additional powers to enter premises, and the power to request information, will also aid Queensland Health in collecting the evidence necessary to 'satisfy' the decision maker that relevant unlawful activity has occurred warranting the making of a short-term closure order.

2.2.1. Stakeholder Submissions and Department Advice

i. Stakeholder submissions

Most submitters to the inquiry supported the Bill's proposed approach to expanding existing closure powers.

The Australian Council of Smoking & Health (ACOSH) observed:

> *Experience in other jurisdictions shows that longer closure periods are among the most effective deterrents available to enforcement agencies. Multi-month closures remove the commercial viabilities of reoffending and hinder the rapid relocation of illicit trading activity.*[58]

At the public hearing, CCQ were questioned about the proposed expansion of closure orders and experience in other jurisdictions. In endorsing the measures in the Bill, CCQ noted:

> *Generally, Queensland has performed well in comparison to other states, but South Australia is stronger on the closure powers that it currently has. This bill brings Queensland into a nation-leading, if not world-leading, position on the closure powers.*[59]

The committee were provided with examples of how illicit operators flout the law and the limited impact that the current 72-hour closure orders are having.[60] The Australian Association of Convenience Stores (AACS) said:

> *Our members have repeatedly reported instances where tobacconists caught supplying illicit products were shut down for the current 72-hour period, only to reopen almost immediately and resume selling illicit tobacco and vapes.*[61]

The Fusion Body Corporate Committee noted an illicit tobacconist was operating from the retail space at the bottom of its apartment complex, was operating without a licence, and had been subject to a 72-hour closure order. Immediately after re-opening, persons were seen exiting the store with illicit products. Despite the recent closure order, the unlicensed tobacconist continues to operate, advertising its wares on a sandwich board on the footpath. The presence of an illicit operator has impacted the body corporate's ability to

[57] Explanatory notes, p 5.
[58] Submission 32, p 4.
[59] Public hearing transcript, Brisbane, 21 October 2025, p 4.
[60] Submission 28, p 1.
[61] Submission 9, p 2.

obtain insurance and led to an increase in the policy excess. The body corporate has endeavoured to work with the lessor to raise the concerns of residents but has encountered a 'dismissive attitude'.[62] This situation powerfully demonstrates the situation faced throughout the state, demonstrating the importance of the extended closure power and also the need for greater landlord accountability.

The Queensland Law Society (QLS) expressed concerns about extending short term closure orders from 72 hours to 3 months without judicial oversight.[63] QLS suggested an alternative approach would be to limit short-term administrative closure orders to 28 days, in line with the approach taken in South Australia.[64]

ii. Department advice

Queensland Health described the proposed 3-month closure order as a 'game changer'.[65]

In responding to concerns about the expansion of administrative power, Queensland Health told the committee that authorised officers undertaking enforcement use discretion to determine whether a closure order is appropriate in the circumstances.[66]

In responding to QLS's concerns, Queensland Health advised:

> *…a closure order of 28 days would not adequately achieve the policy intent of providing a strong deterrent against illegal supply and possession in an industry where non-compliance is entrenched and highly profitable. …*
>
> *Additionally, requiring expedited application to the Magistrates Court to affirm administrative closure orders in every case would impose a significant burden on the courts and Queensland Health. In particular, it would divert significant resources away from monitoring and enforcement activities, with enforcement teams instead preparing for and supporting expedited legal proceedings which, based on experience to date, are likely to focus on collateral issues and not on any genuine dispute as to the factual predicate for the closure order.*[67]

The reasons for absence of judicial oversight was further addressed by Queensland Health at the public briefing on 21 October 2025:

> *I understand there is this inclination to want to provide process and to have a very quick, expedited judicial review of these types of decisions; however, as we have covered at length in our previous testimony, these closure orders are not being issued really where facts are even in dispute in the vast majority of cases. We have not had cases where they have been successfully challenged. Really, the facts are not in issue. The idea that you would be providing a 28-day period, for example, would mean that every single closure order would need to go through an expedited form of litigation or court proceedings before it could be effectuated and it would divert significant resources away from*

[62] Submission 18.
[63] Submission 44, p 2.
[64] Submission 44, p 2.
[65] Public briefing transcript, Brisbane, 8 October 2025, p 3.
[66] Public briefing transcript, Brisbane, 8 October 2025, p 4.
[67] Queensland Health, response to submissions (20 October 2025) p 5.

> *enforcement, which we believe is where it is needed, for very little actual practical value. There are other safeguards in the bill—compensation and other things—that deal with the very unlikely potential that these provisions could be misused. That is how we have addressed it.*[68]

While short term closure orders will not subject to show cause or administrative review rights, there would still be capacity to seek judicial review.[69]

2.2.2. FLP issue – closure orders and administrative power

The decision to issue a short-term closure order is the exercise of administrative power. To be consistent with fundamental legislative principles legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.[70] The short-term closure order administrative power is clearly defined in the Bill; however, there are no administrative review rights or a requirement to provide reasons.[71]

When interim closure orders were considered by the Health, Environment and Agriculture Committee in 2024, this potential issue was noted, but not considered objectionable because it was an interim decision, a step on the way to final decision by a court.[72] However, the extension of the power to cover a three month period, when combined with an extension of the scope of the closure order offence and the introduction of a statutory lease termination power, suggest that short-term orders could no longer be properly characterised as an 'interim measure'.

The explanatory notes justify extension of this administrative power by reference to the need to deliver more substantial and operational impacts for non-compliant operators, increasing the likelihood that the consequences of breaching the Act will outweigh any profit made through illegal conduct.[73] The increased administrative power is balanced by the higher degree of satisfaction – from 'reasonable suspicion' to 'satisfied' (a balance of probability standard that applies in court) – and the provision of discretionary factors relevant to the making of a decision. Queensland Health told the committee that closure orders are not a first step in enforcement action; those subject to closure orders tend to be repeat offenders who flout the law.

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[68] Public briefing transcript, Brisbane, 21 October 2025, p 10.
[69] Queensland Health, response to submissions (20 October 2025) p 6.
[70] LSA, s 4(3)(a).
[71] Bill, cl 24.
[72] Health, Environment and Agriculture Committee, Report No. 10, 57th Parliament, *Tobacco and Other Smoking Products (Vaping) and Other Legislation Amendment Bill 2024,* August 2024, p 20.
[73] Explanatory notes, p 23.

Committee comment

The extension of the duration of short-term orders from 72 hours to 3 months, particularly in the absence of review rights, does raise the issue of whether the proposed amendments are consistent with fundamental legislative principles.

However, the scale of the illicit trade problem that the Bill seeks to address, and the safeguards included in the Bill, particularly the increased degree of satisfaction from 'reasonable suspicion' to 'satisfied', provide adequate protections. Further, the evidence provided by Queensland Health at the public briefing demonstrate that closure orders are only used where offending conduct is clear.

The committee is satisfied that the conferral of this additional administrative power is both warranted and necessary, is adequately defined, and is sufficiently compliant with fundamental legislative principles.

2.2.3. HRA Issues – right to property and right to freedom of movement

Freedom of movement (s 19, HRA) provides that a person cannot be arbitrarily forced to remain in, or move to or from, a particular place and includes freedom from physical and procedural barriers. The Bill's proposed amendment to closure orders place a greater limitation on the freedom of movement of occupiers, customers and the broader public.

The right to property (s 24, HRA) provides that every person has the right to own property (which includes economic interests in property) alone or in association with others and must not be arbitrarily deprived of their property. 'Arbitrary' refers to conduct that is capricious, unpredictable or unjust, or not proportionate to the aim.[74] The right to property is an important right that underpins economic participation and private enterprise, but it is not absolute and may be limited where necessary to protect public interests such as health and safety.[75] The increased scope of this administrative power limits property rights of both the business and also the lessor, with closure orders exposing lessors to higher risk of non-payment of rent.[76]

The stated purpose of the limitation on these rights is deterrence, the disruption of illicit trade, and reducing access to illicit tobacco and illicit nicotine products in the service of public health and safety.[77] To justify limitations on these human rights, the Bill must further these stated purposes. It does. The amendments ensure that authorised officers can

[74] Queensland Government, Guide: Nature and scope of the human rights protected in the *Human Rights Act 2019*, version 3: June 2025, p 80.
[75] Statement of compatibility, p 14.
[76] Statement of compatibility, p 6.
[77] Statement of compatibility, pp 6-7, 10.

respond promptly to shut down illegal traders who pose a threat to the health and safety of the public.

A consideration of limits on human rights also requires analysis of whether the proposed amendments are necessary; that is, there is no less restrictive and reasonably available alternative to achieve the stated purpose. It is said that the current 72-hour orders are too short and have not been effective in deterring and disrupting the illicit trade; businesses are quickly reopening on expiration of the order.[78] The evidence heard by the committee supports this assertion.

Committee comment

While the Bill's proposed amendments to the closure order provisions impose limits on freedom of movement and the right to property, the committee is satisfied that the proposed measures are proportionate and reasonably necessary to achieve the stated purpose of disincentivising and disrupting the illicit trade and protecting public health and safety.

Given the delays associated with obtaining term closure orders from the court, the committee are satisfied that there is no less restrictive way to achieve the stated purpose.

2.3. Amendments to the 'closure offence'

The Bill amends section 209C of the TOSP Act which was introduced by the 2024 Act.[79] Section 209C makes it an offence to supply smoking products, or work in a business involved in supplying products, at premises while a closure order is in effect. The maximum penalty is 200 penalty units, which is not changed by the Bill.

The proposed amendment adds 3 additional, alternative, bases on which a closure offence may be proven:[80]

- supplying any other product or service at the premises
- working in a business involving the supply of any other product or service at the premises, or
- opening the premises to the public.

The Bill also amends the State Penalties Enforcement Regulation to prescribe amended section 209C as a PIN offence.[81]

[78] Statement of compatibility, pp 6-7.
[79] Bill, cl 25.
[80] Bill, cl 25.
[81] Bill, cl 3.

The existing closure offence provision contains a loophole: the store may still trade if it is supplying something other than smoking products. This 'legitimate' trade is often a ruse, and the stores continue to sell illicit nicotine and illicit tobacco despite being subject to a closure order. It presents a challenge for enforcement officers: unless the delinquent operators are caught in the act of supply of smoking products, there is no breach.

The policy intention of the amendment is to ensure 'closed means closed'. Making it an offence to supply any product from a business subject to a closure order ensures that such businesses cannot continue to supply illicit tobacco or illicit nicotine under the guise of selling unrelated goods.[82] The Bill provides a 'reasonable excuse' defence to the closure offence in recognition that there may be limited circumstances where access to the premises is required for legitimate purposes.

2.3.1. Stakeholder Submissions and Department Advice

i. Stakeholder submissions

There was general support for Bill's proposed approach to expanding the closure order offence to ensure 'closed means closed'. AACS supported the amendments and said that the inclusion of the reasonable defence excuse struck an appropriate balance to allow access to premises for legitimate reasons.[83]

The National Health and Medical Research Council Centre for Research Excellence on Achieving the Tobacco Endgame (NHMRC) told the committee that 'it is essential that closure orders cover all business operations' and suggested a high maximum penalty should attach to the amended closure order offence.[84]

ii. Department advice

With respect to the proposed penalty for a closure order offence, Queensland Health said:

> *Queensland Health notes that the penalty for violating a closure order is not on the same scale as the penalty for illegal possession and supply because a closure order can be breached for any use of the premises—for example, selling soft drinks or snacks. However, should the premises be used to continue illegal trading, those involved would not only commit an offence by violating a closure order, but also by engaging in the illegal supply or possession of illicit tobacco and/or illicit nicotine products. Those offences carry far higher penalties under the Act (2,000 penalty units or two years imprisonment, or both, for supply, and 1,000 penalty units or one year imprisonment, or both, for possession).*[85]

[82] Explanatory notes, p 6.
[83] Submission 9, p 3.
[84] Submission 31, p 9.
[85] Queensland Health, response to submissions (20 October 2025) p 5.

2.3.2. FLP issue – closure orders, the closure offence and restriction on ordinary activities

To be consistent with fundamental legislative principles, legislation should not, without sufficient justification, unduly restrict ordinary business activities. The extended grounds and duration of closure orders, and the broadening of the closure order offence, will impose additional restrictions on business activities. However, given the amendments are targeted at disrupting unlawful business activities that harm public health and safety, the restriction is justified.

2.3.3. HRA Issues – right to property and right to freedom of movement

Extension of the closure order offence imposes additional limits on freedom of movement (section 19, HRA) and the right to property (s 24, HRA).[86] The nature of these rights is discussed above at section 2.2.3.

The purpose of the amendments is to prevent trade from closed premises, addressing a 'loophole' within the current offence provision which has seen businesses continuing to supply illicit goods while subject to a closure order.

Committee comment

The committee accepts the contention in the statement of compatibility that the 'amendment does not impose a more significant limitation on human rights than that intended when section 209C of the Act was initially introduced – it simply corrects a legislative oversight to properly give effect to the purpose of the existing offence'.[87]

Ensuring businesses remain closed during the duration of a closure order will be a useful enforcement tool to disrupt the illicit trade.

2.4. Statutory lease termination power

The Bill introduces a statutory lease termination power which will allow a 'relevant lessor' to terminate a commercial lease where the 'premises' is subject to a closure order.[88]

The new statutory lease termination power will apply where the 'relevant lessor' leases premises to a person conducting a tobacco business at the premises or allows a person conducting a tobacco business at the premises to occupy the premises.

The policy intention of this new power is to give lessors the confidence and legal means to terminate a lease while premises are subject to a closure order (short-term or long-term).[89] This reduces the potential financial impacts of closure orders on lessors,

[86] Statement of compatibility, p 10.
[87] Statement of compatibility, p 11.
[88] Bill, cl 26.
[89] Explanatory notes, p 8.

particularly where administrative orders have an increased duration of 3 months, and makes it harder for offenders to resume trading at the same location.[90] It is also expected to reduce the availability of commercial premises for illicit trade (together with other new measures introduced in the Bill). The proposed amendments support other measures in the Bill to disrupt illegal trade.[91]

The termination power will override inconsistent lease terms or other statutory rights or obligations which would otherwise protect the lessee's interest or require a certain notice period.[92]

The Bill includes additional protections for lessors who use the power to terminate a lease, with the termination is deemed to be repudiation by the lessee. It ensures a lessor's right to claim damages or recover a rental bond are preserved.[93] Lessors will be empowered to dispose of chattels, fixtures and other property left behind in the premises.[94] Lessors who validly terminate pursuant to this power will be immune from damages or compensation claims from lessees.

If a closure order is later found to have been wrongfully issued, revoked, or found by a court to be invalid, persons who suffered or incurred loss – which could be the lessee or lessor – may apply to the court for compensation, to be paid by the state.

The Bill's statutory lease termination power would operate alongside Commonwealth legislation that may be applicable and impose additional obligations on a 'relevant lessor'; for example, where there is a franchise agreement.

The lease termination power will also mitigate a lessor's exposure to the new criminal lessor offence or civil penalty (discussed below).[95]

2.4.1. Stakeholder Submissions and Department Advice

i. Stakeholder submissions

There was broad support for the lease termination power. Submitters noted it was a necessary component of the strengthened enforcement framework to ensure lessors could act in response to closure orders.[96]

The Shopping Centre Council of Australia (SCCA) noted that under the existing legal framework, there is no clear ability for lessors to terminate a lease where a closure order was issued for certain premises. The Bill's statutory lease termination power, noted to be

[90] Explanatory notes, p 8.
[91] Explanatory notes, pp 8-9.
[92] Explanatory notes, p 8.
[93] Explanatory notes, p 8
[94] Bill, cl 26 (new s 209CC).
[95] Explanatory notes, p 8.
[96] See for example Submission 17.

a 'best practice framework', addresses this current limitation.[97] The AACS supported this position, noting that the proposed measure ensured that lessors could act to protect their financial position and reputational burden of hosting illicit operators.[98]

SCCA also supported the drafting of 'relevant lessor', noting the presence of franchising arrangements amongst tobacco retailers, and said 'the Bill rightly delineates between the property owner and franchisor as the relevant lessor', with the franchisor having the most direct relationship with the retailer, meaning the franchisor has responsibility for termination (and any offence that may arise for failing to do so).[99]

The Queensland Law Society (QLS), while agreeing with the policy intent of the lease termination power, expressed concerns about potential unintended consequences:

> *The society does have some concerns that the proposed lessor's right to terminate a lease following a short-term closure order may lead to unintended consequences. This is particularly concerning where a magistrate has not yet issued a long-term closure order or the lessee has not yet been found to have committed an offence but the lessor may feel compelled to take action to protect their position. Lessors may also face financial loss or personal safety risks when terminating leases. If the lease is part of an organised crime group or one involved in criminal activities, the lessor may naturally be reluctant to terminate a lease due to fear of reprisals or repercussions. In our view, these issues are not adequately addressed in the bill.*[100]

QLS also recommended that the right to compensation be expanded to allow lessors to claim compensation from the state, regardless of whether the closure order was lawful or unlawful.[101]

ii. Department advice

In response to QLS' concerns, Queensland Health noted:

> *Queensland Health considers it is appropriate for landlords to be able to terminate a lease in response to a short term closure order. Where a closure order is issued, the premises cannot be used for the period of the order, which is likely to impact the rights and interests of the landlord. Additionally, closure orders are generally issued in response to repeated non-compliance, not in the first instance.*
>
> *…*
>
> *In relation to compensation, the Bill provides that if a closure order is later found to have been wrongfully issued, is revoked, or is found by a court to be invalid, a person who has incurred loss or expense as a result of the closure order may be able to seek compensation from the State under the Act. … Compensation claims and unlawful terminations are expected to be rare, as*

[97] Submission 37, p 1.
[98] Submission 9, p 3.
[99] Submission 37, p 2.
[100] Public hearing transcript, Brisbane, 21 October 2025, p 29. See also Submission 44, p 3.
[101] Submission 44, p 3. It was said this could be done by amending s 219 TOSP Act.

> *closure orders are only issued in response to strong evidence of illegal conduct or repeated non-compliance under the Act.*
>
> *Compensating landlords for losses or expenses incurred due to reliance on a validly issued closure order is not warranted. Regulatory actions undertaken within the framework of established legislative schemes may inevitably affect businesses and individuals. However, it is not the responsibility of the state to provide financial indemnification for such consequences.*
>
> *…*
>
> *…The provisions include a reasonable excuse defence, which could be raised where a landlord genuinely fears for their safety. In such cases, it would be appropriate for the landlord to raise their concerns with the Queensland Police Service.*[102]

In response to a query posed in another submission, regarding whether it would be mandatory for landlords to terminate leases subject to a closure order, Queensland Health said:

> *The termination power is discretionary. Landlords can consider their own circumstances in deciding whether to terminate. However, if they do not terminate, they may be exposed to liability under the landlord offence or civil penalty.*[103]

2.4.2. FLP issue – lease termination power and natural justice

Legislation should be consistent with the principles of natural justice.[104] The proposed statutory lease termination power will generally be exercised in response to a short-term closure order, which is an administrative decision and is not subject to review rights. This potentially undermines procedural fairness for the lessee.

The explanatory notes identify two purposes for the departure from principles of natural justice: to enable lessors to protect their own commercial and financial interests, and to disrupt illegal trade by reducing the availability of commercial premises.[105] It was emphasised that closure orders are generally only made where there has been previous enforcement action with prior opportunity to address offending conduct.[106]

Committee comment

The committee is satisfied that the Bill's statutory lease termination power has appropriate regard to fundamental legislative principles. The proposed power protects the financial and commercial interests of lessors, in response to unlawful conduct by lessees, and appropriately balances competing interests.

[102] Queensland Health, response to submissions (20 October 2025) p 7.
[103] Queensland Health, response to submissions (20 October 2025) p 6.
[104] LSA, s 4(3)(b).
[105] Explanatory notes, p 27.
[106] Public briefing transcript, Brisbane, 8 October 2025. See also Explanatory notes, p 27.

2.4.3. HRA Issues – lease termination power and the right to property

The Bill's amendments to provide for a statutory lease termination power where there is a closure order limits the lessee's right to property (s 24, HRA). The purpose of the provision is to protect the financial and commercial position of lessors and reduce the availability of commercial premises for illicit stores. There is a rational connection between the identified purpose and limitation.

Less restrictive alternatives, including only providing a termination power with respect to long-term closure orders, were considered in the statement of compatibility. However, it concludes that the power as set out in the Bill is the most appropriate, because it can be exercised swiftly without delays which may arise from court proceedings.

The committee heard it can take up to 6 months to get a long-term closure order. This is simply too long for affected lessors to wait and would undermine the deterrent effect of the enforcement framework.[107] For this power to achieve its intended purpose, to limit the financial exposure of lessors affected by closure orders and reduce the available of commercial premises, it must be available for short-term closure orders.

Committee comment

The committee are satisfied that the limits on property rights, arising from the statutory lease termination power, are justified.

When balancing the lessor's rights with the lessee's rights, it is appropriate to place greater weight on the need to protect a lessor's commercial interest and allow for termination, than on the rights of a lessee involved in the illicit trade.

While the ability to limit the availability of the statutory lease termination power to long term closure orders is potentially an option, the committee does not consider it to be a realistic one.

2.5. Landlord criminal offence and civil penalty provisions

The Bill introduces a new criminal offence[108] and civil penalty provision[109] that apply where a relevant lessor permits premises to be used for the supply or possession of illicit tobacco or illicit nicotine products as part of a business activity. The new offence and civil penalty provisions are contained in the same new subdivision – 'relevant lessors' – as the statutory lease termination power.

[107] Statement of compatibility, p 14.
[108] Bill, cl 26 (new section 209CE).
[109] Bill, cl 26(new section 209CF).

The criminal offence will apply to cases where knowledge can be proven to the criminal standard (beyond reasonable doubt). The maximum penalty for the criminal offence is 1,000 penalty units ($166,900[110]), 1 year imprisonment, or both.[111]

The civil penalty provision, which employs a civil standard of proof (balance of probabilities), will apply where the criminal offence could otherwise apply (i.e. where the Crown can prove actual knowledge, noting the lower standard of proof) but will also apply in circumstances where the lessor has been 'recklessly indifferent' or 'wilfully blind'; that is, where there has been warning signs or opportunities to act, but they have failed to do so.[112]

The terms 'wilful blindness' and 'reckless indifference' are not used in the substantive provision and there is no guidance provided on how such phrases would be interpreted in civil proceedings. The maximum penalty is 1,000 penalty units for an individual or 5,000 penalty units ($834,500) for a corporation.[113]

The Bill provides a list of non-exhaustive factors to consider when determining whether the lessor has 'permitted' the illegal activity. Factors include the presence of a non-arm's length relationship between lessor and lessee, receiving above market rent, and whether the lessor was provided notice of closure orders regarding the premises.[114]

A defence of 'reasonable excuse' applies to both the criminal offence and civil penalty.[115] The legislation does not provide any further clarification of the elements of 'reasonable excuse'. However, the defence of 'reasonable excuse' is used in other legislation and is a fact specific defence.[116] An example of reasonable excuse includes the lessor not receiving a closure order notice from Queensland Health and there being no other reason to suspect illegal conduct.[117] Criminal Code defences may also apply.[118] The evidential burden, to point to or adduce sufficient evidence to raise the defence, will be on the defendant. Once the evidential burden is satisfied, the legal burden will shift to the prosecution (in criminal cases) to exclude the defence beyond reasonable doubt (in criminal cases) or on the state (for civil penalties) to exclude the defence on the balance of probabilities.[119]

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[110] Based on the current value of a 'penalty unit' being $166.90.
[111] Bill, cl 26 (new section 209CE(1)).
[112] Explanatory notes, pp 10-12. Also see sections 209CG and 209CH which make clear that there essentially has to be an election as to whether to proceed with CPP or criminal prosecution, but that civil penalty actions may be recommenced where the criminal offence has not been proven.
[113] Bill, cl 26 (new section 209CF).
[114] Explanatory notes, p 11; Bill, cl 26, new s 209CF(3).
[115] Bill, cl 26 (new ss 209CE(3) and 209CF(4)).
[116] Public briefing transcript, Brisbane, 8 October 2025, p 5.
[117] Explanatory notes, p 10.
[118] Explanatory notes, p 10.
[119] Explanatory notes, pp 10-11.

In cases where both the criminal offence and civil penalty could apply to the same conduct, the Bill includes safeguards to ensure a person is not exposed to 'double penalty' and to essentially preserve privilege against self-incrimination.[120]

The landlord offence and civil penalty provisions proposed by the Bill address one the drivers of the illicit trade: the widespread availability of commercial premises and lessors who wilfully ignore unlawful behaviour motivated by profit. This behaviour by lessors undermines public health efforts to reduce the harmful impact of smoking and vapes, and potentially exposes neighbouring premises and the community to serious risks, including criminal activity such as burglary, ram-raids, and arson attacks.[121] By making it a criminal offence, or alternatively one that attracts significant financial penalty, the proposed dual enforcement framework 'creates a strong incentive for lessors to take action when they become aware that their premises are being used for the supply or possession or illicit tobacco or illicit nicotine products' and create a 'credible and effective deterrent against lessors leasing to non-compliant operators'.[122]

The explanatory notes recognise civil penalties as a novel addition to Queensland's enforcement framework.[123] Civil penalties fill a gap where actual knowledge cannot be proven to a criminal standard or where lessors have facilitated unlawful activity through wilful blindness or reckless indifference.

2.5.1. Stakeholder Submissions and Department Advice

i. Stakeholder submissions

Submitters to the inquiry were generally supportive of the proposed 'dual enforcement framework' to hold lessors accountable.

CCQ supported the introduction of increased lessor accountability and noted:

> *These provisions close a longstanding accountability gap in the retail environment by extending responsibility to those who enable, ignore, or profit from illegal trading on their premises. By introducing direct accountability for landlords, the Bill compels due diligence at every level of the retail chain and prevents complicit property owners from facilitating illicit trade.*[124]

ACOSH agreed with CCQ and further observed:

> *The inclusion of both criminal and civil penalties strikes the right balance – allowing faster enforcement through civil action while maintaining strong deterrence through criminal sanctions.*[125]

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[120] Explanatory notes, p 13. Bill, cl 26 (new s 209CI).
[121] Explanatory notes, p 10.
[122] Explanatory notes, p 12.
[123] Explanatory notes, p 11.
[124] Submission 29, p 6.
[125] Submission 32, p 4.

The need for greater landlord accountability was emphasised by the Gold Coast Hospital and Health Service's Public Health Unit who are responsible for enforcement activities on the Gold Coast. It told the committee:

> *The Public Health Unit has previously written to landlords who lease their premises to illicit businesses about possible implications on their building insurance due to the risk of ram-raids, vandalism, and arson attacks. Very few lessors terminated leases with illicit businesses. Lessors who profit from the sale of illicit tobacco and vapes are key enablers of these illicit businesses and should be held accountable.*[126]

TSG Franchise Management (TSG), a tobacconist franchisor, while generally supportive of the measures in the Bill, did not support the introduction of new criminal offence or civil penalties for landlords. TSG noted:

> *Landlords are generally not equipped to identify illicit products or monitor tenant business activity. Imposing criminal of civil liability risks unintended consequences – landlords may avoid leasing to law abiding tobacco retailers altogether, harming compliant businesses.*[127]

This concern found support from the Real Estate Institute of Queensland (REIQ) who noted that many landlords and agents have limited access or authority to monitor tenant activities.[128] REIQ supported the policy intent of the new lessor offence and civil penalty but raised the potential need for clearer definitions and additional guidance. REIQ were also concerned that real estate agents may be captured by the new offence provisions.[129] REIQ also recommended a targeted education campaign and the development of guidance material for commercial property managers and lessors to make clear what their responsibilities are under the proposed legislation, including guidance on what constitutes reasonable steps.[130]

In contrast, SCCA noted that while lessors may be unaware of enforcement activities against the lessor, the definition of knowledge in the new offence provision provides sufficient protection.[131] Further, SCAA noted that the availability of the lease termination power would shield lessors from liability:

> *For landlords, the critical thing for us was having the termination provision so that the landlord offence does not really come into play. The intention of our members, if tenants are trading in illicit tobacco, would be to not have them there once they are subject to a closure order, so we do not see the risk of the offence, provided we can effectively terminate the lease of those tenants.*[132]

[126] Submission 17.
[127] Submission 22, p 2.
[128] Submission 42.
[129] Submission 42.
[130] Public hearing transcript, Brisbane, 21 October 2025, p 19.
[131] Submission 37, p 2.
[132] Public hearing transcript, Brisbane, 21 October 2025, p 17.

AACS also did not share TSG's concerns about landlord responsibility and said landlord accountability was an important component of the suite of reforms and gave enforcement agencies the required powers to 'shut down problem sites quickly and permanently'.[133]

QLS supported the criminal offence only being available in cases of actual knowledge but noted that 'the introduction of a lessor offence is an extraordinary step for the legislature to take and represents a substantial shift in responsibility and risk allocation between lessors and lessees'.[134] QLS noted:

> *We are particularly concerned that a lessor who has been made aware of a lessee's illegal activities may not have the power to stop those activities until after a closure order has been issued and the statutory right to terminate has arisen. Although we welcome the proposed reasonable excuse defence in section 209CE, it is not clear what scenarios would or would not constitute a reasonable excuse…Some guidance about what will constitute a reasonable excuse would be welcomed.*[135]

At the public hearing, the QLS was asked about the scope of the new offence and 'reasonable excuse' defence and suggested further clarification of the scope of the 'reasonable excuse' defence was required, particularly for circumstances where lessors believe that their safety would be compromised if they acted to terminate a lease.[136] QLS emphasised that landlords don't actively monitor the activities of tenants, and that there are legal limits on their ability to inspect or monitor premises.[137] The QLS also submitted that certain terms, like 'knowledge', 'wilful blindness' and 'reckless indifference' required further clarification.[138]

In contrast, the SCCA were satisfied with the reasonable excuse defence as drafted.[139]

One submitter suggested mandatory landlord notification following any enforcement action, not just following closure orders.[140] Queensland Health did not directly respond to this suggestion, noting the Bill requires notice of a closure order, and that it is the closure order that triggers the landlord's right to terminate.[141]

ii. Department advice

Queensland Health, in responding to the concerns expressed by TSG and REIQ, noted:

> *…the criminal offence and civil penalty are not intended to require landlords to identify illicit products or actively monitor tenant business operations. Rather, the amendments are designed to apply only where a landlord knowingly*

[133] Submission 9, p 2.
[134] Submission 44, p 4.
[135] Submission 44, p 4.
[136] Public hearing transcript, Brisbane, 21 October 2025, p 30.
[137] Public hearing transcript, Brisbane, 21 October 2025, p 30
[138] Public hearing transcript, Brisbane, 21 October 2025, p 32.
[139] Public hearing transcript, Brisbane, 21 October 2025, p 18.
[140] Submission 35.
[141] Queensland Health, response to submissions (20 October 2025) p 6.

> *permits illicit tobacco or illicit nicotine product activity to occur at the premises, or fails to take reasonable steps once they are aware of such conduct.*
>
> *This ensures that liability is confined to landlords who are complicit or wilfully blind to unlawful activity on their premises, rather than those who act in good faith. The intent is to promote accountability where a landlord continues to profit from or ignore illegal trading; not to impose an unrealistic compliance burden on ordinary commercial landlords.*[142]

Regarding concerns about the absence of clear definitions, Queensland Health noted:

> *'Knowledge' will depend on the individual facts and circumstances of the case and is ultimately a matter for the courts to determine. However, it is intended to be a high threshold, applying only where a landlord has clear awareness of evidence of illicit activity occurring at the premises. Similarly, what constitutes taking 'reasonable steps' to prevent illicit activity will depend on the case. Taking such steps may also form the basis of a reasonable excuse defence.*[143]

In response to REIQ's concerns about the potential liability of agents, Queensland Health emphasised that the new criminal offence and civil penalties would not apply to agents but noted that liability may arise under the Criminal Code party provisions.[144]

Queensland Health provided the following response to QLS' concerns:

> *Queensland Health notes that prosecutorial discretion will be exercised in determining whether a landlord should be pursued for the criminal offence or civil penalty. Where a landlord can demonstrate that they were genuinely unable to terminate the lease, this may constitute a reasonable excuse – though this is ultimately a matter for the courts to consider.*
>
> *Where a landlord cannot lawfully terminate a lease because no closure order is issued, they can still take steps to mitigate liability. For example, they can inform Queensland Health or the Queensland Police Service of suspected illicit conduct, refuse to renew the lease, or amend future lease terms to prevent illicit behaviour.*
>
> *…*
>
> *Queensland Health acknowledges that some landlords may be hesitant to lease premises to legitimate businesses due to perceived risks associated with tobacconists and similar enterprises. However, this reluctance may also stem from ongoing concerns about potential criminal activity linked to such businesses. Queensland Health further notes that these concerns have already contributed to increased operational costs for affected businesses …*
>
> *Queensland Health acknowledges that the landlord criminal offence and civil penalty may result in some changes in the lease process to mitigate liability. However, these changes reflect a necessary shift in behaviour to address the current problem … Guidance materials will be developed to support implementation of the Bill.*[145]

[142] Queensland Health, response to submissions (20 October 2025) p 7.
[143] Queensland Health, response to submissions (20 October 2025) p 8.
[144] Queensland Health, response to submissions (20 October 2025) p 8.
[145] Queensland Health, response to submissions (20 October 2025) pp 8-9.

2.5.2. FLP issue – criminal lessor offence and the requirement that the consequences of legislation should be relevant and proportionate

To have sufficient regard for the rights and liberties of individuals, the consequences of legislation should be relevant and proportionate.[146] Penalties should be proportionate to the offence, and penalties within legislation should be consistent with each other.

The TOSP Act provides 2 other criminal offences attracting a 1,000 penalty unit / 1 year imprisonment maximum penalty: possession of illicit tobacco or illicit nicotine products as part of a business activity.[147] A higher maximum penalty of 2,000 penalty units ($333,800) / 2 years imprisonment applies to 2 TOSP Act offences: the supply of illicit tobacco or illicit nicotine is supplied as part of a business activity.[148] No other offences in the current iteration of the TOSP Act provide for terms of imprisonment. The penalties for other offences range from 5 to 1,000 penalty units ($834.50 to $166,900).

Therefore, based on the proposed maximum penalty, the new lessor offence is at the upper end of the range of current penalties imposed by the TOSP Act, only surpassed by the offences of supplying illicit tobacco or illicit nicotine as part of a business activity, and on par with the noted possession offences. Like those offences, the new offence is targeted towards stopping conduct associated with illicit tobacco and nicotine as part of business activities.

The explanatory notes state:

> *A term of imprisonment sends a clear message that knowingly enabling illegal operations is unacceptable and will be met with a strong enforcement response. A monetary penalty alone may not be sufficient to shift behaviour where the financial gain from knowingly leasing to non-compliant lessees outweighs the risk of a fine. Prosecutorial and judicial discretion will be exercised to ensure fairness and proportionality, with consideration given to the individual circumstances in each case.*[149]

Committee comment

The committee is satisfied that the new criminal offence for lessors, which includes the possibility of imprisonment, is reasonable and proportionate and has sufficient regard to the rights and liberties of individuals.

The new criminal offence only captures circumstances where the defendant knows about the illegal conduct and allows it to continue without reasonable excuse. The prosecution will still be required to negative any defence, properly raised, beyond reasonable doubt.

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[146] LSA, s 4(2)(a); Cf. Justice, Integrity and Community Safety Committee, *Making Queensland Safer Bill 2024*, Report No. 1, 58th Parliament, December 2024, p 36.
[147] TOSP Act, s 161(2) and 161A(2).
[148] TOSP Act, s 161(1) and 161A(1).
[149] Explanatory notes, p 38.

The scale of the illicit tobacco and nicotine trade, including the involvement of organised crime, and the associated public health impacts, warrant the introduction of a new offence where lessors allow these unlawful activities to continue.

2.5.1. FLP issue – civil penalty and reasonable and proportionate penalties

The proposed maximum penalty for the civil penalty is aligned with that which applies to the criminal offence; more for a corporation. These are significant penalties, and rightly so. While the civil penalty provisions are civil in nature, and thus only need to be established on the balance of probabilities instead of beyond reasonable doubt, and will apply in cases beyond actual knowledge, the alignment of penalties with the criminal offence reflects the purpose of civil penalties: to deter non-compliance and encourage behavioural change through the imposition of significant financial penalties.[150] This provides a commercial incentive to do what is right, with a focus on deterrence and compliance, rather than punishment.

Committee comment

The committee is satisfied that the proposed civil penalty provisions have sufficient regard to the rights and liberties of individuals. While the maximum civil penalty for an individual is the same as for the criminal offence, this is appropriate having regard to the purpose served by civil penalties.

2.5.2. HRA Issues – right to property and right to liberty and security

The proposed dual enforcement framework for lessors limits:

- the right to property (s 24, HRA) because it limits a lessor's ability to continue leasing to any lessee of their choice, and
- the right to liberty and security (s 29, HRA) because the new criminal offence includes the possibility of imprisonment.

The purpose of the limitation is to disrupt the widespread availability of commercial premises which are being used for illicit trade, and to hold lessors, who knowingly permit, or turn a blind eye to illegal trade, accountable.[151] There is a rational connection between the limits on the right to property and the right to liberty and security and the purpose of the limitation.

The committee agree with the assessment in the statement of compatibility that there are no less restrictive and reasonably available alternatives to achieve the stated purpose.

[150] Explanatory notes, p 11.
[151] Statement of compatibility, p 15.

Existing enforcement measures do not address the role of lessors in the illicit trade. The criminal offence is limited to circumstances of actual knowledge. A defence of reasonable excuse is available. The proposed powers are proportionate and justifiable given the scale of the illicit trade problem.

Committee comment

Landlords who know about, or turn a blind eye, to illegal activities should be held accountable.

However, the committee notes there is some merit in the concerns raised by the QLS and other submitters about the scope of the new offence and civil penalty provisions and the absence of clear definition of the scope of the 'reasonable excuse' defence.

The new offence and civil penalty are not limited to cases where a landlord has been put on notice in a formal manner through being given notice of a closure order. Queensland Health asserts that the provisions are not intended to require landlords to identify illicit products or actively monitor tenant business operations. However, given the proposed landlord criminal offences and civil penalty is not limited to circumstances where closure orders have been issued, there is potential uncertainty faced by landlords regarding the extent of monitoring that will be required to ensure they don't fall foul of the law.

The TOSP Act and Bill does not require landlords to be given notice of other enforcement action or the issuing of PINs. There may be merit in Queensland Health considering providing notice to landlords of other enforcement action, such as where premises have been inspected, warnings or PINs issued, or persons charged with offences. This would help landlords meet their obligations and would also aid Queensland Health in proving an offence where action is not taken in response to such notice.

Additionally, while the exercise of prosecutorial discretion is noted by Queensland Health as matter relevant to whether a landlord will be pursued for a criminal offence or civil penalty, other prosecutorial bodies are required to consider the availability of defence when deciding whether it is appropriate to bring charges.[152] It is not just a matter for the court.

[152] For example, see QPS Operational Procedure Manual, Issue 108 Public Edition, 1 October 2025, section 3.4.3 *Factors to consider whether deciding to prosecute*, which notes evidence of a defence is a matter for officers to consider. See also Office of the Director of Public Prosecutions, *Director's Guidelines,* June 2024, which requires prosecutors to consider 'any lines of defence which are plainly open' when evaluating the sufficiency of evidence when deciding whether to bring a charge.

> The committee suggests that Queensland Health should consider developing publicly available guidelines (similar to those used by QPS and Office of the Director of Public Prosecutions), in addition to the promised guidance materials, to ensure transparency around how these new provisions will operate.

2.6. Executive liability provisions

Proposed section 230A of the Bill creates 'type 2 executive officer liability', making executive officers of a corporation liable for the actions of the corporation where the executive officer did not take all reasonable steps to ensure the corporation did not engage in conduct committing the offence.[153] It replaces existing section 230A, which imposes type 1 executive liability. Type 2 executive liability will apply where a corporation commits a listed offence (contrary to sections 65, 66, 67, 161 or 161A). These offences apply to conduct that poses significant risks to public health.[154]

Types of executive liability[155]
Type 1 liability – the least onerous. It places the onus on the prosecution to prove the director failed to take reasonable steps to prevent the commission of the offence. Type 1 liability is generally considered appropriate unless Type 2 or 3 liability can be justified.
Type 2 liability – deems the director liable, unless they can raise of defence of reasonable steps (evidential onus).
Type 3 liability – deems a director criminally liable for a corporate breach and requires a director to prove (as a defence, defendant bearing evidential and legal onus) that they exercised due diligence, were not in a position to influence the corporation's conduct or took reasonable steps to prevent the commission of the offence by the corporation.

The TOSP Act defines 'executive officer' broadly; it will cover any person concerned with, or who takes parts in, the management of the corporation. It is not limited to those holding official titles (like board member or chief executive) and will capture those who exert influence over the corporation's conduct.[156]

The proposed executive liability provision operates to reverse the onus of proof, currently on the prosecution, effectively deeming the executive officer liable unless the defendant points to evidence showing:[157]

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[153] Bill, clause 35; Explanatory notes, p 12.
[154] Explanatory notes, p 13.
[155] Legal Affairs and Community Safety Committee, Report No. 25 – Director's Liability Reform Amendment Bill 2012, March 2013, pp 14-17.
[156] Explanatory notes, p 12; TOSP Act, sch 1, definition of 'executive officer'.
[157] Bill, cl 35 (new section 230A).

- the officer did not know, and could not reasonably have been expected to have known, of the corporation's conduct constituting the offence; or
- the officer took reasonable steps to ensure the corporation did not engage in the offending conduct.

Once the person meets the evidential onus of establishing the defence, the onus is on the prosecution to exclude it beyond reasonable doubt.[158] The Bill provides examples of 'reasonable steps'[159].

2.6.1. Stakeholder Submissions and Department Advice

i. Stakeholder submissions

The proposed changes to executive liability contained in the Bill were broadly supported by submitters.

CCQ supported the executive liability proposals in the Bill, noting they close a 'critical accountability gap by ensuring that those who profit from and control business operations are [responsible]', but made the following recommendation:

> *To support effective implementation, we recommend the development of plain-language and translated compliance guidance for small businesses and corporate entities, outlining director obligations, due-diligence standards, and record-keeping expectations. Proactive education will reduce inadvertent breaches and help foster a strong culture of compliance across the retail sector.*[160]

ii. Department advice

The committee asked Queensland Health about the problem that introduction of type 2 liability is intended to address and were told:

> *The current legislation basically requires the prosecution to prove that those executive officers who are controlling the corporation did not take reasonable steps to stop the corporation from engaging in the illegal conduct: selling the vapes, selling the illicit tobacco. In many cases, this is a very deliberate act to avoid that responsibility. This is why they are setting up these corporations. The people driving this kind of illegal activity are not always the shopfront employees; it is the directors who are sitting in an office somewhere else, collecting the profit.*
>
> *… It is about making those executive officers and directors accountable for the corporations they are controlling.*[161]

[158] Bill, cl 35 (new s 230A(2)(b)).
[159] Bill, cl 35 (new section 230A(3)).
[160] Submission 29, p 7.
[161] Public briefing transcript, Brisbane, 8 October 2025, pp 7-8.

In response to CCQ's recommendation, Queensland Health advised the committee that guidance materials will be developed to support implementation of the Bill.[162]

2.6.2. FLP issue – type 2 executive liability and procedural fairness

To have sufficient regard to the rights and liberties of individuals, legislation should not reverse the onus of proof in criminal proceedings without adequate justification.[163] The Bill limits the right to procedural fairness by reversing the evidential onus.

The policy rationale for imposing type 2 executive liability is said to be the serious health risks posed by the illicit trade, the deliberate strategies used to avoid enforcement measures, and the difficulty prosecuting executive officers who use complex and deliberately opaque structures to avoid liability and hide behind the corporate veil.[164] Further, the explanatory notes contend 'the facts relevant to the executive officer's knowledge of the corporation's conduct, and the steps taken by them to avoid the corporation committing the offence, are uniquely within their control and can be readily presented in court, if required'.[165]

Committee comment

The committee is satisfied that the imposition of type 2 liability, with the associated reversal of the evidential onus and attendant limits on procedural fairness, is justified.

The facts and knowledge required to properly raise a defence are uniquely within the defendant's knowledge. The prosecution will still be required to negative any defence, properly raised, beyond reasonable doubt.

The introduction of type 2 liability will likely result in more successful prosecutions of executive officers who are currently evading criminal responsibility while enjoying the proceeds of crime. The proposed approach will ensure appropriate accountability of executive officers who exert influence over corporations and profit from the illicit trade.

2.6.3. HRA Issues – right to a fair hearing and rights in criminal proceedings

The imposition of type 2 executive liability limits the right to a fair hearing (s 31, HRA) and rights in criminal proceedings (s 32, HRA), by reversing the evidential onus.

The purpose of the limitation is 'to ensure executive officers cannot avoid liability by hiding behind the corporate veil and ensure they are held accountable where they fail to take

[162] Queensland Health, response to submissions (20 October 2025)p 10.
[163] LSA, s 4(3)(d).
[164] Explanatory notes, p 13.
[165] Explanatory notes, p 30.

reasonable steps to prevent corporate offending'.[166] There is a rational connection between the limits and purpose.

A less restrictive option, not discussed in the statement of compatibility, would be to maintain the existing type 1 executive liability. However, in circumstances where this appears to have been ineffective to ensure executive officer accountability, and given the scale of the public health crisis, the committee is satisfied that the limits on human rights are justified and proportionate.

2.7. Entry to wholesale premises

The Bill proposes to add to the circumstances set out in the TOSP Act in which an 'authorised person'[167] may, without the occupier's consent or a warrant, enter certain places.[168] Under the current framework, an authorised person may enter a place if the occupier consents, or where entry is authorised by warrant.[169] Further, an authorised person may enter certain public places without consent or warrant where such places are open to the public or are open for carrying on business.[170]

The proposed amendments would permit an 'authorised person' to enter a 'wholesale outlet' without the occupier's consent or a warrant when the outlet is open for carrying on business. 'Wholesale outlet' is defined in section 9(1) of the TOSP Act as 'premises from which smoking products are available for sale by wholesale'. The scheme for licences for wholesale and retail businesses envisage wholesalers as those who provide smoking products to retailers; while they may be 'open for business', they are not generally open to the public.

2.7.1. Stakeholder Submissions and Department Advice

i. Stakeholder submissions

There was strong support for extending existing powers permitting entry without warrant or consent to wholesale premises. One submitter suggested that these powers should be extended to permit entry to residential premises.[171]

ii. Department advice

Queensland Health told the committee:

> *The Bill expands the current entry powers in the Act to authorise entry, without a warrant or consent, to wholesale licensed premises and wholesale premises at which illicit nicotine products are available for sale. The Bill does not*

[166] Statement of compatibility, p 19.
[167] An authorised person is a person appointed, or holding office, under section 170 of the TOSP Act as an authorised person. TOSP Act, sch 1, 'authorised person'. See also TOSP Act, s 170.
[168] Bill, cl 14 (new section 181).
[169] TOSP Act, s 181(1).
[170] TOSP Act, s 181(2).
[171] Submission 15.

> *authorise entry to residential premises— this would require a warrant or consent under the Act.*[172]

2.7.2. FLP issue – entry to wholesale premises without consent or warrant and the rights and liberties of individuals

Whether legislation has sufficient regard to the rights and liberties of individuals depends on a number of factors, including whether the legislation confers power to enter premises, and search and seize property, only where a warrant has been issued by a judicial officer.[173] The Bill departs from this principle by allowing entry to wholesale outlet without a warrant or the occupier's consent.

The power to enter a place without consent or warrant also raises issues because of the powers available to authorised officers after entry. This includes the power to search any part of the place, inspect, test or film any part or anything in the place, and requiring the occupier to provide assistance.[174] It also includes the power to seize and forfeit illicit nicotine and illicit tobacco, or other items which evidence an offence against the TOSP Act, and which is extended to seizure of 'compromised goods' under other amendments in the Bill (compromised goods are discussed below).[175]

The explanatory notes contend that the departure is justified having regard to the following: [176]

- the public health objectives of the Bill
- that requiring a warrant would hinder enforcement and seizure of evidence related to illicit supply
- that extending the power to wholesale premises enables earlier intervention allowing illicit products to be intercepted before they enter the retail market.

The purported justification for extension of the entry power concludes by noting:

> *The power to enter is confined to periods when the outlet or premises is open for carrying on a business, and operates in the same manner as the power to enter retail premises.*[177]

That the power does not presently apply to wholesale outlets is said to be an 'unintended enforcement gap' that has been exploited by 'sophisticated supply networks' which move illicit product 'between premises at speed'.[178]

This analysis fails to recognise the distinction between retail premises, which are open to the public and in which it may be argued that there is implied consent to enter, and

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[172] Queensland Health, response to submissions (20 October 2025) p 11.
[173] LSA, s 4(3)(e).
[174] TOSP Act, ss 181(4), 187.
[175] TOSP Act, s 197.
[176] Explanatory notes, p 31.
[177] Explanatory notes, p 31.
[178] Explanatory notes, p 31.

wholesale premises, which may carry on a business but not be otherwise open to the public.

Committee comment

Searching premises without a warrant or consent is an extraordinary power. While the TOSP Act currently authorises such searches for retail premises which are open to the public, wholesale premises are quite different.

While Queensland Health asserts that the powers contained in the Bill will operate in the same manner as the power to enter retail premises, the committee notes there is a significant difference between wholesale and retail premises.

The committee accepts that there may be circumstances where obtaining a warrant would be impracticable. In this sense, the power can be justified. However, it would have been preferable for the explanatory notes to consider alternatives, such as post-search approval, provided in s 161 of the *Police Powers and Responsibilities Act 2000* (PPRA), and address why such measures were not considered appropriate.

2.7.1. HRA Issues – entering wholesale premises and the right to privacy

The right to privacy (s 25, HRA) protects individuals against unlawful or arbitrary interferences with their privacy, family home or correspondence. The concept of 'home' extends to a person's workplace.[179] The notion of an arbitrary interference extends to interferences which may be lawful but are unreasonable, unnecessary or disproportionate, or random or capricious.[180] The expansion of powers of entry, without warrant or consent, to wholesale outlets limits the right to privacy.

The purpose of the limitation on the right to privacy is to strengthen enforcement and monitor compliance at the wholesale level.[181] According to the statement of compatibility, 'wholesale supply plays a significant role in the broader supply chain of illicit products'[182] and the 'ability to enter and inspect wholesale premises is essential to prevent the downstream supply of illicit tobacco and illicit nicotine products to retailers and the community.'[183]

There is a rational connection between the limitation and its purpose – providing authorised persons with entry powers allows authorised persons 'to take swift action

[179] Nicky Jones and Peter Billings, An Annotated Guide to the Human Rights Act 2019 (Qld), para 4.456 (p 260).
[180] Nicky Jones and Peter Billings, An Annotated Guide to the Human Rights Act 2019 (Qld), para 4.469 (p 264).
[181] Statement of compatibility, p 26.
[182] Statement of compatibility, p 26.
[183] Statement of compatibility, p 26.

following suspected non-compliance and remove unlawful goods from the supply chain before retailers and customers can access them.'[184] The proposed expansion of the powers of entry contributes to the Bill's broader public health objective–to prevent access to illicit smoking products by the community.

The statement of compatibility considers there to be no less restrictive and reasonably available ways to achieve the purpose.[185] Maintaining the status quo (providing for entry only with consent or warrant) would be a less rights restrictive approach. However, it is unlikely that this would be as effective from a monitoring and enforcement perspective.

Committee comment

The committee is satisfied that extension of the power to enter, without warrant or consent, wholesale premises, and the associated limit on the right to privacy, is justified by reference to the stated purpose, and is reasonable in the circumstances.

2.8. Compromised goods

The Bill includes provisions which allow the seizure and forfeiture of 'compromised goods'.[186]

Compromised goods are defined as smoking products or hookahs (or a component thereof) that are present in a place where illicit tobacco or illicit nicotine is seized.[187] That is, compromised goods are lawful smoking products which have been 'compromised' by being found alongside illicit products. The power to seize compromised goods will apply where there is consent or a warrant, and also where premises are entered without consent or warrant.[188] Once associated illicit products are forfeited, the compromised goods may be forfeited and destroyed.[189]

The policy intent of the provisions is directed at trying to maximise the financial impact of enforcement action. At present, the financial impact of enforcement action may be minimal because some businesses only keep limited quantities of illicit substance at premises (often kept alongside lawful smoking products), with illicit products stockpiled offsite.[190] Permitting seizure of all smoking products will also reduce the burden on authorised officers to sort through products to determine what is lawful and what is illicit.[191]

[184] Statement of compatibility, p 26.
[185] Statement of compatibility, p 26.
[186] Bill, clauses 15 to 21.
[187] Bill, cl 15, new section 194A.
[188] Bill, cl 17, amended section 197; Bill, cl 18, amended section 198; Bill, cl 21, new section 205BA.
[189] Explanatory notes, p 24.
[190] Explanatory notes, pp 13-14.
[191] Public briefing transcript, Brisbane, 8 October 2025, pp 3-4.

2.8.1. Stakeholder Submissions and Department Advice

i. Stakeholder submissions

Most stakeholders supported expanding seizure and forfeiture powers to compromised goods. CCQ noted:

> *The co-location of lawful and unlawful stock within the same retail premises is a practice that enables traders to obscure the source of their products, exploit enforcement ambiguity, and continue profiting from the illicit market while maintaining a façade of legitimacy. Empowering authorities to seize all stock from such premises removes that shield entirely, sending an unambiguous message that compliance with tobacco laws must be total, not partial or conditional.*[192]

The Gold Coast Hospital and Health Service's Public Health Unit told the committee:

> *The experience of our officers is that an increasing number of illicit businesses are keeping only minimal illicit product in their stores (with more frequent deliveries used to top up stock) and so the financial impact of seizures on the business is minimised. The introduction of provisions to enable the seizure of compromised goods in conjunction with illicit products will significantly increase the financial impact of our enforcement activities on these businesses.*[193]

However, some submitters raised concerns about the Bill's proposed approach, noting the potential adverse impact on stores operating lawfully who may have been pressured to stock illicit stock, or who inadvertently obtain such supplies.[194]

At the public hearing on 21 October 2025, the QLS were questioned about the compromised goods power and said:

> *With respect to the compromised goods provisions, we really think, again, a court order should be obtained before legal goods are seized, and there could be some flow-on effects to do with that. Particularly, we are concerned if an innocent business owner is involved in this and their lawful goods are seized at the same time. There could be a rogue employee or someone who is selling illegal tobacco on the side, but all of the compromised goods can be seized and forfeited, and that is something which I think should not be done lightly, and we would prefer to see a court order before those sort of goods are seized.*[195]

The CCC said that the power to seize compromised goods presented a potential corruption risk which should be addressed by requiring 'Queensland Health to maintain appropriate records and statistics, and to engage in mandatory reporting and publication

[192] Submission 29, p 6.
[193] Submission 17.
[194] Submission 15. Submission 22, p 2.
[195] Public hearing transcript, Brisbane, 21 October 2025, p 31.

of their activities under this power' to 'ensure such powers are exercised appropriately and in a way that is compliant with the Bill's policy objectives'. The CCC noted:

> *Transparency of operations is an effective way of maintaining public confidence and mandatory reporting and / or data publication requirements are crucial to achieving this.*[196]

ii. Department advice

Queensland Health responded to the concerns about the impact on lawful operators, noting:

> *…the provision is also intended to deter legitimate businesses from 'dabbling' in illegal supply, because they will face losing their legal stock, The public health risks associated with illicit tobacco and illicit nicotine products necessitate a strong and targeted response to non-compliance.*
>
> *Enforcement efforts will be focussed on retailers and wholesalers deliberately selling illegal products, rather than on legitimate products that are inadvertently non-compliant with the latest packaging requirements.*[197]

At the public briefing on 21 October 2025, Queensland Health provided the following response to QLS's concerns about forfeiture of compromised goods as an administrative power:

> *The Law Society did raise a suggestion that a court order should be obtained before compromised goods are seized. With respect, this would defeat the intent of the provision in ensuring enforcement efforts can immediately disrupt businesses that are engaging in illicit supply. The ability to seize and forfeit tainted legal products which are found alongside illegal products and being used to disguise those products is an appropriate and effective response to the growing public health concerns associated with tobacco and vapes. It is a necessary disruption measure, and the idea of having court proceedings or additional procedures around that would fundamentally frustrate the purpose of that reform.*[198]

With respect to the CCC's submission that reporting on compromised goods was required to militate against corruption risk, Queensland Health said:

> *The Department of Health Annual Report includes a summary of regulatory action taken under public health legislation. The seizure of compromised goods, as well as illicit tobacco and illicit nicotine products, will be captured in the Department's annual reporting.*[199]

[196] Submission 40, p 3. See also Public hearing transcript, Brisbane, 21 October 2025, p 27.
[197] Queensland Health, response to submissions (20 October 2025)p 9.
[198] Public briefing transcript, Brisbane, 21 October 2025, p 11.
[199] Queensland Health, response to submissions (20 October 2025) p 10.

Committee comment

The committee is satisfied that allowing seizure and forfeiture of lawful smoking products found alongside illicit products, as compromised goods, is appropriate given the scale of the public health and public safety crisis posed by illicit tobacco and illicit nicotine and the challenges faced by enforcement agencies.

However, the committee takes the CCC's submission concerning potential corruption risks seriously. The evidence heard by the committee suggests that an appropriate measure to address this risk would be to require Queensland Health to report on the seizure of compromised goods in its Annual Report. Queensland Health's Annual Report is reviewed each year by the Queensland Audit Office as part of its performance audit program. This would ensure appropriate oversight.

The committee notes that Queensland Health told the committee that such reporting would feature as part of its annual reporting. The committee urges Queensland Health to ensure these figures are included in its Annual Report to provide transparency and accountability in the exercise of this new power.

2.8.2. FLP issue – compromised goods and administrative power

The Bill (together with existing TOSP Act provisions) confer administrative powers on authorised persons to enter premises and seize goods, including compromised goods. Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.[200]

Under the Bill, the chief executive would have discretion to decide whether particular seized things are forfeited to the State. The TOSP Act allows the chief executive to delegate their functions to an appropriately qualified person so the decisions relating to forfeiture may be delegated.[201]

The explanatory notes state this power is a 'targeted measure to support the Bill's overarching objective of disrupting the illegal market and protecting public health' and note the involvement of organised crime in the illicit market.[202]

[200] LSA, s 4(3)(a).
[201] TOSP Act, s 236.
[202] Explanatory notes, pp 24-25.

It is asserted that there are appropriate safeguards in place to ensure powers are exercised fairly, such as:

- authorised persons are trained to identify smoking products and hookahs and are guided by internal policies regarding seizure of illicit tobacco and nicotine products
- there is a process where a person may seek compensation if a legal product is inadvertently destroyed, such as where a personal use defence would have applied.[203]

Neither the Act nor the Bill provide for appeals relating to forfeiture of compromised goods. The explanatory notes do not detail reasons for not including the opportunity to appeal a forfeiture decision regarding compromised goods.

At the public briefing on 8 October 2025, Queensland Health were asked about the absence of appeal rights regarding decisions to seize and forfeit compromised goods. Regarding appeal rights, Queensland Health told the committee that there will be appeal rights for some categories of compromised goods. The availability of appeal rights depends on the illicit goods that compromised goods are found alongside. The legislation permits immediate forfeiture and destruction of vapes because of their flammable components; no show cause process applies. Compromised goods found alongside illicit nicotine would be subject to the same process. However, for illicit tobacco, a show cause period of 28 days is available and there are related appeal rights.[204]

Queensland Health provided further clarification on the practical aspects of forfeiture on compromised goods in its response to written submissions:

> *If compromised goods are found alongside vapes as well as illicit tobacco, the process that allows for the most expeditious forfeiture applies (that is, the process for dealing with vapes). In summary, the process for dealing with compromised goods follows the process of the illicit products they are found alongside.*[205]

Committee comment

The committee is satisfied that allowing seizure and forfeiture of lawful smoking products found alongside illicit products, as compromised goods, is an appropriate administrative power given the scale of the public health and public safety crisis posed by illicit tobacco and illicit nicotine and the challenges faced by enforcement agencies.

[203] Explanatory notes, p 25.
[204] Public briefing transcript, Brisbane,, 8 October 2025, pp 4-5. See further
[205] Queensland Health, response to submissions (20 October 2025) p 10.

2.8.1. FLP issue – compromised goods and natural justice

To be consistent with fundamental legislative principles, legislation should be consistent with the principles of natural justice.[206] One of the principles of natural justice is that a decision requires procedural fairness; that is, that there are appropriate and fair procedures in place for decision-making.

The Bill explicitly precludes procedural fairness with respect to the decision by the chief executive to forfeit compromised goods.[207] There is also no requirement for the chief executive to provide notice of, or reasons for, the decision to the affected person. The explanatory notes do not directly address why it is necessary to exclude procedural fairness. However, the requirement for procedural fairness would likely delay the forfeiture process, requiring the goods to be stored for a longer period of time. Appeal rights are limited (discussed above).

The explanatory notes state that the purpose of the limitation on natural justice is 'to ensure that the immediate [financial] impact on individuals and businesses is sufficient to deter their involvement in the illicit market'.[208]

Committee comment

The committee is satisfied that exclusion of procedural fairness from a decision by the chief executive, or their delegate, to forfeit compromised goods is justified in the circumstances, and is an appropriate limit on the rights and liberties of individuals given the identified public health crisis.

While compromised goods are legal products, forfeiture will only apply where they are found alongside illicit products. Lawful operators will not be affected. This also provides deterrence to lawful operators who may be tempted to 'dabble' in illicit products.

2.8.2. FLP issue – compromised goods and the compulsory acquisition of property

Legislation should only provide for the compulsory acquisition of property in circumstances that provides for fair compensation.[209] This is consistent with the *Australian Constitution* which provides that the Commonwealth may make laws with respect to the acquisition of property on just terms.[210]

The TOSP Act provides for compensation in circumstances where compromised goods are wrongly seized, forfeited and destroyed.[211] However, there is no compensation for

[206] LSA, s 4(3)(b).
[207] Bill, cl 21 (TOSP Act, new s 205BA(2)).
[208] Explanatory notes, p 28.
[209] LSA, s 4(3)(i).
[210] Australian Constitution, s 51(xxxi).
[211] Bill, cl 32 (TOSP Act amends s 219).

compromised goods lawfully seized, despite compromised goods not being illegal in and of themselves.

The explanatory notes justify this position by stating that the seizure and forfeiture of compromised goods provide an additional enforcement tool to disrupt illegal trade by increasing the financial consequences for operators.[212] It is said that the proposed power will help address the serious public health issue and provide deterrence.[213] While this is a sound argument, it does not directly address the issue of acquisition of lawful property without compensation, framing the limitation as appropriate because of the desired outcome.

There does not appear to be any comparable powers to forfeit otherwise lawful goods without compensation on the Queensland Statute Book.

Committee comment

The committee is satisfied that the acquisition of property without compensation, and the limits on the rights and liberties of individuals, are justifiable in the circumstances. It is not appropriate to provide compensation for 'compromised goods' where the owners of those lawful goods had illicit goods in their possession.

2.8.3. HRA Issues – compromised goods and the right to property

The expanded seizure and forfeiture powers, applying to compromised goods, limit a person's right to property

The purpose of this limitation is to disincentivise the supply of illicit tobacco and illicit nicotine products, in the interests of public health.[214] Allowing the seizure and forfeiture of compromised goods provides an additional enforcement tool and is designed to deter unlawful activity by making the potential loss 'too great to justify the risk'.[215]

There is a rational connection between the limit and its purpose. There committee agrees with the assessment in the statement of compatibility that less restrictive and reasonably available alternatives are not available.[216]

The statement of compatibility emphasises that this power is limited to specific categories of goods already regulated under the TOSP Act and does not permit the seizure of unrelated lawful property, such as confectionary or gifts.[217] Further, the provisions only apply where illicit tobacco or illicit nicotine products are found and seized.

[212] Explanatory notes, p 34.
[213] Explanatory notes, p 34.
[214] Statement of compatibility, p 21.
[215] Statement of compatibility, p 21.
[216] Statement of compatibility, p 22.
[217] Statement of compatibility, p 22.

Committee comment

The ability to seize and forfeit lawful goods which are contaminated by association with illicit nicotine and illicit tobacco is a significant limit on the right to property. This is particularly so where review rights are generally unavailable and where there is limited scope for compensation.

After hearing evidence, the committee is satisfied that the ability to forfeit compromised goods is an important enforcement tool that will help achieve the Bill's objective of dismantling the illicit trade and aid authorised officers when conducting enforcement activities. The limits on property rights are expected to only apply to those who are engaged in unlawful activity.

The committee is satisfied that the limit on the right to property is proportionate and reasonable.

2.9. Controlled purchase operations

The Bill introduces a new division into the TOSP Act to authorise the use of controlled purchase operations.[218] These proposed powers will allow certain staff to undertake covert operations to gather evidence against those suspected of being engaged in illicit tobacco or illicit nicotine offences. Such operations occur without the knowledge of the target and where a warrant is not required to enter premises.

The framework established by the Bill allows the chief executive, or his delegate, to:

- authorise a public service employee or health service employee to be a controlled purchase officer[219] and
- authorise a controlled purchase operation, the intended purpose of which is to provide a person with an opportunity to commit or attempt to commit a prescribed offence.[220]

Authorisation for a controlled purchase operation should only be given where the chief executive is satisfied of various things, including:[221]

- that the nature and extent of the prescribed offence justifies an operation
- that the operation won't be conducted in a manner to induce a person to commit a prescribed offence where that person would not have otherwise have intended to commit the offence, and
- that each controlled purchase officer has received appropriate training.

[218] Bill, cl 22 (TOSP Act, new pt 11, div 4AA).
[219] Bill, cl 22 (new section 208A).
[220] Bill, cl 22 (new section 208B(1)).
[221] Bill, cl 22 (new section 208B(2)).

Once approved, the operation is supervised by an ‘authorised person’ who is approved by the chief executive; the supervisor must not be participating in the operation.[222] Written authorisation is required and must address various prescribed matters.[223]

The Bill introduces various safeguards to protect authorised officers from potential criminal liability to which they may otherwise be exposed.[224] Evidence gathered because of a controlled purchase operation is not inadmissible in court only because the evidence gathered was obtained by a person while engaging in an unlawful act authorised by the operation.[225]

Controlled operations exist under other legislation in both Queensland (in relation to police operations) and in other state-based tobacco control legislation.[226]

In Queensland, under Chapter 11 of the PPRA, police officers are authorised to engage in otherwise unlawful conduct to gather evidence of serious crimes.[227] However, the process for approval under the PPRA is rigorous, requiring an application to the chief executive (Police Commissioner), and consideration and recommendation from the Controlled Operations Committee.[228]

The Controlled Operations Committee consists of persons with extensive experience in law enforcement and policing and includes the Chairperson of the Crime and Corruption Commission or their nominee, the Police Commissioner or their nominee, and an independent member, usually a retired judge.[229] The purpose of this input is to ensure appropriate risk assessment and operational integrity.[230]

Further, under the PPRA, a report of the controlled operations activities must be provided to the relevant Minister annually and tabled in the Legislative Assembly, providing some parliamentary oversight of controlled operations.[231]

In contrast, where the power to conduct controlled operations is conferred under equivalent state-based tobacco control legislation, there is not similar external oversight (see **Appendix E** for interjurisdictional comparison).

The Bill does not provide for any external oversight of controlled operations conducted under the TOSP Act, nor does it contain any reporting requirements.

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[222] Bill, cl 22 (new section 208D).
[223] Bill, cl 22 (new section 208D).
[224] Bill, cl 22, see for example (new section 208G (protection from criminal responsibility)).
[225] Bill, cl 22 (TOSP Act, new s 208J).
[226] Explanatory notes, p 14.
[227] PPRA, Ch 11. Serious crimes are ‘relevant offences’ defined in s229 as offences where there is a 7 year max term of imprisonment or schedule 2 offences (which include child exploitation and child sexual offences, certain publication offences etc).
[228] PPRA, s 243.
[229] PPRA, s 232.
[230] Public hearing transcript, Brisbane, 21 October 2025, pp 25-26.
[231] PPRA, s 269.

Queensland Health told the committee that controlled purchase operations were necessary to gather evidence of supply, and noted that supply offences carry a higher maximum penalty than possession offences.[232] Queensland Health foreshadowed that these powers would be used alongside other enforcement powers, and would allow authorised officer to essentially do a 'test purchase' to prove supply prior to entry and search of premises targeted by enforcement action.[233]

2.9.1. Stakeholder Submissions and Department Advice

i. Stakeholder submissions

ACOSH supported the controlled operations power and noted it was a 'practical and proportionate enforcement tool to detect and deter the illegal sale of tobacco and vaping products' where illicit trade 'is often discreet, occurring under the counter or through informal transactions that are difficult to identify through routine inspections'.[234] This was echoed by other submissions.[235]

The Gold Coast Hospital and Health Service's Public Health Unit told the committee:

> *Appointing controlled purchase officers will greatly improve the ability of officers to gather evidence to address illicit supply by giving them a customer view of sales.*[236]

The CCC were generally supportive of the measures contained in the Bill given the scale of the illicit tobacco and illicit nicotine problem.[237] However, the CCC submitted that the Bill's proposed approach to controlled operations raised 'areas of vulnerability to corruption risk that ought to be addressed'.[238] The CCC recommended including additional safeguards in the Bill, modelled off the PPRA framework, to address this risk.[239]

The Queensland Council of Civil Liberties (QCCL) supported the CCC's recommendations to incorporate the PPRA controlled operations safeguards into the Bill and noted:

> *The history of Police undercover operations in Qld, and other Australian States and Territories as well as the UK is replete with examples of egregious misuse of covert powers by police and resulting miscarriages of justice.*
>
> *…*
>
> *Allowing public servants in Qld Health to exercise police powers without the training that police receive is a recipe for serious problems. That will be*

232 Public briefing transcript, Brisbane, 8 October 2025, p 4.
233 Public briefing transcript, Brisbane, 8 October 2025, p 4.
234 Submission 32, p 4.
235 See for example submission 29, pp 5-6. Submission 31, pp 9-10.
236 Submission 17.
237 Public hearing transcript, Brisbane, 21 October 2025, p 25.
238 Submission 40, p 2.
239 Public hearing transcript, Brisbane, 21 October 2025, p 25. See also submission 40, p 2.

> *particularly so if the PPRA Controlled Operations regime is not implemented in this Bill.* [240]

In addition to including the PPRA framework within the Bill, QCCL also recommended that covert operations should be electronically recorded, and that Queensland Health should create internal manuals, similar the QPS Operational Procedures Manual, to govern the conduct of authorised officers.

At the public hearing, Mr Terry O'Gorman, Vice President of the QCCL, told the committee:

> *The explanatory notes claim that the bill establishes a robust framework for controlled purchase operations. It is the Queensland Council for Civil Liberties' submission that there is nothing robust at all in the bill that will control the behaviour of those engaged in covert operations to the extent that those engaged are minded to misbehave and break the law.*[241]

Mr O'Gorman also noted the potential risks which arise given operations will be conducted by persons lacking policing experience:

> *There is one other point that should be made—that is, police who conduct covert operations do it generally by the time they have been eight to 10 years in the Police Service. They have had training. They have had eight to 10 years of experience. Here you are using public servants with no police training, no police experience and you are asking them to go out and deal with organised crime and stick within the parameters of what the controlled operations certificate says you can and cannot do.*[242]

The CCC were also asked whether the proposals in the Bill presented any potential safety risks to Queensland Health authorised officers, and whether additional safeguards were required, and told the committee:

> *The PPRA provisions contemplate the use of what I have referred to as civilian participants. It can be people who may otherwise be human sources of information who may participate in those otherwise unlawful activities. One of the benefits of having the Controlled Operations Committee consider those matters is that—as Mr O'Gorman rightly observed—the independent member on the committee is a retired Supreme Court judge as well as the chair of the CCC and the Police Commissioner as the other members of the committee. They are highly experienced in law enforcement and have a keen understanding of the issues that might arise.*[243]

The committee also asked QPS about potential risks that may arise from the involvement of civilian participants in controlled operations. QPS told the committee that they will continue to work alongside Queensland Health to assist with assessments and reviews.[244]

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[240] Submission 45.
[241] Public hearing transcript, Brisbane, 21 October 2025, p 21.
[242] Public hearing transcript, Brisbane, 21 October 2025, p 23.
[243] Public hearing transcript, Brisbane, 21 October 2025, p 26.
[244] Public briefing transcript, Brisbane, 21 October 2025, p 4.

Both CCC and QCCL recommended that the Bill be amended to require a statutory review after 2 years to determine whether the provisions have worked as intended and met their policy intent.[245]

ii. Department advice

Queensland Health provided the following written response to concerns about controlled operations raised in QCCL and CCC's written submission:

> *Queensland Health notes that the PPRA sets out a framework for controlled operations for police, and includes specific requirements to seek approval from a committee, submit reports of each operation, and prepare consolidated reports of authorised operations conducted for Parliament and oversight bodies. The Bill does not include requirements of this nature. This is because controlled purchase operations prescribed in the Bill are not testing criminal conduct to the same magnitude and are strictly confined to making attempts to purchase and identifying suppliers of illicit tobacco and illicit nicotine products and unlicensed suppliers of smoking products. The Bill creates a robust legislative framework that requires the chief executive of Queensland Health to be satisfied of certain matters, and also provides safeguards for the conduct of the operation through the oversight of statutory requirements by a supervising authorised person responsible for the operation.*

At the public briefing on 21 October 2025, Queensland Health responded directly to concerns raised at the public hearing by witnesses:

> *I will begin with controlled purchase operations, because we have heard a lot of talk on this issue from the CCC and from the Queensland Council for Civil Liberties. They raised a number of concerns around these provisions. To that end, respectfully, in our view it is a serious exaggeration to conflate the provisions in this bill around controlled purchase operations with the powers of police officers and the Crime and Corruption Commission to conduct covert operations in the context of serious criminal investigations. The powers in this bill are very narrow. They are focused on the operations of illegal traders in a very specific niche industry. They are effectively in practice, if you like, mystery shopping for compliance purposes.*
>
> *What we are talking about is not covert policing. These authorised persons are not performing surveillance. They are not launching investigations into organised crime. They have no powers of arrest. They have no general roving police powers. They are dealing with the same retailers and shopfront operators that our teams already regularly engage with and they do so in a structured way under this bill where illegal sales are occurring. In fact, under the bill controlled purchase operations will not even involve the undercover officer engaging in any illegal activity. They will be walking into a store and their purchase of the product is not an illegal activity. A member of the public can go into a store and purchase a vape and that is not prohibited. The sale of vapes is prohibited; the purchase of vapes or illicit tobacco is not prohibited. They are not engaging in weapons cases or elaborate sting operations.*[246]

[245] Public hearing transcript, Brisbane, 21 October 2025, p 23; p 25.
[246] Public briefing transcript, Brisbane, 21 October 2025, pp 9-10.

Queensland Health also addressed submitter concerns about the safety of authorised officers undertaking enforcement activity:

> *The health and safety of our authorised officers, who are Queensland Health employees, is of utmost importance to Queensland Health. The health and safety of those officers is protected under bigger laws that Queensland Health complies with … We respond effectively to risk if that puts staff in situations that are potentially risky. …*
>
> *I would say that, before they go, all of them do a full risk assessment before they even consider entering the store. That is a desktop exercise. We also have occupational violence prevention training, which all of the officers have access to. We have other training and guidelines and processes for them to follow. We look at and give them guidance on how to protect their identity as well so they do not disclose their name and personal details to anyone. When they are onsite they will do another assessment to check if there are any risks they were not aware of at the desktop. … We have lots of safety procedures in place that staff follow.* [247]

2.9.2. FLP issue – controlled purchase operations, administrative power and natural justice

Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.[248] Furthermore, to be consistent with fundamental legislative principles, legislation should be consistent with the principles of natural justice.[249] The more significant the impact a decision is likely to have on people's rights, interests or legitimate expectations, the greater the need for higher levels of reviewability and scrutiny.[250]

A decision to authorise a controlled purchase operation is an administrative action designed to provide a person with an opportunity to commit or attempt to commit a prescribed offence.[251] Operations are not subject to external review or judicial oversight. The covert nature of operations raises issues in relation to procedural fairness.

The explanatory notes state that controlled purchase operations 'are necessary to respond to the prevalence and increasing sophistication of the illicit market'.[252] According to the explanatory notes, operators are evading traditional inspection methods, instead using 'closed membership for customers, group chat messaging to coordinate sales, online ordering with home delivery, and coded transactions' to continue their operations. The controlled purchase operations are designed to overcome these barriers.[253]

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[247] Public briefing transcript, Brisbane, 21 October 2025, pp 11-12.
[248] LSA, s 4(3)(a).
[249] LSA, s 4(3)(b).
[250] Queensland Government, Administrative Review Policy, June 2018, p 2.
[251] Bill, cl 22 (TOSP Act, new s 208B).
[252] Explanatory notes, p 26.
[253] Explanatory notes, p 26.

While acknowledging these provisions raise issues concerning administrative power and procedural fairness, the explanatory notes highlight the following safeguards to ensure consistency with fundamental legislative principles:[254]

- Controlled purchase officers are subject to codes of conduct, accountability mechanisms, and disciplinary frameworks.
- Each operation must be individually authorised in writing by the chief executive, for a maximum duration of 3 months.
- Before authorising the operation, the chief executive must be satisfied of a range of matters relating to the proper conduct and oversight of the operation.
- Controlled purchase officers would be required to act in accordance with the terms of their appointment and the operation authority, with their conduct supervised by an authorised person and overseen by the chief executive.
- Controlled purchase operations would only be used in clearly defined circumstances and in relation to 3 key offences, being the unlicensed sale of smoking products and the supply and commercial possession of illicit tobacco and illicit nicotine products.

Committee comment

The committee is satisfied that the limitations on the individual rights and liberties resulting from controlled operations are reasonable and justified given the context and purpose of the proposed controlled purchase operations.

The identified safeguards provide some accountability and protection.

The committee notes the QCCL and CCC submissions regarding the need for greater accountability and transparency.

The more robust approval process for controlled operations in the PPRA, including oversight by the Controlled Operations Committee, while important for the investigation of serious crime, are not necessary given the ‘mystery shopper’ characterisation of the controlled operations power in tobacco control legislation.

However, noting observations above concerning compromised goods, the committee would suggest that Queensland Health report on controlled operations in its Annual Report which will provide additional accountability.

[254] Explanatory notes, p 26.

2.9.3. HRA Issues – controlled operations and the right to privacy

The Bill's introduction of controlled operation powers limits a person's reasonable expectation of privacy.[255] It may also limit their right to a fair hearing if they are ultimately charged with an offence, depending on the circumstances.[256]

The purpose of controlled purchase operations is to strengthen enforcement and intelligence gathering, in circumstances where illegal operators are proactively avoiding enforcement.[257]

There is a rational connection between the limitation and its purpose. Controlled purchase operations are an additional (and powerful) tool to gather intelligence and evidence and builds on the existing inspection powers under the TOSP Act and increase the likelihood of successful prosecutions.

While the committee ultimately agrees with the assertion in the statement of compatibility there are no less restrictive and reasonably available ways to achieve the purpose,[258] it would have been useful for the statement of compatibility to explicitly address why alternative approaches to controlled operations, such as a those contained in the PPRA, were not necessary or appropriate in this case, as such measures would have provided additional safeguards regarding the right to privacy.

Committee comment

The committee is satisfied that the limits on the right to privacy resulting from the introduction of controlled operations is appropriately connected to the stated purpose and is proportionate and justified. The noted safeguards will minimise the potential impacts on the right to privacy.

2.10. Power to request information and related offence

The Bill makes minor amendments to section 215, power to require information, essentially clarifying that information includes a document.[259] The Bill also inserts a new provision, section 215A, which empowers authorised officers to require information 'relevant to monitoring or enforcement' of six offence provisions: unlicensed sale of smoking products, supply of smoking products to children, supply and commercial possession of illicit tobacco and illicit nicotine, and the new lessor offence.[260]

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[255] Statement of compatibility, p 23.
[256] The right to a fair hearing in section 31 of the HRA is concerned with procedural fairness. Depending on the circumstances, evidence may be used from a controlled operation in a person's trial for an offence. See Bill, cl 22 (TOSP Act, new s 208K) which deals with the admissibility of evidence.
[257] Statement of compatibility, p 24.
[258] Statement of compatibility, p 24.
[259] Bill, cl 30.
[260] Bill, cl 31; Explanatory notes, p 25.

The section 215A power is significantly wider than the existing section 215 power, allowing information to be requested for the purpose of monitoring or investigating potential non-compliance, not just the commission of offences.[261] The new power will aid in gathering information about potential or ongoing contraventions.[262] Failure to comply is an offence carrying a maximum penalty of 100 penalty units, the same maximum penalty applying under section 215.

A defence of 'reasonable excuse' applies if providing the information may tend to incriminate the person.[263] There is a similar defence available under section 215.

2.10.1. Stakeholder Submissions and Department Advice

i. Stakeholder submissions

CCQ noted that the executive liability provisions were supported by the expansion of information gathering powers, and would enable 'Queensland Health to verify records, trace supply chains, and penetrate the complex corporate structures often used to conceal illicit activity.'[264]

The Bill's expanded information gathering powers were also supported by the NHMRC, but it recommended increasing the penalty for the offence and making the new offence a PIN.[265]

ii. Department advice

Queensland Health responded to NHMRC's submission by noting that the penalty was consistent with similar provisions in the TOSP Act, and that, despite section 215 being a PIN, it was not considered appropriate to make section 215A a PIN 'because of the more expansive scope' of the provision.[266]

2.10.1. HRA Issues – power to request information and the right to privacy

The right to privacy (s 25, HRA) protects individuals from a public entity's demands for personal information.[267] This proposed new power limits the right to privacy. It is a broad power, captures a wider range of information than the current offence, and applies to any person; this means the privacy impacts may be wide reaching. Further, the power is coercive in the sense that failure to comply with the request, in the absence of a defence, is an offence.

[261] Statement of compatibility, p 28.
[262] Explanatory notes, p 25.
[263] Bill, cl 31, new section 215A(4).
[264] Submission 2, p 7.
[265] Submission 31, p 10.
[266] Response to submissions, p 10.
[267] Nicky Jones and Peter Billings, An Annotated Guide to the Human Rights Act 2019 (Qld), para 4.433 (p 253).

The purpose of the proposed provision is to strengthen information gathering and enforcement in light of the public health impacts of the prescribed offences. There is a rational connection between the limitation and its purpose. The proposed power will contribute to a more robust monitoring and enforcement framework.

The statement of compatibility considers there to be no less restrictive and reasonably available ways to achieve the purpose.[268] The committee agrees with the assessment and considers this new power, combined with other measures in the Bill, will contribute to a more robust framework of investigation, monitoring and enforcement and the limitation is reasonable and justified in the circumstances.[269]

2.11. Evidentiary aids

The Bill introduces evidentiary aid provisions.[270] These allow signed certificates to be issued by the chief executive attesting to certain non-controversial factual matters, to be used in court proceedings. The use of evidentiary aids effectively reverses the onus of proof; once adduced, a defendant is required to prove that the certified facts are incorrect.[271] While this potentially limits procedural fairness and natural justice, there is a clear benefit to the use of such certificates to streamline court proceedings and reduce the burden on courts. Given such certificates are limited to non-controversial matters, and attested facts may be rebutted through adducing contrary evidence, these measures are reasonable and appropriate.

2.11.1. HRA Issues – evidentiary aids and rights in criminal proceedings

The ability to use evidential aids to prove certain non-controversial facts limits rights in criminal proceedings (s 32, HRA) by reversing the onus of proof in relation to those facts. If contesting those facts, the defendant would be required to adduce evidence to demonstrate those facts are not correct.[272]

The purpose of the limit, to improve efficiency, is rationally connected to the limit. Such evidential aids exist in other statutes.[273] The committee are satisfied that the limit is justified and proportionate.

2.12. Privacy Impact Assessment

The Office of the Information Commissioner (OIC) made a submission to the committee addressing the privacy impacts of the Bill. OIC noted that the proposed amendments would result in Queensland Health handling a broad range of personal and potentially

[268] Statement of compatibility, p 29.
[269] Statement of compatibility, p 30.
[270] Bill, cl 34.
[271] Explanatory notes, p 29.
[272] Statement of compatibility, p 27.
[273] Statement of compatibility, p 27.

sensitive information and recommended that Queensland Health conduct a comprehensive Privacy Impact Assessment (PIA).[274] OIC said this privacy assessment should 'identify privacy impacts, assess compliance with the Queensland Privacy Principles and develop mitigating measures, followed by the formulation of a privacy risk management approach'.[275] The submission went to outline the initial steps for this process.[276]

Queensland Health noted OIC's submission and stated:

> *The OIC was contacted during consultation on the Bill and did not provide any feedback at that time, including advice on whether a PIA was required. Queensland Health considered the impacts of the proposals in the Bill on privacy and comprehensively addressed them in the explanatory notes to the Bill and the Statement of Compatibility with Human Rights. Queensland Health will have regard to privacy obligations under the Information Privacy Act 2009 during operationalisation of the Bill.*[277]

Committee comment

Completion of a PIA will help Queensland Health identity potential privacy risks, beyond those noted in the explanatory notes and statement of compatibility and develop risk mitigation strategies to address those privacy impacts.

The committee suggests that Queensland Health note the OIC's feedback contained in its submission to the committee, and undertake a Privacy Impact Assessment, and related activities, during operationalisation in accordance with the OIC recommendation.

2.13. Changes to the licencing framework to reduce supply and availability

The committee heard from multiple submitters that amendments should be made to the current licensing framework to cap and reduce the number of tobacco retailers in Queensland. Submitters said this would work effectively alongside other enforcement measures in the Bill, reducing the strain on authorised officers, and reducing the availability of illicit tobacco. The committee heard that strengthening the licensing framework would improve the integrity of the tobacco supply chain and protect public health.[278]

ACOSH expanded on this submission at the public hearing, telling the committee:

> *In speaking to one of our recommendations around strengthening the tobacco retailer licensing scheme, I would like to bring the bigger picture into play. Right*

[274] Submission 34, p 2.
[275] Submission 34, p 2.
[276] Submission 34, pp 2-4.
[277] Queensland Health, response to submissions (20 October 2025) p 14.
[278] Submission 32, p 5.

> *now across Australia, eight per cent of Australians are smoking daily and that eight per cent is serviced by over 40,000 outlets across the country. To put that in perspective, roughly 70 per cent of the population drive petrol cars and that 70 per cent is serviced by 7,000 petrol stations. There are also fewer than 3,000 major supermarkets in this country. While far fewer people are smoking today, tobacco is still by far one of the most widely available, addictive and deadly products in Australia. It is more available than fuel. It is more available than alcohol or bread and milk, and there is no other product that kills two in three of its long-term users that is available on almost every street corner. If we are really serious about tackling the illicit trade and protecting the health of Queenslanders, that imbalance has to change and how we do that is really important.*
>
> *… In our submission we argue that [further restricting licences] will not only get on top of the illicit trade but also reduce the number of retailers to a level that is more proportionate to the actual demand.*[279]

This position was supported by others including the Public Health Association Australia, Queensland Branch, and Lung Foundation Australia.[280]

At the public hearing, Lung Foundation Australia told the committee:

> *…in our research for our presentation today, we found that the cost of a tobacco licence to sell these products is the princely sum of $419. To put that in context, that would mean that, for a product that kills three out of five long-term users, I can receive a licence to sell these products for less than the cost of my car registration. If we are serious about deterring the infringement of public health, the committee should extend the legislation to include a total armistice on the number of licences issued.*[281]

NHMRC supported reducing the availability of tobacco licences ‘because research shows that a high density of and close proximity of tobacco retailers is associated with higher smoking prevalence’.[282] NHMRC put evidence before the committee which demonstrated a mean of 7.4 new tobacco or vape retailers opening each month.[283]

Lung Foundation Australia also recommended greater regulation of online pharmacy businesses, noting that following the restriction the sale of vapes, some online vape stores have transitioned to online pharmacies only selling ‘therapeutic vapes’ and are essentially a vape store that have employed a pharmacist to overcome regulatory restrictions.[284]

In response to submissions about the need to addressing licensing, Queensland Health told the committee that the central purpose of the Bill was to address illegal operators, which was the urgent problem that needed to be addressed, and that broader system

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[279] Public hearing transcript, Brisbane, 21 October 2025, pp 5-6.
[280] Submission 33, p 2; Submission 25. Public hearing transcript, Brisbane, 21 October 2025, p 12.
[281] Public hearing transcript, Brisbane, 21 October 2025, p 3.
[282] Submission 31, p 6.
[283] Submission 31, p 6.
[284] Submission 25, p 3. Public hearing transcript, Brisbane, 21 October 2025, p 6.

changes were better considered as part of the wide public health agenda and that work was ongoing.[285]

Committee comment

The committee notes Queensland Health's response to submissions that tobacco licences and the number of tobacco retail outlets should be further restricted.

The evidence heard by the committee about the high density of tobacco stores, when compared to other essential services like petrol stations or supermarkets, is concerning. Furthermore, the relatively inexpensive cost of a tobacco license is surprising.

The committee encourages Queensland Health to consider whether further amendments to the TOSP Act are required to address this issue.

2.14. Tobacco excise and how it contributes to the illicit trade

Tobacco excise is squarely within the purview of the Commonwealth Government. However, multiple submitters said the cost of lawful tobacco, driven by the tobacco excise, is contributing to consumers turning to illegal products.[286] The committee heard arguments, including from those with vested interests, that the current policy approach, where high excise is considered a central pillar to reduce smoking rates, needs to be revisited.[287]

However, in contrast, the committee heard from submitters and witnesses that the high rate of excise remains 'one of the most effective policy mechanisms to reduce population consumption of tobacco.'[288] Those experts noted that the illicit trade exists in countries without high taxes, and that efforts to reduce illicit trade through reducing excise have not been successful.[289] While anecdotal evidence supports the notion that higher prices are fuelling the illicit market, this is not born out by the evidence.[290]

2.15. An improved public reporting framework

The committee heard some evidence that current public reporting tools are not fit for purpose. One submitter, a doctor, told the committee that he had tried reporting local outlets selling vapes to children but was met with an 'impossibly high bar'.

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285 Public briefing transcript, Brisbane, 21 October 2025, p 9.
286 See for example submission 14.
287 See for example public hearing transcript, Brisbane, 21 October 2025, p 15.
288 See Submission 32, p 5. See also submission 25; Submission 39, p 3. Public hearing transcript, Brisbane, 21 October 2025, p 5.
289 Submission 32, p 5. Submission 31, pp3-5.
290 Submission 31, p 4.

At the public hearing, CCQ told the committee:

> *…we have been approached by members of the public, including GPs in Queensland, complaining, first of all, 'Where is the portal where I am able to issue a complaint that smoking laws are being breached in Queensland?' Secondly, when GPs have members of the public who have attempted to put their complaints forward, the burden of proof is too high on those individuals. They are required to provide transaction times and client details. This is the information we have been fed. We would like the reporting portal to be much better publicised and the burden of proof lowered.*[291]

Queensland Health responded to this concern, noting that the public can raise concerns and reporting illegal tobacco and vapes by calling the 13 QGOV (13 74 68) hotline or by using the online reporting form.

Committee comment

The evidence heard by the committee suggests the current tools for public reporting of concerns could be enhanced to be more effective and less onerous. Such a tool could provide valuable intelligence to Queensland Health and facilitate improved and targeted enforcement efforts.

2.16. The need for education

Multiple submitters stressed the importance of education, particularly of young people, to address demand side issues regarding smoking and vaping.[292] Some suggested education campaigns highlighting the risks of illicit nicotine products and the legal consequences of buying such products.[293]

The Queensland Network of Alcohol and Other Drug Agencies Ltd (QNADA) were supportive of the measures contained in the Bill but were 'concerned that the singular emphasis on law enforcement over demand and harm reduction approaches will have devastating consequences for individuals and communities, while simultaneously failing to reduce use'.[294] QNADA, together with other submitters, emphasised the need for a 'three pillar' approach to harm minimisation, addressing supply, demand and harm reduction. Submitters also suggested expanding Queensland's existing program to increase the availability of nicotine replacement therapy and support.[295]

Queensland Health told the committee there has been ongoing education and indicated further education and guidance materials would be released as part of the operationalisation of the Bill.

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[291] Public hearing transcript, Brisbane, 21 October 2025, p 6.
[292] Submission 7.
[293] Submission 27.
[294] Submission 30, p 2.
[295] Submission 30, pp 2-3. Submission 25, pp 3-4. Submission 31, pp 7-8.

Appendix A – Submitters

Sub No.	Name / Organisation
1	Name Withheld
2	Name Withheld
3	Name Withheld
4	Nevell Group Retail, IGA Birkdale, IGA Coomera Waters, Friendly Grocer Capalaba
5	Luke Cardwell
6	Super Vape Store and supplementary
7	Drug Free Australia
8	Robyn and Ashley Maeyke
9	Australian Association of Convenience Stores (AACS)
10	Name Withheld
11	No More Butts
12	The Royal Australian College of General Practitioners (RACGP)
13	Dr Michelle Jongenelis
14	John Carter
15	Pamela Wright

16	Professor Matthew Rimmer
17	Gold Coast Public Health Unit, Gold Coast Hospital and Health Service
18	Fusion Body Corporate Committee
19	Thomas Lyons
20	Imperial Brands Australasia
21	Cignall Pty Ltd
22	TSG Franchise Management
23	Australian College of Rural and Remote Medicine
24	Confidential
25	Lung Foundation Australia
26	Freechoice Tobacconist Deception Bay
27	Name Withheld
28	Name Withheld
29	Cancer Council Queensland (CCQ)
30	Qld Network of Alcohol and other Drug Agencies (QNADA)
31	NHMRC Centre of Research Excellence on Achieving the Tobacco Endgame
32	Australian Council on Smoking and Health (ACOSH)

33	Public Health Association Australia, Queensland Branch
34	Office of the Information Commissioner (OIC)
35	Name Withheld
36	Name Withheld
37	Shopping Centre Council of Australia (SSCA)
38	Cairns and Hinterland Hospital and Health Service
39	Stroke Foundation
40	Crime and Corruption Commission (CCC)
41	Sheena Lindholm
42	Real Estate Institute of Queensland (REIQ)
43	Environmental Health Australia (Queensland) Inc.
44	Queensland Law Society (QLS)
45	Queensland Council for Civil Liberties (QCCL)

Appendix B – Public Briefing, 8 October 2025

Queensland Health	
Mr Mark West	Executive Director, Prevention Strategy Branch
Mr Karson Mahler	Director, Legislative Policy Unit
Ms Kate Sanderson	Manager, Legislative Policy Unit
Ms Amy Allen	Manager, Legislative Policy Unit
Ms Elizabeth Good	Manager, Prevention Strategy Branch

Appendix C – Witnesses at Public Hearing, 21 October 2025

Individuals

Dr Matthew Rimmer

Dr Michelle Jongenelis

Organisations

Cancer Council Queensland

Mr Matt Gardiner	Chief Executive Officer
Ms Mena Waller	Chief Operating Officer
Dr Danielle Jackman	Manager, Government Relations

Lung Foundation Australia

Mr Mark Brooke	Chief Executive Officer

Australian Council on Smoking and Health

Ms Laura Hunter	Chief Executive Officer

NHMRC Centre of Research Excellence on Achieving the Tobacco Endgame

Professor Coral Gartner

Australian Association of Convenience Stores

Mr Theo Foukkane	Chief Executive Officer

Shopping Centre Council of Australia	
Mr James Newton	Head of Policy and Regulatory Affairs
Mr Oliver Everett	Policy Advisor
Real Estate Institute of Queensland (REIQ)	
Ms Katrina Beavon	Chief Operating Officer and General Counsel
Queensland Council of Civil Liberties	
Mr Terry O'Gorman	Vice President
Crime and Corruption Commission	
Mr David Caughlin	Executive Director, Legal, Risk and Compliance
Ms Brigette Landers	Principal Lawyer
Queensland Law Society	
Mr Peter Jolly	Vice President
Ms Sonia Smith	Special Counsel, Legal Policy
Ms Bridget Cook	Senior Policy Solicitor

Appendix D – Public Briefing, 21 October 2025

Queensland Police

Detective Acting Chief Superintendent	Craig McGrath
Detective Acting Superintendent	Melissa Anderson

Queensland Health

Mr Mark West	Executive Director, Prevention Strategy Branch
Mr Karson Mahler	Director, Legislative Policy Unit
Ms Kate Sanderson	Manager, Legislative Policy Unit
Ms Amy Allen	Manager, Legislative Policy Unit
Ms Elizabeth Good	Manager, Prevention Strategy Branch

Appendix E – Interjurisdictional comparison – controlled operation powers in other state tobacco control legislation

Jurisdiction	Summary of provisions
South Australia *Tobacco and E-Cigarette Products Act 1997*, Part 6	The Minister may, by notice in writing, authorise a person to be a controlled purchase officer. However, the Minister must not authorise a designated person to be a controlled purchase officer unless the parent or legal guardian of the person has consented in writing to the proposed authorisation.
Western Australia *Tobacco Product Control Act 2006*, Part 6	The CEO may, in writing, authorise a suitable person, including a person who has not reached 18 years of age, to act as a controlled purchase officer and may in writing, revoke this authority. Controlled purchase operation is defined as an operation with the intended purpose of providing a person suspected of having committed a young person offence on one or more occasions with the opportunity to commit or attempt to commit a young person offence.
Australian Capital Territory *Tobacco and Other Smoking Products Act 1927*, Part 6A	Compliance testing programs • involve a young person (a purchase assistant), under the supervision of an authorised officer, purchasing, or trying to purchase, smoking products from tobacco licence-holders • are carried out to obtain evidence that may lead to the prosecution of a person, or other action being taken against a person, for an offence against section 14 (Supply of smoking product to under 18 year olds).