



Department of Health

Enquiries to: Environmental Hazards Unit
Health Protection Branch
Telephone: 3328 9310
File Ref: GR013102



Dear

Thank you for your letter dated 17 May 2017, outlining the concerns expressed by your client, the regarding the legal basis for the seizure of liquid nicotine by Queensland Health (QH) during February, April and May 2017. In response to the issues raised in your letter my advice is as follows:

Seizure of e-liquid (whether or not containing nicotine) by QH

Under the Commonwealth Government's Poisons Standard, liquid nicotine is listed in the following Schedules:

Schedule 7 (Dangerous Poison)

NICOTINE except:

- a) *when included in Schedule 6;*
- b) *in preparations for human therapeutic use; or*
- c) *in tobacco prepared and packed for smoking.*

Schedule 6 (Poison)

NICOTINE in preparations containing 3 per cent or less of nicotine when labelled and packed for the treatment of animals.

Schedule 4 (Prescription Only Medicine or Prescription Animal Remedy)

NICOTINE in preparations for human therapeutic use except for use as an aid in withdrawal from tobacco smoking in preparations for oromucosal or transdermal use.

Under section 5, Queensland's *Health (Drugs and Poisons) Regulation 1996 (HDPR)* gives effect to the schedules listed in the Commonwealth's Poisons Standard.

As a schedule 7 substance, liquid nicotine is prescribed as a regulated poison as it is listed in Appendix 7 of the HDPR and prohibitions on its use are prescribed under section 271 of the HDPR. As such, persons seeking to access liquid nicotine require an authority to manufacture, obtain, possess, prescribe, dispense, sell or use or dispose of nicotine. Fines of up to \$9, 752 may apply for breaches to the legislation.

There are currently no preparations of liquid nicotine for human therapeutic use registered on the Australian Register for Therapeutic Goods (ARTG) therefore it is not a Schedule 4 substance.

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Please note that the HDPR takes precedence over Commonwealth legislation in relation to liquid nicotine in ENDS in Queensland as outlined in <https://www.tqa.gov.au/behind-news/liquid-nicotine-and-personal-importation-use-electronic-cigarettes>. As such the TGA's Personal Importation Scheme for therapeutic goods and the Special Access Scheme for unapproved therapeutic goods do not apply.

Enforcement action may be taken by officers of Queensland Health where breaches, or reasonable belief of breaches of the legislation have occurred. The powers given to these officers allow them to seize evidence, in this instance, the seizure of liquid nicotine. The inspectors acted on reasonable belief that the e-liquid is evidence of an offence against breaches of the HDPR. The reasonable belief that the e-liquid is nicotine was based on the review of the ingredients written on label and on the internet researches conducted. Following seizure, letters were written to all persons from who it had been seized (consignees) advising of the seizure and seeking advice about any authority held to be in possession of the products. Subsequent analysis has indicated all seized products did contain nicotine.

Statements made to consumers on seizing the liquid nicotine and statements made to
by QH officers.

I am advised that Queensland Health officers have not made any statements to consumers (other than by the letters written to the consignees) or made any statements to

Should you have further questions, please do not hesitate to contact Uma Rajappa, Director of the Environmental Hazards Unit on telephone number (07) 3328 9310.

Yours sincerely

Sophie Dwyer
Executive Director Health Protection Branch
21/6/17