

Application form for an exemption

It is an offence under section 7 of the [Smoke-free Environment Act 2000](#) (the Act) to smoke in a smoke-free area. Smoking includes use of an e-cigarette and people cannot use e-cigarettes in smoke-free areas. Under section 8 of the Act, occupiers are not to allow smoking, including using an e-cigarette, in any enclosed public place or commercial outdoor dining area on their premises.

Under section 19A of the Act, the NSW Health Secretary (or delegate) may, by order in writing, exempt the premises of an existing e-cigarette retailer from sections 7 and 8 of the Act, if that retailer has notified the NSW Health Secretary (or delegate) under section 39 of the [Public Health \(Tobacco\) Act 2008](#) of their intention to engage in e-cigarette retailing.

This is an application form for this exemption. Assessment of the application will include an inspection of the premises.

Please note that retailers that sell tobacco products as defined in section 4 of the *Public Health (Tobacco) Act 2008* are not eligible for the exemption.

Please read the information on the NSW Health webpage about the exemption before applying: www.health.nsw.gov.au/tobacco/Pages/electronic-cigarettes.aspx

Send your completed and signed application form to MOH-TECompliance@health.nsw.gov.au

Details of e-cigarette retailing business

ABN	
Business name	
Proprietor	
Retailer Identification Number	

The *Public Health (Tobacco) Act 2008* requires e-cigarette retailers to register their business details with NSW Health through the Retailer Identification Number system, on ServiceNSW. To register for a retailer identification number or update your details please visit www.service.nsw.gov.au

If you need help with registering please call the Tobacco Information Line on 1800 357 412. The Tobacco Information Line can be accessed by non-English speaking persons via the Translating and Interpreting Service (TIS) on 13 14 50.

Registered e-cigarette retailing business address

Address 1	
Address 2	
Suburb	
State	
Postcode	

E-cigarette retailing premises address

<input type="checkbox"/>	Same as registered business address
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Address 1	
Address 2	
Suburb	
State	
Postcode	

Contact person details

Title	
Surname/Family name	
Given name	
Middle name	
Date of birth (day/month/year)	
Position e.g. Proprietor, Manager	
Daytime telephone number	
Mobile phone number	
Email address	

Mailing address for correspondence

Address 1	
Address 2	
Suburb	
State	
Postcode	
<input type="checkbox"/>	Same as registered business address

Information about the premises relating to the conditions of exemption

1. Is the e-cigarette retailing premises separated by a solid wall from other retailers or indoor public areas?	<input type="checkbox"/>	Yes
	<input type="checkbox"/>	No -The e-cigarette retailing premises is ineligible for exemption
2. Does the e-cigarette retailing premises open or exit directly into any other retail premises or indoor public area?	<input type="checkbox"/>	Yes - The e-cigarette retailing premises is ineligible for exemption
	<input type="checkbox"/>	No
3. Does the retailing premises sell any tobacco products?	<input type="checkbox"/>	Yes - The e-cigarette retailing premises is ineligible for exemption
	<input type="checkbox"/>	No

4. Does the e-cigarette retailing premises only sell or supply e-cigarettes, e-cigarette accessories and products that are necessary for the use or maintenance of e-cigarettes or e-cigarette accessories?	<input type="checkbox"/>	Yes
	<input type="checkbox"/>	No - The e-cigarette retailing premises is ineligible for exemption
	<input type="checkbox"/>	Not sure

If you selected 'not sure' for question 4, please list any products the premises sells that you are not sure if it is an e-cigarette, e-cigarette accessory, or necessary for their use or maintenance:

Conditions of exemption

If an exemption is granted, it will be subject to the following conditions:

1. Any business carried on at the premises must only sell or supply e-cigarettes, e-cigarette accessories and products that are necessary for the use or maintenance of e-cigarettes or e-cigarette accessories.
2. The proprietor ensures through signage and checking proof of age that persons under the age of 18 are not allowed to enter the premises.
3. E-cigarettes must only be smoked in an area of the premises that is not visible to persons outside the premises.
4. Smoking of e-cigarettes on the premises must be limited to sampling or instructing on the use of an e-cigarette or e-cigarette accessory.
5. A copy of this order must be conspicuously displayed at the premises at all times to ensure members of the public at the premises can clearly read this order.
6. The proprietor must take reasonable steps to prevent the aerosol or vapour from any e-cigarette or e-cigarette accessory at the premises from penetrating other premises and smoke-free areas under the Act.

The above list of conditions is not exhaustive, and the NSW Health Secretary (or delegate) may impose additional conditions at his/her absolute discretion.

Exempted e-cigarette retailers must comply with the conditions of their exemption. If a retailer fails to comply with the conditions of their exemption, the exemption will not apply, and the retailer may be in breach of sections 7 and 8 of the *Smoke-Free Environment Act 2000*, which is an offence. Further, the NSW Health Secretary (or delegate) may refuse to grant an exemption if an e-cigarette retailer has previously breached a condition of their exemption or relevant laws.

To avoid operating outside the conditions of an exemption, exempted retailers must immediately advise the NSW Health Secretary (or delegate), if they cease trading, relocate their business to another premises or fail to meet any of the other conditions of their exemption.

Do you declare that the e-cigarette retailing premises will follow the conditions of the exemption?	
<input type="checkbox"/>	Yes
<input type="checkbox"/>	No – The e-cigarette retailing premises is ineligible for exemption

By agreeing to and by submitting this application, I certify that:

I am authorised to make this application on behalf of the e-cigarette retailing premises.

The content of this application is true and correct to the best of my knowledge.

The assessment of this application will be based on the information I have provided, the governing legislation, and the business' capacity to meet the conditions of exemption and may be refused by the NSW Health Secretary (or delegate) at their absolute discretion.

I consent to the NSW Health Secretary (or delegate) obtaining information or documents from other persons or organisations that may be relevant to the assessment of this application.

I have read and understand my responsibilities and obligations as provided in the declaration above.

Signature of applicant
Name of applicant
Date (day/month/year)

Your Privacy

Your personal information will be held by the Ministry of Health in accordance with the *Privacy and Personal Information Protection Act 1998* (NSW) for the purpose of managing the administration of section 19A of the *Smoke-free Environment Act 2000* (NSW). Your personal information will be stored securely by the Ministry of Health and will only be used or disclosed for lawfully authorised purposes. General privacy information on how your personal information is collected, stored and used can be d [here](#).