



Queensland

Health Legislation Amendment Bill 2011



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2011

A Bill

for

An Act to amend the Food Act 2006, the Health Act 1937, the Health Quality and Complaints Commission Act 2006, the Pest Management Act 2001, the Public Health Act 2005, the Public Health (Infection Control for Personal Appearance Services) Act 2003 and the Tobacco and Other Smoking Products Act 1998 for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Health Legislation Amendment Act 2011*. 4
5

Clause 2 Commencement 6

The following sections commence on a day to be fixed by proclamation— 7
8

(a) sections 5 and 14; 9

(b) section 18, to the extent it inserts new definition *food business rating scheme*; 10
11

(c) sections 52 to 63; 12

(d) sections 70 to 72. 13

Part 2 Amendment of Food Act 2006 14

Clause 3 Act amended 15

This part amends the *Food Act 2006*. 16

Clause 4 Amendment of s 14 (Meaning of *food standards code*) 17

Section 14(2)(b), from ‘clause 9’ to ‘3.2.2’— 18

omit, insert— 19

‘standard 3.2.1, clause 4 of standard 3.2.2, standard 3.3.1’. 20

Clause 5	Amendment of s 22 (Provisions that are administered only by the State)	1 2
	Section 22(1)—	3
	<i>insert</i> —	4
	‘(e) section 271H.’	5
Clause 6	Amendment of s 48 (Meaning of <i>licensable food business</i>)	6 7
	(1) Section 48(1)(b), examples, before ‘vending machine’—	8
	<i>insert</i> —	9
	‘food’.	10
	(2) Section 48(2)(b)—	11
	<i>omit</i> .	12
	(3) Section 48(2)(c) to (l)—	13
	<i>renumber</i> as section 48(2)(b) to (k).	14
	(4) Section 48(3), definition <i>processing</i> —	15
	<i>omit</i> .	16
Clause 7	Amendment of s 53 (What the application must state)	17
	Section 53(1)(e)(i)—	18
	<i>omit, insert</i> —	19
	‘(i) a description of the premises that includes—	20
	(A) if the premises are a vehicle that is required	21
	to be registered—the registration number of	22
	the vehicle; or	23
	(B) if the premises are a food vending	24
	machine—the serial number or other unique	25
	identifying number or mark of the food	26
	vending machine; and’.	27

[s 8]

Clause 8	Amendment of s 94 (Form of licence)	1
	Section 94(b)(iii)—	2
	<i>omit, insert—</i>	3
	‘(iii) for mobile premises, a description of the premises that includes—	4 5
	(A) if the premises are a vehicle that is required to be registered—the registration number of the vehicle; or	6 7 8
	(B) if the premises are a food vending machine—the serial number or other unique identifying number or mark of the food vending machine;’.	9 10 11 12
Clause 9	Amendment of s 134 (Failure to decide application)	13
	Section 134(1), after ‘and (3)’—	14
	<i>insert—</i>	15
	‘and section 134A’.	16
Clause 10	Insertion of new s 134A	17
	Chapter 5, part 1—	18
	<i>insert—</i>	19
	‘134A Further consideration of application	20
	‘(1) This section applies if the chief executive considers more time is needed to make a decision about the application because of the complexity of the matters that need to be considered in deciding the application.	21 22 23 24
	<i>Example of an application likely to raise complex matters—</i>	25
	an application requiring the chief executive to obtain and consider further information about the applicant from an entity administering a corresponding law	26 27 28
	‘(2) The chief executive may at any time before the final consideration day give notice to the applicant that—	29 30

-
- (a) because of the complexity of the matters that need to be considered in deciding the application, the chief executive needs more time to decide the application; and
- (b) the period within which the chief executive must decide the application is extended to a day (the *extended day*) that is 30 days after the final consideration day.
- ‘(3) Also, the applicant and chief executive may at any time before the final consideration day agree in writing on a day (the *agreed extended day*) by which the application must be decided.
- ‘(4) The chief executive is taken to have refused to grant the application if the chief executive does not decide the application by—
- (a) if the chief executive has given a notice to the applicant under subsection (2)—the extended day; or
- (b) if there is an agreement between the applicant and the chief executive under subsection (3)—the agreed extended day; or
- (c) if both subsections (2) and (3) apply—the later of the extended day and the agreed extended day.
- ‘(5) If the application is refused under subsection (4), the applicant is entitled to be given an information notice by the chief executive for the decision.
- ‘(6) In this section—
- final consideration day* means the later of the following days—
- (a) the day that is 30 days after receipt of the application;
- (b) if the chief executive has, under section 132(1)(b), required the applicant to give the chief executive further information or a document—the day that is 30 days after the chief executive receives the further information or document verified, if required, by statutory declaration.’.

[s 11]

Clause 11	Amendment of s 136 (Conditions of approval)	1
	(1) Section 136(1)(a), ‘give the chief executive notice’—	2
	<i>omit, insert—</i>	3
	‘notify the chief executive’.	4
	(2) Section 136(2)—	5
	<i>omit, insert—</i>	6
	‘(2) For subsection (1)(a), the auditor must, unless the auditor has a reasonable excuse, after becoming aware of the interest—	7
	(a) orally notify the chief executive about the interest immediately; and	8
	(b) give the chief executive notice about the interest in the approved form within 24 hours after becoming aware of the interest.’.	9
		10
		11
		12
		13
Clause 12	Amendment of s 265 (Content of registers)	14
	Section 265(2)(e)—	15
	<i>omit, insert—</i>	16
	‘(e) a description of the premises that includes—	17
	(i) if the premises are a vehicle that is required to be registered—the registration number of the vehicle;	18
	or	19
	(ii) if the premises are a food vending machine—the serial number or other unique identifying number	20
	or mark of the food vending machine;’.	21
		22
		23
Clause 13	Amendment of s 271D (Chief executive may give direction)	24
	(1) Section 271D(3)(a)—	25
	<i>insert—</i>	26
	‘(iii) food to prevent a recurrence of contamination of food; or’.	27
		28
		29

-
- (2) Section 271D(3)(b), ‘paragraph (a)’— 1
omit, insert— 2
‘paragraph (a)(i) or (ii)’. 3

- Clause 14 Insertion of new ch 11, pt 3B** 4
Chapter 11— 5
insert— 6

‘Part 3B Food business rating schemes 7

‘271E Purpose of pt 3B and how purpose is achieved 8

- ‘(1) The purpose of this part is to ensure consistency of 9
information provided to consumers about— 10
- (a) compliance by food businesses with this Act and the 11
food standards code; and 12
- (b) food hygiene in premises from which food businesses 13
are carried on. 14
- ‘(2) The purpose is to be achieved by regulating local governments 15
in relation to the conduct of rating schemes that provide 16
information mentioned in subsection (1). 17

‘271F Meaning of *food business rating scheme* 18

‘In this part— 19

food business rating scheme means a scheme in which a local 20
government— 21

- (a) assesses, for each food business participating in the 22
scheme, the level of— 23
- (i) compliance with this Act and the food standards 24
code; or 25
- (ii) food hygiene in premises from which the food 26
business is carried on; and 27

[s 15]

- (b) assigns a rating to the food business according to the assessed level. 1
2

'271G Prescribed requirements for food business rating schemes 3
4

'A regulation may prescribe requirements applying to food business rating schemes. 5
6

'271H Offence about conducting food business rating scheme 7
8

- '(1) A local government must not conduct a food business rating scheme other than in compliance with the requirements prescribed under section 271G. 9
10
11

Maximum penalty—1000 penalty units. 12

- '(2) In this section— 13
conduct, in relation to a food business rating scheme, includes each of the following— 14
15

- (a) advertise or promote the scheme; 16
(b) seek participation by a food business in the scheme; 17
(c) enter an agreement for a food business to participate in the scheme; 18
19
(d) enter an agreement about the scheme with an entity that represents, or whose membership includes, entities carrying on food businesses.'. 20
21
22

Clause 15 Amendment of ch 12, pt 2, hdg (Transitional provisions) 23

Chapter 12, part 2, heading, after 'provisions'— 24

insert— 25

'for Act No. 3 of 2006'. 26

Clause 16	Insertion of new ch 12, pt 3	1
	Chapter 12—	2
	<i>insert—</i>	3
‘Part 3	Transitional provisions for	4
	Health Legislation Amendment	5
	Act 2011	6
‘299	Definitions for pt 3	7
	‘In this part—	8
	<i>commencement</i> means the commencement of this part.	9
	<i>relevant licence</i> means a licence for a food business carried	10
	on from fixed premises or temporary premises that are a food	11
	vending machine within the meaning of this Act as in force on	12
	the commencement.	13
‘300	Existing relevant licence	14
	‘(1) This section applies to a relevant licence that was in force	15
	immediately before the commencement.	16
	‘(2) On and from the commencement—	17
	(a) the licence is taken to be a licence for a food business	18
	carried on from mobile premises that are the food	19
	vending machine, subject to the conditions to which the	20
	licence was subject immediately before the	21
	commencement; and	22
	(b) the licence is taken to comply with section 94(b)(iii)(B);	23
	and	24
	(c) the register of food businesses need not contain the	25
	particulars mentioned in section 265(2)(e)(ii) for the	26
	food business.	27
	‘(3) Subsection (2) stops applying when the licence is first	28
	renewed after the commencement.	29

[s 17]

‘301	Pending applications for relevant licence	1
‘(1)	This section applies to an application for a relevant licence that was made under chapter 3, part 3, but not decided, before the commencement.	2 3 4
‘(2)	On and from the commencement, the application is taken to be an application for a licence for a food business carried on from mobile premises that are the food vending machine.	5 6 7
‘(3)	An application to which this section applies is not invalid only because it does not comply with section 53(1)(e) as in force on the commencement.	8 9 10
	<i>Note—</i>	11
	The local government may, under section 59, require the applicant to give the local government the serial number or other identifying mark of the food vending machine.	12 13 14
‘302	Pending applications for renewal, restoration or amendment of relevant licence	15 16
‘(1)	This section applies to an application for the renewal, restoration or amendment of a relevant licence made under chapter 3, part 5, but not decided, before the commencement.	17 18 19
‘(2)	On and from the commencement, the application is taken to be an application for the renewal, restoration or amendment of a licence for a food business carried on from mobile premises that are the food vending machine.	20 21 22 23
	<i>Note—</i>	24
	The local government may, under section 75, require the applicant to give the local government the serial number or other identifying mark of the food vending machine.’.	25 26 27
Clause 17	Amendment of sch 2 (Changes to food standards code)	28
(1)	Schedule 2, item 2—	29
	<i>insert—</i>	30
	<i>‘Note—</i>	31

See section 23 for provisions that are administered only by local governments.’.

(2) Schedule 2, item 3—

omit, insert—

‘3 In the definition ***food premises*** in clause 1 of standard 3.1.1, the words ‘any other place declared by the relevant authority to be premises under the Food Act’ are replaced with the words ‘food vending machines’, and the words ‘food vending machines or’ are omitted.’.

Clause 18 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definitions *commencement* and *mobile premises*—

omit.

(2) Schedule 3—

insert—

‘commencement—

(a) for chapter 12, part 2, see section 280; or

(b) for chapter 12, part 3, see section 299.

food business rating scheme see section 271F.

food vending machine means a machine or device operated by money, token, debit card or credit card and used, or intended for use, for the sale of food.

mobile premises, for a food business, means—

(a) premises that are a vehicle from which a person sells unpackaged food by retail; or

(b) premises that are a food vending machine.

relevant licence, for chapter 12, part 3, see section 299.’.

(3) Schedule 3, definition *premises*—

insert—

‘(e) a food vending machine.’.

[s 19]

Part 3 **Amendment of Health Act 1937** 1

Clause 19 Act amended 2
This part amends the *Health Act 1937*. 3

Clause 20 Amendment of s 132 (Regulations about drugs, articles, substances, appliances etc.) 4
5
(1) Section 132(zd), ‘licences and registrations’— 6
omit, insert— 7
‘endorsements’. 8
(2) Section 132, from ‘Fees for approval of analysts etc.’ to ‘an analyst;’— 9
10
omit, insert— 11
‘Fees 12
(ze) prescribing the fees payable for— 13
(i) an application for, or renewal of, an endorsement; 14
or 15
(ii) an application for an amendment of, or the repeal 16
of a decision to suspend or cancel, an endorsement; 17
or 18
(iii) the analysis of a drug or article by a State analyst;’. 19

Part 4	Amendment of Health Quality and Complaints Commission Act 2006	1 2 3
Clause 21	Act amended	4
	This part amends the <i>Health Quality and Complaints Commission Act 2006</i> .	5 6
Clause 22	Amendment of s 2 (Commencement)	7
	(1) Section 2(1), ‘, other than section 240,’—	8
	<i>omit.</i>	9
	(2) Section 2(2)—	10
	<i>omit.</i>	11
Clause 23	Amendment of ch 5, hdg (Health complaints)	12
	Chapter 5, heading—	13
	<i>insert—</i>	14
	‘ <i>Note—</i>	15
	Under the Health Practitioner Regulation National Law the commission and a national board have obligations in relation to—	16 17
	(a) health complaints about registered providers; and	18
	(b) notifications under that Act that would also provide a ground for a health complaint.	19 20
	See the Health Practitioner Regulation National Law (Queensland), section 150.’	21 22
Clause 24	Insertion of new s 37A	23
	Chapter 5, part 1—	24
	<i>insert—</i>	25

[s 25]

‘37A	Dealing with notifications under Health Practitioner Regulation National Law	1 2
	‘If the commission is notified under the Health Practitioner Regulation National Law (Queensland), section 150 that a national board has received a notification the subject matter of which provides a ground for a health complaint, subject to that section—	3 4 5 6 7
	(a) the commission may deal with the notification as if it were a health quality complaint or health service complaint made under this Act; and	8 9 10
	(b) a reference in this Act to a health quality complaint or health service complaint includes a reference to the notification.’	11 12 13
Clause 25	Insertion of new ch 5, pt 2A	14
	Chapter 5—	15
	<i>insert—</i>	16
‘Part 2A	Preliminary assessment of particular health complaints	17 18
‘49A	Application of pt 2A	19
	‘This part applies to a health complaint about a registered provider registered by a national board.	20 21
‘49B	Preliminary assessment	22
	‘(1) The commission must immediately conduct a preliminary assessment of the health complaint.	23 24
	‘(2) However, if the health complaint is a notification, the commission need not conduct the preliminary assessment until the commission has been given the information mentioned in the Health Practitioner Regulation National Law (Queensland), section 150(1)(b) for the health complaint.	25 26 27 28 29

-
- ‘(3) The commission must consider the following when conducting a preliminary assessment of a health complaint—
- (a) whether the health complaint is a health quality complaint or health service complaint;
 - (b) if the complaint is a health service complaint—whether the complaint may be resolved directly between the complainant and the provider;
 - (c) whether the health complaint may be resolved under section 49D;
 - (d) whether it is more appropriate for a registration board to deal with the health complaint;
 - (e) whether another entity may be able to investigate or take other appropriate action about the health complaint.
- ‘(4) Also, subsection (1) is subject to sections 49C and 66.
- ‘49C Matters to consider before conducting preliminary assessment**
- ‘(1) This section applies to a health complaint, other than a health complaint that is a notification.
- ‘(2) The commission must not start a preliminary assessment of the health complaint until—
- (a) if the health complaint is a health service complaint—the commission is satisfied the complainant is eligible to make the health complaint; and
 - (b) if the health complaint is made orally—the complainant confirms the health complaint in writing or the commission is satisfied there is good reason that the health complaint need not be confirmed in writing; and
 - (c) the complainant gives the commission the information required under section 47(1) or the commission decides to accept the health complaint under section 47(3); and
 - (d) if the commission asks for further information about the health complaint under section 48 or requires the health complaint or further information to be verified by oath

[s 25]

or statutory declaration under section 49—the complainant complies with the request or requirement.	1 2
‘49D Decision on preliminary assessment	3
‘(1) On conducting a preliminary assessment of a health complaint, the commission must comply with the Health Practitioner Regulation National Law (Queensland), section 150.	4 5 6 7
‘(2) In dealing with a health complaint as required under the Health Practitioner Regulation National Law (Queensland), section 150(3), the commission may—	8 9 10
(a) attempt to resolve the health complaint under section 49E; or	11 12
(b) refer the complaint to another entity the commission considers is able to investigate or take other appropriate action about the complaint; or	13 14 15
(c) take action under part 3 or 4; or	16
(d) if the health complaint is a health quality complaint—decide not to take action about the health complaint if—	17 18 19
(i) the commission considers no action is warranted; or	20 21
(ii) the complaint is being dealt with by a national board; or	22 23
(e) if the health complaint is a health service complaint—decide to take no action on the health complaint under section 63, 64 or 65 despite the health service complaint not being assessed under part 4.	24 25 26 27
‘(3) If the commission makes a decision about a health complaint under subsection (2)(d) or (e), the commission must give notice of the commission’s decision, including reasons for the decision, to the complainant as soon as practicable after making the decision.	28 29 30 31 32

‘49E Early resolution	1
‘(1) This section applies if the commission considers there is a reasonable likelihood that it may be able to facilitate the early resolution of a health complaint and the complainant agrees to the commission acting under this section.	2 3 4 5
‘(2) The commission may take the action it considers reasonable to facilitate the resolution of the health complaint.	6 7
<i>Example of action the commission may take—</i>	8
The commission may arrange mediation between the complainant and the provider concerned.	9 10
‘(3) The commission must not continue to facilitate the early resolution of the health complaint if—	11 12
(a) the commission is satisfied it is unable to facilitate the early resolution of the complaint; or	13 14
(b) the complaint remains unresolved 30 days after its receipt by the commission.	15 16
‘(4) This section is subject to section 66.’	17
Clause 26 Amendment of s 50 (How commission must deal with a health quality complaint)	18 19
Section 50—	20
<i>insert—</i>	21
‘(4) If the commission decides to take action about a health quality complaint under this section, the commission must give notice of the commission’s decision to the complainant as soon as practicable after making the decision.	22 23 24 25
‘(5) If the commission decides not to take action about the health quality complaint, the notice under subsection (4) must state the reasons for the decision.’	26 27 28
Clause 27 Amendment of s 52 (Early resolution)	29
Section 52(2), ‘section 53’—	30

registered provider means a person registered by a State board.’. 1
2

Clause 30	Amendment of s 57 (Consultation with registration board)	3
	Section 57—	4
	<i>insert</i> —	5
	‘(6) In this section—	6
	<i>registered provider</i> means a person registered by a State board.’.	7 8
Clause 31	Amendment of s 64 (When commission may decide not to take action)	9 10
	Section 64—	11
	<i>insert</i> —	12
	‘(d) the complaint is being dealt with by a national board or an adjudication body under the Health Practitioner Regulation National Law (Queensland).	13 14 15
	<i>Note</i> —	16
	See the Health Practitioner Regulation National Law (Queensland), section 150.’.	17 18
Clause 32	Amendment of s 65 (Withdrawal of complaint)	19
	(1) Section 65(3)(a) to (d)—	20
	<i>renumber</i> as section 65(3)(b) to (e).	21
	(2) Section 65(3)—	22
	<i>insert</i> —	23
	‘(a) conducting a preliminary assessment of the complaint;’.	24
Clause 33	Amendment of s 68 (Registration board may delegate function under s 57)	25 26
	(1) Section 68(1), ‘A registration board’—	27

[s 34]

omit, insert— 1

‘A State board’. 2

(2) Section 68(1)(c) and (d)— 3

omit, insert— 4

‘(c) the executive officer of the Office of Health Practitioner
Registration Boards appointed under the *Health
Practitioner Registration Boards (Administration) Act
1999*; or 5
6
7
8

(d) with the executive officer’s agreement—another
member of the staff of the Office of Health Practitioner
Registration Boards.’. 9
10
11

(3) Section 68(2), definition *State health law—* 12

omit. 13

Clause 34 Amendment of s 87 (Referral to another entity) 14

Section 87(3)— 15

insert— 16

‘*Note—* 17

If an investigation raises issues about the health, conduct or
performance of a registered provider registered by a national board, the
commission must give written notice of the issues. See the Health
Practitioner Regulation National Law (Queensland), section 150(5).’ 18
19
20
21

**Clause 35 Amendment of s 89 (Commission’s powers not affected
by reference)** 22
23

(1) Section 89, heading, after ‘reference’— 24

insert— 25

‘or written notice’. 26

(2) Section 89, from ‘by the matter’— 27

omit, insert— 28

‘by— 29

-
- (a) the matter having been referred under section 87 to another entity; or 1
2
- (b) the giving of written notice under the Health Practitioner Regulation National Law (Queensland), section 150 to a national board.’. 3
4
5

Clause 36	Amendment of s 149 (Assistant commissioners)	6
	Section 149(4), definition <i>health practitioner registration Act</i> —	7 8
	<i>omit, insert</i> —	9
	‘ <i>health practitioner registration Act</i> means—	10
	(a) a State health law; or	11
	(b) the Health Practitioner Regulation National Law.’.	12

Clause 37	Amendment of s 164 (Other directions by Minister)	13
	Section 164(1)(d)—	14
	<i>omit, insert</i> —	15
	‘(d) intervene in a disciplinary proceeding against a registered provider under section 190 or 190A; or’.	16 17

Clause 38	Amendment of s 176 (Status)	18
	Section 176, ‘1992’—	19
	<i>omit, insert</i> —	20
	‘1982’.	21

Clause 39	Amendment of s 188 (Information from registration board)	22 23
	Section 188(3), after ‘request’—	24
	<i>insert</i> —	25
	‘as soon as practicable’.	26

[s 40]

Clause 40	Amendment of s 189 (Registration board may ask commission for information)	1 2
(1)	Section 189(2), ‘The’— <i>omit, insert—</i> ‘Subject to subsection (3), the’.	3 4 5
(2)	Section 189— <i>insert—</i>	6 7
‘(3)	The commission’s obligation to comply with the request applies only to information in the possession of the commission.’.	8 9 10
Clause 41	Replacement of s 190 (Commission may intervene in disciplinary proceedings)	11 12
	Section 190— <i>omit, insert—</i>	13 14
‘190	Commission may intervene in disciplinary proceeding under Health Practitioners (Professional Standards) Act 1999	15 16 17
‘(1)	This section applies if a disciplinary proceeding is taken against a registered provider for a matter because of a health complaint or an inquiry matter and the proceeding is before a disciplinary body.	18 19 20 21
‘(2)	The commission may intervene in the disciplinary proceeding at any time.	22 23
‘(3)	On intervention, the commission becomes a party to the disciplinary proceeding.	24 25
‘(4)	If the commission intervenes in a disciplinary proceeding before QCAT, the commission may be represented by a lawyer or another person.	26 27 28
‘(5)	If the commission intervenes in a disciplinary proceeding before a State board or a professional conduct review panel, the commission may nominate a person, other than a lawyer,	29 30 31

to appear in the disciplinary proceeding on behalf of the commission.	1 2
‘(6) The commission may intervene in an appeal against a decision of a disciplinary body made in a disciplinary proceeding.	3 4
‘(7) On intervention in the appeal, the commission becomes a party to the appeal.	5 6
‘(8) In this section—	7
<i>disciplinary proceeding</i> means disciplinary proceedings under the <i>Health Practitioners (Professional Standards) Act 1999</i> .	8 9 10
<i>registered provider</i> means a person registered by a State board.	11 12
‘190A Commission may intervene in disciplinary proceeding under Health Practitioner Regulation National Law	13 14 15
‘(1) This section applies to a disciplinary proceeding taken against a registered provider if—	16 17
(a) the disciplinary proceeding is before a disciplinary body; and	18 19
(b) the disciplinary proceeding is in relation to a health complaint.	20 21
‘(2) The commission may intervene in the disciplinary proceeding at any time.	22 23
‘(3) On intervention, the commission becomes a party to the disciplinary proceeding.	24 25
‘(4) If the commission intervenes in a disciplinary proceeding before QCAT, the commission may be represented by a lawyer or another person.	26 27 28
‘(5) If the commission intervenes in a disciplinary proceeding before a performance and professional standards panel, the commission may be represented by a lawyer or another person only with the leave of the panel.	29 30 31 32

[s 42]

- ‘(6) In this section— 1
disciplinary proceeding means any of the following— 2
- (a) the hearing of a matter by a performance and 3
professional standards panel; 4
 - (b) a proceeding before QCAT for a matter referred to 5
QCAT under the Health Practitioner Regulation 6
National Law (Queensland), section 193; 7
 - (c) an appeal before QCAT of an appellable decision under 8
the Health Practitioner Regulation National Law 9
(Queensland), section 199. 10
- registered provider* means a person registered by a national 11
board.’. 12

**Clause 42 Replacement of s 210 (Commission may provide 13
information) 14**

Section 210— 15
omit, insert— 16

‘210 Commission may provide information 17

- ‘(1) This section applies if the commission— 18
- (a) refers a health complaint to a registration board or other 19
entity under chapter 5 or 7; or 20
 - (b) notifies a registration board about a health complaint as 21
required under the Health Practitioner Regulation 22
National Law (Queensland), section 150. 23
- ‘(2) The commission may give the board or other entity any 24
information given to, or gathered by, the commission in the 25
course of dealing with the complaint. 26
- ‘(3) However, subsection (2) does not apply to information 27
obtained by the commission under chapter 6.’. 28

Clause 43 Amendment of ch 15, pt 2, hdg (Transitional provisions) 29

Chapter 15, part 2, heading, after ‘provisions’— 30

insert— 1
‘for Act No. 25 of 2006’. 2

Clause 44 Insertion of new ch 15, pt 3 3
Chapter 15— 4
insert— 5

‘Part 3 Transitional provisions for 6
Health Legislation Amendment 7
Act 2011 8

‘231 Definitions for pt 3 9
‘In this part— 10
amendment Act means the *Health Legislation Amendment Act* 11
2011. 12
commencement means the commencement of this part. 13

‘232 Existing health complaints not finally dealt with 14
‘(1) This section applies to a health complaint made to the 15
commission but not finally dealt with before the 16
commencement. 17
‘(2) This section also applies to a notification under the Health 18
Practitioner Regulation National Law being dealt with by the 19
commission if the notification is not finally dealt with before 20
the commencement. 21
‘(3) The commission must continue to deal with the health 22
complaint or notification under this Act as in force before the 23
commencement as if the amendment Act had not been made. 24

‘233 Health complaints made after the commencement 25
‘This Act as amended by the amendment Act applies to all 26
health complaints and notifications under the Health 27

[s 45]

Practitioner Regulation National Law (Queensland) made 1
after the commencement whether or not the complaint or 2
notification is about a matter that happened before the 3
commencement.’. 4

Clause 45 Omission of sch 2 (Registration boards) 5

Schedule 2— 6

omit. 7

Clause 46 Amendment of sch 5 (Dictionary) 8

(1) Schedule 5, definition *registration board*— 9

omit. 10

(2) Schedule 5— 11

insert— 12

‘*national board* means a national board established under the 13
Health Practitioner Regulation National Law. 14

notification see the Health Practitioner Regulation National 15
Law (Queensland), section 5. 16

performance and professional standards panel see the 17
Health Practitioner Regulation National Law (Queensland), 18
section 5. 19

registration board means— 20

(a) a State board; or 21

(b) a national board. 22

Note— 23

See also the Health Practitioner Regulation National Law (Queensland), 24
section 300. 25

State board means a board established under a State health 26
law. 27

State health law means any 1 of the following Acts— 28

(a) the *Dental Technicians Registration Act 2001*; 29

-
- (b) the *Medical Radiation Technologists Registration Act 2001*; 1
2
- (c) the *Occupational Therapists Registration Act 2001*; 3
- (d) the *Speech Pathologists Registration Act 2001*.’. 4
- (3) Schedule 5, definition *completion notice*, paragraph (a), after 5
‘board’— 6
insert— 7
‘established under a State health law’. 8
- (4) Schedule 5, definition *disciplinary body*— 9
insert— 10
‘(e) a performance and professional standards panel.’. 11
- (5) Schedule 5, definition *proposed action*, after ‘action’— 12
insert— 13
‘, for chapter 3.’. 14
- (6) Schedule 5, definition *seized thing*, after ‘thing’— 15
insert— 16
‘, for chapter 9, part 3.’. 17
- (7) Schedule 5, definition *show cause notice*, after ‘notice’— 18
insert— 19
‘, for chapter 3.’. 20
- (8) Schedule 5, definition *show cause period*, after ‘period’— 21
insert— 22
‘, for chapter 3.’. 23
- (9) Schedule 5, definition *witness requirement notice*, after 24
‘notice’— 25
insert— 26
‘, for chapter 8.’. 27
-

[s 47]

Part 5 **Amendment of Pest Management Act 2001** 1
2

Clause 47 Act amended 3

This part amends the *Pest Management Act 2001*. 4

Clause 48 Amendment of s 19 (Requirements about application for licence) 5
6

(1) Section 19(c), ‘by the fee prescribed under a regulation.’— 7

omit, insert— 8

‘by— 9

(i) the fee prescribed under a regulation; and 10

(ii) if the application is for a licence under which a fumigation activity may be carried out only in a certain site environment—a declaration of assessment.’. 11
12
13
14

(2) Section 19— 15

insert— 16

‘(2) A declaration of assessment must be— 17

(a) in writing; and 18

(b) signed by an accredited assessor. 19

‘(3) In this section— 20

accredited assessor, for the demonstration of the competence of an applicant for a licence to carry out a fumigation activity in a certain site environment, means a person authorised by a registered training organisation to certify the applicant’s competence. 21
22
23
24
25

declaration of assessment, for an applicant for a licence under which a fumigation activity may be carried out only in a certain site environment, means a declaration that the 26
27
28

applicant is competent to carry out the fumigation activity in
the site environment.’. 1
2

Clause 49 Amendment of sch 3 (Dictionary) 3

Schedule 3, definition *site environment*, ‘particular, or type, of
place.’— 4
5

omit, insert— 6

‘particular place or type of place.’. 7

Part 6 Amendment of Public Health Act 2005 8
9

Clause 50 Act amended 10

This part amends the *Public Health Act 2005*. 11

Clause 51 Amendment of s 81 (Disclosure of confidential information in the public interest) 12
13

Section 81(4)— 14

omit, insert— 15

‘(4) Despite section 455, the chief executive may delegate the
chief executive’s powers under this section only to— 16
17

(a) the chief health officer; or 18

(b) another person who— 19

(i) is a public service officer or employee, or a health
service employee; and 20
21

(ii) the chief executive is satisfied has the expertise or
experience in public health issues necessary to
exercise the powers.’. 22
23
24

[s 52]

Clause 52	Amendment of s 160 (What is a <i>prescribed period</i> for a contagious condition)	1 2
	Section 160(3)(b)(i) and (ii)—	3
	<i>omit, insert—</i>	4
	‘(i) not having been vaccinated for the condition; and	5
	(ii) being at risk of contracting the condition if the child continues to attend a school or child care service.’.	6 7 8
Clause 53	Amendment of s 161 (When parent must not send a child to school or child care service)	9 10
	Section 161(1)(a), after ‘has’—	11
	<i>insert—</i>	12
	‘, or may have,’.	13
Clause 54	Amendment of s 162 (When teacher or carer must advise person in charge)	14 15
	Section 162(1), ‘may have’—	16
	<i>omit, insert—</i>	17
	‘has, or may have,’.	18
Clause 55	Amendment of s 163 (Person in charge may advise parent about suspicion of contagious condition)	19 20
	Section 163(1)(a), ‘may have’—	21
	<i>omit, insert—</i>	22
	‘has, or may have,’.	23
Clause 56	Amendment of s 164 (Person in charge may direct parent not to send child to school or child care service)	24 25
	Section 164(1)(c), after ‘has’—	26

insert— 1
, or may have,’. 2

Clause 57	Amendment of s 165 (Person in charge may advise parent of child not vaccinated about suspicion of vaccine preventable condition)	3 4 5
	(1) Section 165(1)—	6
	<i>omit, insert—</i>	7
	‘(1) This section applies if the person in charge of a school or child care service reasonably suspects that a child attending the school or service—	8 9 10
	(a) has not been vaccinated for a vaccine preventable condition; and	11 12
	(b) may be at risk of contracting the condition if the child continues to attend the school or service.’.	13 14
	(2) Section 165(2), ‘second’—	15
	<i>omit.</i>	16
Clause 58	Amendment of s 167 (Chief executive may authorise examination of children at school or child care service)	17 18
	Section 167(1)(a), ‘may have’—	19
	<i>omit, insert—</i>	20
	‘has, or may have,’.	21
Clause 59	Amendment of s 169 (Chief executive may direct person in charge in relation to child)	22 23
	(1) Section 169(1)(c), after ‘has’, first occurring—	24
	<i>insert—</i>	25
	, or may have,’.	26
	(2) Section 169(1)(d)—	27
	<i>omit, insert—</i>	28

[s 60]

- ‘(d) the chief executive reasonably suspects that a child attending a school or child care service—
- (i) has not been vaccinated for a vaccine preventable condition; and
 - (ii) will be at risk of contracting the condition if the child continues to attend the school or service.’.

(3) Section 169(2)—
omit, insert—

- ‘(2) The chief executive may direct the person in charge of the school or child care service to direct the parent of the child to remove the child from, and not to send the child to, the school or service for the prescribed period for the condition.’.

Clause 60 Amendment of s 172 (Chief executive may require details if child suspected of having a contagious condition)

Section 172(1)(a), after ‘has’—
insert—
‘, or may have,’.

Clause 61 Amendment of s 173 (Giving health information held by the department)

Section 173(4)(a) to (c)—
omit, insert—

‘(a) a child attending the school or service is suspected of being at risk of contracting the vaccine preventable condition if the child continues to attend the school or service; and

(b) the information about the child is necessary to enable the person in charge to act under section 165 or 166.’.

Clause 62	Amendment of s 180 (Directions to person in charge of school or child care service)	1 2
	Section 180(1)—	3
	<i>omit, insert—</i>	4
	‘(1) The chief executive may give a direction under subsection (3) to the person in charge of a school or child care service if the chief executive is satisfied there is an outbreak of a contagious condition—	5 6 7 8
	(a) at the school or service; or	9
	(b) in the community and there is a risk of children and staff at the school or service contracting the condition.’.	10 11
Clause 63	Amendment of s 181 (Temporary closure of school or child care service)	12 13
	Section 181(1)(a)—	14
	<i>omit, insert—</i>	15
	‘(a) there is an outbreak of a contagious condition—	16
	(i) at the school or service; or	17
	(ii) in the community and there is a significant risk of children and staff at the school or service contracting the condition; and’.	18 19 20
Part 7	Amendment of Public Health (Infection Control for Personal Appearance Services) Act 2003	21 22 23
Clause 64	Act amended	24
	This part amends the <i>Public Health (Infection Control for Personal Appearance Services) Act 2003</i> .	25 26

[s 65]

Clause 65	Amendment of s 36 (Suitability of premises at which higher risk personal appearance services are to be provided)	1 2 3
	Section 36(a) and (b), ‘part 15’—	4
	<i>omit, insert—</i>	5
	‘part MP 5.2’.	6
Clause 66	Amendment of s 41 (Conditions of licence)	7
	Section 41(1)(b)(iii) and (iv), ‘part 15’—	8
	<i>omit, insert—</i>	9
	‘part MP 5.2’.	10
Clause 67	Amendment of sch 2 (Dictionary)	11
	Schedule 2, definition <i>second local government</i> , ‘in relation’—	12 13
	<i>omit, insert—</i>	14
	‘, in relation’.	15
Part 8	Amendment of Tobacco and Other Smoking Products Act 1998	16 17 18
Clause 68	Act amended	19
	This part amends the <i>Tobacco and Other Smoking Products Act 1998</i> .	20 21
Clause 69	Amendment of s 26S (No smoking sign)	22
	(1) Section 26S(2)—	23

-
- insert—* 1
- ‘**outdoor area** means an area that is not an enclosed place.’. 2
- (2) Section 26S(2)— 3
- renumber* as section 26S(3). 4
- (3) Section 26S(1)— 5
- omit, insert—* 6
- ‘(1) This section applies in relation to each public entrance from 7
an outdoor area to an enclosed place at licensed premises. 8
- ‘(2) The licensee of the licensed premises must display a no 9
smoking sign at the entrance as prescribed under a regulation. 10
- Maximum penalty—20 penalty units.’. 11

- Clause 70 Amendment of s 26ZA (Designating an outdoor smoking area)** 12
13
- (1) Section 26ZA(7), examples, first dot point— 14
- omit.* 15
- (2) Section 26ZA(8) and (9)— 16
- renumber* as section 26ZA(9) and (10). 17
- (3) Section 26ZA— 18
- insert—* 19
- ‘(8) For subsection (7)(a), the height of a screen is to be measured 20
as if the base of the screen were level with the highest point of 21
the ground or floor within 1m on either side of the screen.’. 22

- Clause 71 Amendment of s 26ZS (Supply of food or toys resembling tobacco products)** 23
24
- (1) Section 26ZS, heading, ‘food or toys’— 25
- omit, insert—* 26
- ‘**objects**’. 27
- (2) Section 26ZS(1)— 28

[s 72]

omit, insert—

- (1) A person must not, as part of a business activity, supply to a person an object, other than a tobacco product, that resembles a tobacco product.

Maximum penalty—140 penalty units.’

- (3) Section 26ZS(2), ‘food or a toy’—

omit, insert—

‘an object’.

- (4) Section 26ZS(2), ‘food or toy’—

omit, insert—

‘object’.

Clause 72 Insertion of new s 26ZT

Part 2D—

insert—

‘26ZT Sale of confectionary-flavoured or fruit-flavoured cigarettes

- (1) A person must not sell a cigarette that is confectionary-flavoured or fruit-flavoured.

Maximum penalty—140 penalty units.

- (2) Subsection (1) does not apply to a menthol-flavoured cigarette.’

Clause 73 Insertion of new s 42E

After section 42D—

insert—

‘42E Forfeiture of smoking product seized under s 40

- (1) This section applies to a smoking product seized under section 40.

- (2) The smoking product is forfeited to the State—

- (a) at the end of 6 months from the day it was seized; or 1
- (b) if a proceeding involving the supply of the smoking 2
product is started within 6 months from the day it was 3
seized—at the end of the proceeding and any appeal 4
from the proceeding.’. 5

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