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TOBACCO PRODUCTS CONTROL ACT 2006

**APPOINTMENT OF AN
INVESTIGATOR PURSUANT TO
SECTION 76**

TOBACCO PRODUCTS CONTROL ACT 2006

**APPOINTMENT OF
RESTRICTED INVESTIGATORS
PURSUANT TO SECTION 77**

TOBACCO PRODUCTS CONTROL ACT 2006

**TOBACCO PRODUCTS
CONTROL REGULATIONS 2006**

TOBACCO PRODUCTS CONTROL ACT 2006

APPOINTMENT OF AN INVESTIGATOR PURSUANT TO SECTION 76

I, Dr Neale Fong, the Chief Executive Officer of the Department of Health, hereby appoint Allan Rodney Attwell, a person employed in the Public Service under the *Public Sector Management Act 1994* Part 3, as an investigator for the purposes of the *Tobacco Products Control Act 2006*.

Date: 21 July 2006.

DR NEALE FONG, Chief Executive Officer, Department of Health.

TOBACCO PRODUCTS CONTROL ACT 2006

APPOINTMENT OF AN INVESTIGATOR PURSUANT TO SECTION 76

I, Dr Neale Fong, the Chief Executive Officer of the Department of Health, hereby appoint Roger David Longhurst, a person employed in the Public Service under the *Public Sector Management Act 1994* Part 3, as an investigator for the purposes of the *Tobacco Products Control Act 2006*.

Date: 21 July 2006.

DR NEALE FONG, Chief Executive Officer, Department of Health.

TOBACCO PRODUCTS CONTROL ACT 2006

APPOINTMENT OF AN INVESTIGATOR PURSUANT TO SECTION 76

I, Dr Neale Fong, the Chief Executive Officer of the Department of Health, hereby appoint William Thomas Robertson, a person employed in the Public Service under the *Public Sector Management Act 1994* Part 3, as an investigator for the purposes of the *Tobacco Products Control Act 2006*.

Date: 21 July 2006.

DR NEALE FONG, Chief Executive Officer, Department of Health.

TOBACCO PRODUCTS CONTROL ACT 2006

APPOINTMENT OF AN INVESTIGATOR PURSUANT TO SECTION 76

I, Dr Neale Fong, the Chief Executive Officer of the Department of Health, hereby appoint Harsha Dishan Weerasooriya, a person employed in the Public Service under the *Public Sector Management Act 1994* Part 3, as an investigator for the purposes of the *Tobacco Products Control Act 2006*.

Date: 21 July 2006.

DR NEALE FONG, Chief Executive Officer, Department of Health.

TOBACCO PRODUCTS CONTROL ACT 2006

APPOINTMENT OF RESTRICTED INVESTIGATORS PURSUANT TO SECTION 77

I, Dr Neale Fong, the Chief Executive Officer of the Department of Health, acting pursuant to section 77 of the *Tobacco Products Control Act 2006*, hereby appoint the persons in the Table to be restricted investigators—

- (a) for the State;
- (b) for the period 31 July 2006 to 31 July 2009; and
- (c) to exercise all of the functions of an investigator contained in Divisions 2 and 3 of Part 6 of that Act and Division 3 of Part 3 of the *Tobacco Products Control Regulations 2006* for one or more of the following purposes—
 - (i) to seek evidence of a suspected offence under Part 3 of the *Tobacco Products Control Regulations 2006*;
 - (ii) to assess whether or not regulations contained in Part 3 of the *Tobacco Products Control Regulations 2006* are being complied with;
 - (iii) any other purpose relevant to the administration of Part 3 of the *Tobacco Products Control Regulations 2006*.

Table

Garry Agnew	Andrew Casey	Kerry Flemming
Nicholas Alford	Robert Cavazzi	Leslie Float
Suha Ali	George Chadwick	Neil Francis Flood
Janet Amarego	David Chidlow	Norman Forrest
Phillip Anderson	Meredith Chidlow	Lauren Forsyth
Ross Anderson	David Christensen	Tracy Frayne
Tiana Anderson	Michael Christensen	Steven Friend
William Vernon Atyeo	John Chuah	Dennis Kelvin Gillam
Tony Bailey	Joseph Cicchini	Tanya Gillett
Alain Baldomero	Stephen Cleaver	Gary Frederick Goldsworthy
Gary Barbour	Elaine Clucas	Ken Goldsworthy
Alexander Murdoch Barclay	Shelley Cocks	Nicola Louise Gosatti
Timothy Batt	David Cook	Leigh Gutheridge
Kenan Bender	Fiona Cooper	Peter Joseph Haas
Geoff Benson	Trevor Cousins	David Hadden
Robert Biddiscombe	Anthony Cox	Christopher Hammond
Mark Bishop	Eva Bridget Crockenberg	William John Hardy
Graeme Bissett	Dianella Teresa Dagostino	Dimity Hargrave
Graham Blackmore	Wendy Joy Dallywater	Stuart Neil Harries
Robert Boardman	Scott Dandridge	Wayne Leslie Harris
Dan Bolton	Kevin Davidson	Tina Harrison
David Bond	Lyall Bruce Davieson	Gregg Harwood
Royce Bond	Colin Dent	Maria Hatgivasiliou
Katy Boschetti	Christine Devereux	John Hewson
Alison Bosworth	Simon Di Rosso	Grayson Hindmarsh
Elena Boull	Tanya Doncon	Walter Raymond Hockley
Philip Boulwood	Jaala Downes	Stelliani Hoffman
Warren Bow	Greg Robert Ducas	Peter Horgan
Morita Brack	Neil Duffin	Natasha Horsham
Melanie Brady	Rebecca Duffin	Renee Houston
Trevor Brian Brandy	Adrian Dyson	Eric Howard
Donna Branson	Darryal Eastwell	Jeffrey Howe
Deon Brits	Alison Edmunds	John Howell
Richard Brookes	Gerhard Ehlers	Paul Hudson
Ross Buchanan	William David Ellis	Tim Hunter
Frank Buise	Peter Erceg	Brendan Ingle
Clinton Burdett	Les Evans	Peter Jaggard
Bernard Burnett	Mark Fallows	Jason Jenke
Jon Button	Scott Favacho	Graeme Johnson
Sebastian Camillo	Maurice Ferialdi	Wayne Jolley
Andrew Campbell	Kelly Fewster	Haydn Jones
Matthew Cantrell	Rodney Fielding	Nicholas Ian Jones

Sue Judd	Graham Oatey	Michael Sims
Michael Karra	Carla Ogle	Charles Slavich
Ross Melville Keegan	Phillip Gerard Oorjitham	Jonathon Smith
Sandra Keenan	Sharon Ovens	Jeffrey Somes
Alysha Kempf	Andrew Pachioli	Chantal Spittle
Le Ngoc Chau Lam	Vanessa Panetta	Natasha Stallard
Emma Lambert	Anna-Louise Pardini	Anneliese Stalley
Belinda Lang	Bryanna Park	Phillip Steven
Glen Lange	Daniel Pearce	Peter Alan Stevens
Julie Lazos	Ian Penegar	Michelle Stewart
Eugene Lee	Eduardo Perotti	Stephen Sullivan
Trevor Lee	Angie Perry	Philip Swain
Ruth Levett	Khang Phan	Melinda Tabori
Kelsie Amanda Lewis	Matthew Piggott	Christopher Tanner
Amanda Lintott	Trevor Pitcher	Kelly Taylor
Kenneth Raymond Lowth	Tanya Politis	Gordon Tester
Binh Luong	Kevin Pond	Scott Teymant
Ken MacFarlane	Darren John Ponton	Linton Thomas
Peter Male	Tony Portelli	Neil Travers
Robert Manning	Karl Posa	Laura Tucker
Franziska Marian	Greg Prince	Anthony Turner
Salvatore Mastroleambo	Patricia Prosper	Michael Turner
Tatjana Maurac	Jane Quan	Suzanne Turner
Terry Mayor	Cassandra Quinn	Kimberley Joy Tweedie
Jennifer Mays	Allan Ramsay	Sarah Upton
James McKecknie	John Randall	Trevor Walker
Peter Francis McKenzie	Reza Rassad	Maurice Phillip Walsh
Robert McKibbin	Nathan Rayner	Ian Watt
Catherine McNeilly	Scott Reitsema	Leslie Craig Watts
Andrew Melville	Kathleen Ridgwell	Ross Lindsay Wells
Albert Meyerkort	James Riley	Phillip Wesley
Peter Meyrick	Danielle Rippen	Russell Weston
Alan Mihala	David Rosling	Colin Wheadon
John Cameron Mitchell	Ashley Rowley	James Wickens
Darrell Monterrio	Hugh Rughboor	Alex Wiese
Sarah Morgan	Nathan Russell	Mort Wignall
Neville Moriarty	Michael Ryan	David Williams
Anthony John Morley	Carmen Sadlier	David Wilson
Peter Morrison	John Samiotis	Melissa Wilson
Michael Murtha	Glenn Sargeson	Peter Witkowski
Wayne Neate	David Schwenke	Rodney Wood
Felix Neuweiler	Erica Louise Scott	Jodie Woonings
Jim Newham	Kim Senior	Rachel Wornes
Jessica Ngo	Brian Sharp	Michael Worthington
Tran Nguyen	Amber Sharpe	Ahmed Yassin
Neil Nicholson	David Shimmin	Joseph Zappavigna
Andrea Njoku	Martin Shurlock	Piotr Zenni
Kim Nolan	Greg Simpson	

Date: 21st July 2006.

Dr NEALE FONG, Chief Executive Officer, Department of Health.

Western Australia

Tobacco Products Control Regulations 2006

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Tobacco Products Control Act 2006

Tobacco Products Control Regulations 2006

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Tobacco Products Control Regulations 2006*.

2. Commencement

These regulations come into operation on 31 July 2006.

3. Interpretation

In these regulations —
“**section**” means a section of the Act.

Tobacco Products Control Regulations 2006**Part 2** Sale and supply**r. 4**

Part 2 — Sale and supply**4. Proof of age**

A proof of age card issued to a person under the *Liquor Licensing Regulations 1989* regulation 18B is prescribed for the purposes of section 15(1)(c).

5. Vending machines

The number of vending machines prescribed for the purposes of section 27(2)(a) is 2.

6. Smokeless tobacco

- (1) A tobacco product that comprises tobacco in a powdered form (“**snuff**”) is prescribed for the purposes of section 30(2).
- (2) The circumstances of the manufacture or sale of snuff that are prescribed for the purposes of section 30(2) are that the snuff is prepared, packed and clearly labelled to be used by way of inhalation through the nostrils.

Tobacco Products Control Regulations 2006
Smoking in enclosed public places **Part 3**
Preliminary **Division 1**
r. 7

Part 3 — Smoking in enclosed public places

Division 1 — Preliminary

7. Terms used in Part 3

In this Part —

“adequate ventilation” means natural or mechanical ventilation that complies with FP4.3, FP4.4 and FP4.5, F4.5, F4.6 and F4.7 of the Building Code of Australia 2006 issued by the Australian Building Codes Board as amended from time to time;

“enclosed public place” has a meaning affected by regulation 8;

“occupier”, in relation to an enclosed public place, means a person having the management or control, or otherwise being in charge, of that place;

“roof” includes a ceiling, and any material —

- (a) through which air cannot flow; and
- (b) that is used for the same purpose as a ceiling or roof;

“wall” means a wall or any other vertical structure, covering or device, whether fixed or moveable, but does not include a balustrade —

- (a) that is one metre or less in height; and
- (b) of which more than 50% of its total vertical surface is open.

8. Enclosed public places

- (1) A public place or a part of a public place that has the features mentioned in subregulations (2) and (3) is an enclosed public place for the purposes of this Part.
- (2) An enclosed public place is covered by a roof or a part of a roof.

Tobacco Products Control Regulations 2006**Part 3** Smoking in enclosed public places**Division 1** Preliminary**r. 8**

- (3) An enclosed public place is configured so that the total vertical surface area of the solid material in the walls is more than 50% of the notional vertical surface area of the place as assessed in accordance with regulation 9.
- (4) The total vertical surface area of the solid material in the walls is to be assessed by —
- (a) multiplying the following —
 - (i) the length of each wall under the roof or the part of a roof plus the length of each wall and each section of a wall that is one metre or less beyond the perimeter of the roof or the part of a roof when measured horizontally from the perimeter of the roof or the part of the roof;
 - (ii) the actual height of the walls and wall sections mentioned in subparagraph (i);and
 - (b) deducting the total vertical surface area of the open parts of the walls or wall sections mentioned in paragraph (a)(i).
- (5) The total vertical surface area of solid material in a wall is to be assessed as if each window, door or vertical retractable covering in or adjacent to the wall —
- (a) is closed; and
 - (b) forms part of the wall.
- (6) A place is not an enclosed public place for the purposes of this Part if it is covered by a roof or a part of a roof and is bounded by only —
- (a) one straight wall; or
 - (b) 2 straight walls that are set in an angle of 90 degrees or more.

Tobacco Products Control Regulations 2006
Smoking in enclosed public places **Part 3**
Offences **Division 2**
r. 9

- (7) A part of a public place may be an enclosed public place even though —
- (a) it is part of a public place that is not an enclosed public place; or
 - (b) it is part of another part of a public place that is not an enclosed public place.

9. Notional vertical surface area

- (1) The notional vertical surface area of a public place is to be assessed by multiplying the following —
- (a) the length of the perimeter of the roof, or the part of a roof, covering the public place;
 - (b) the average height of the roof, or the part of a roof, covering the public place.
- (2) The notional vertical surface area of a part of a public place is to be assessed by multiplying the following —
- (a) the length of the perimeter of the roof, or the part of a roof, covering the part of the public place;
 - (b) the average height of the roof, or the part of a roof, covering the part of the public place.

Division 2 — Offences

10. Prohibition on smoking in enclosed public places

- (1) A person must not smoke in an enclosed public place.
Penalty: a fine of \$2 000.
- (2) Subregulation (1) does not apply to the International Room at the premises at Burswood Island that are the subject of a casino gaming licence granted under the *Casino Control Act 1984*, if the International Room has adequate ventilation.

Tobacco Products Control Regulations 2006**Part 3** Smoking in enclosed public places**Division 2** Offences**r. 11**

- (3) A person does not commit an offence under subregulation (1) if —
- (a) the person is an actor, artist or other performer who smokes for the purposes of a performance; and
 - (b) the occupier of the enclosed public place consented to the person's smoking for the purposes of the performance; and
 - (c) the consent was given before the performance commenced.

11. Offence by occupier

- (1) If a person commits an offence under regulation 10(1) the occupier of the enclosed public place commits an offence.
Penalty: a fine of \$2 000.
- (2) It is a defence to a prosecution for an offence under subregulation (1) that —
- (a) neither the accused nor any employee or agent of the accused was aware, or could reasonably be expected to have been aware, that the offence was occurring; or
 - (b) as soon as the accused or an employee or agent of the accused became aware that the offence was occurring, the accused or an employee or agent of the accused —
 - (i) informed the person concerned that the person was committing an offence; and
 - (ii) requested the person to stop smoking in the enclosed public place and to extinguish, and properly dispose of, the tobacco product; and
 - (iii) (if the person failed to comply with a request under subparagraph (ii)) requested the person to leave the enclosed public place until the person finished smoking the tobacco product.

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Smoking in enclosed public places **Part 3**
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r. 12

12. Display of no smoking signs in entrances to licensed premises

- (1) An occupier of an enclosed public place that comprises, or is part of, licensed premises must display, or cause to be displayed, at the place signs that comply with the requirements of subregulation (2) —
- (a) in such numbers; and
 - (b) in such positions,
- as would ensure that a sign is clearly visible to a person at a public entrance to the place.
Penalty: a fine of \$2 000.
- (2) A sign must contain —
- (a) the phrase “no smoking” or “smoking prohibited” in letters that are at least 20 mm in height; or
 - (b) the symbol, designated in Australian Standard 2899.1 — 1986 published by Standards Australia, to indicate that smoking is prohibited and having a diameter of at least 70 mm; or
 - (c) other words or symbols that indicate clearly that smoking is prohibited.
- (3) Subregulation (1) does not apply to an occupier of an enclosed public place that is a subject of a restaurant licence.
- (4) In subregulation (3) —
- “restaurant licence”**, in relation to a place, means —
- (a) a restaurant licence granted under the *Liquor Licensing Act 1988* in relation to that place; or
 - (b) a condition of any other kind of licence, order or permit under the *Liquor Licensing Act 1988* —
 - (i) to the effect that a provision of that Act relating to restaurant licences applies to that place; or

Tobacco Products Control Regulations 2006**Part 3** Smoking in enclosed public places**Division 3** Investigators**r. 13**

- (ii) that otherwise has an effect in relation to that place that is similar to a provision of that Act relating to restaurant licences.

13. Duty to prevent smoke entering enclosed public places

The occupier of an enclosed public place must, unless the place has adequate ventilation, take reasonable steps to ensure that smoke from a tobacco product does not enter the place.

Penalty: a fine of \$2 000.

Division 3 — Investigators**14. Investigators to notify occupiers before taking action under Part 3**

- (1) An investigator must take reasonable steps to notify the occupier of an enclosed public place of the investigator's presence before the investigator takes any action for purposes connected with the operation of this Part.
- (2) Subregulation (1) does not apply to action of a kind mentioned in section 85.

15. Directions by investigators

- (1) If an investigator has reason to believe that a person is committing an offence under regulation 10(1) the investigator may direct the person to stop smoking in the enclosed public place.
- (2) A direction under subregulation (1) may be given orally or in writing and if given orally must be reduced to writing as soon as is practicable.
- (3) A person must comply with a direction given to the person under subregulation (1).

Penalty: a fine of \$2 000.

Tobacco Products Control Regulations 2006

Smoking in enclosed public places

Part 3

Investigators

Division 3**r. 15**

- (4) In proceedings for an offence under subregulation (3) a document purporting to have been signed or certified by the CEO, an investigator or a police officer —
- (a) to which is attached a copy of a direction given under subregulation (1); and
 - (b) stating that the direction —
 - (i) was given by the person referred to in the document; and
 - (ii) was in force at the time specified in the document,

is, in the absence of evidence to the contrary, evidence of the direction and of the facts stated in the document.

Tobacco Products Control Regulations 2006**Part 4** Western Australian Health Promotion Foundation and
administration**r. 16**

**Part 4 — Western Australian Health Promotion
Foundation and administration****16. Funds of the Foundation**

For the purposes of section 71(2) the amount of \$18 153 000.00
is prescribed for the financial year beginning on 1 July 2006.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.

