



Queensland

Health Legislation (Restriction on Use of Cosmetic Surgery for Children and Another Measure) Amendment Act 2008

Act No. 57 of 2008



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**Health Legislation (Restriction on Use of Cosmetic
Surgery for Children and Another Measure)
Amendment Act 2008**

Act No. 57 of 2008

**An Act to amend the Public Health Act 2005, the Radiation Safety Act 1999,
the Dental Practitioners Registration Act 2001 and the Medical Practitioners
Registration Act 2001 for particular purposes**

[Assented to 5 November 2008]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Health Legislation (Restriction on Use of Cosmetic Surgery for Children and Another Measure) Amendment Act 2008*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Public Health Act 2005

3 Act amended in pt 2

This part amends the *Public Health Act 2005*.

4 Amendment of s 7 (How object is mainly achieved)

(1) Section 7—

insert—

‘(da) restricting the performance of cosmetic procedures on children; and’.

(2) Section 7(da) to (h)—

renumber as section 7(e) to (i).

5 Insertion of new ch 5A

After chapter 5—

insert—

‘Chapter 5A Performance of cosmetic procedures on children

‘213A Definition for ch 5A

‘(1) In this chapter—

cosmetic procedure means any of the following—

- (a) a procedure involving the removal of excess skin or fat from, or the reshaping of, a part of the human body, including the following—
 - abdominoplasty, also known as a tummy tuck;
 - blepharoplasty, also known as eyelid surgery;
 - brachioplasty, also known as an arm lift;
 - foreheadplasty, also known as a brow lift;
 - liposuction or liposculpture;
 - rhytidectomy, also known as a face lift;
 - thighplasty, also known as a thigh lift;
 - torsoplasty, also known as a body lift;
- (b) a procedure involving resurfacing of the skin by removing the epidermis and penetrating the papillary dermis;
- (c) a surgical procedure involving the insertion of facial contour implants;
- (d) a surgical procedure involving the alteration of the breast to improve its shape, size or position, known as mammoplasty;
- (e) a surgical procedure involving the alteration of the chin to improve its shape or size, known as genioplasty;

- (f) a procedure involving the injection of a non-biodegradable substance under the skin to improve its volume, known as permanent injectable fillers;
 - (g) a surgical procedure involving the alteration of the nose to improve its shape or size, known as rhinoplasty;
 - (h) a procedure involving the attachment of a layer of porcelain to the front surface of a tooth, known as a porcelain veneer;
 - (i) another procedure prescribed under a regulation to be a cosmetic procedure for this chapter.
- ‘(2) However, a reference to a cosmetic procedure does not include a procedure prescribed under a regulation not to be a cosmetic procedure for this chapter.
- ‘(3) The Minister must not recommend to the Governor in Council the making of a regulation under subsection (2) unless the Minister is satisfied that—
- (a) performance of the procedure on a child is unlikely to compromise the health or safety of the child; and
 - (b) the procedure is routinely performed with minimal adverse outcomes.
- ‘(4) A regulation under subsection (1), definition *cosmetic procedure*, paragraph (i) or under subsection (2) may prescribe a procedure subject to stated conditions or in stated circumstances.

‘213B Offence to perform, or offer to perform, cosmetic procedure on a child

- ‘(1) A person must not perform, or offer to perform, a cosmetic procedure on a child.
- Maximum penalty—2000 penalty units or 2 years imprisonment.
- ‘(2) A person does not commit an offence against subsection (1) if the person believes, on grounds that are reasonable in the

circumstances, that performance of the procedure is in the best interests of the child.

‘(3) Proof that the person did not have sufficient regard to any of the following matters is sufficient proof that the person did not have the belief mentioned in subsection (2)—

(a) if the child is able to form and express views—the views of the child, including the reasons why the child wants the procedure to be performed, taking into account the child’s maturity and understanding of the procedure, including the risks, limitations and possible consequences of the procedure;

(b) to the extent it is practicable for the person to consult a parent of the child—the views of the parent, including whether the parent supports the procedure being performed on the child;

(c) the child’s physical health, including whether performance of the procedure would correct a growth or congenital abnormality or the physical effect of a medical condition, illness or trauma;

(d) the child’s psychological health, including whether the effect of performing the procedure on the child is likely to be positive;

(e) the timing of the procedure, including whether waiting until the child is an adult would be better than performing the procedure now.

‘(4) The application of the Criminal Code, section 282 is subject to this section.

‘(5) In this section—

parent see section 159(1) and (3)(a) and (b).

‘213C Offence to procure, or offer to procure, performance of cosmetic procedure on a child

‘A person must not, for a fee or other reward, procure, or offer to procure, the performance by someone else of a cosmetic procedure on a child.

Maximum penalty—2000 penalty units or 2 years imprisonment.

Example—

A doctor sees a child as a patient and receives a fee for the consultation. The child has a cleft lip and palate. Acting in the normal course of practising his or her profession, the doctor refers the child to a head and neck surgeon without receiving a fee for the referral. The doctor does not commit an offence against this section.

‘213D Chief executive may report contravention

‘(1) If the chief executive considers a person has contravened section 213B or 213C, the chief executive may report the alleged contravention to a relevant entity.

‘(2) In this section—

relevant entity means—

- (a) the Health Quality and Complaints Commission under the *Health Quality and Complaints Commission Act 2006*; or
- (b) a board under the *Health Practitioners (Professional Standards) Act 1999*; or
- (c) the Queensland Nursing Council under the *Nursing Act 1992*; or
- (d) another entity that has the power under an Act of the State, the Commonwealth or another State to deal with the matter.’.

6 Amendment of s 385 (Power to enter places)

Section 385(1)(d), ‘or 390’—

omit, insert—

‘, 390 or 390A’.

7 Insertion of new s 390A

Chapter 9, part 2, division 1—

insert—

‘390A Power to enter place to monitor compliance with ch 5A

- ‘(1) This section applies if an authorised person reasonably believes a cosmetic procedure is being, or has been, performed on a child at a place.
- ‘(2) The authorised person may enter the place to monitor a person’s compliance with chapter 5A if the place is open for carrying on business or otherwise open for entry.
- ‘(3) The authorised person—
- (a) must advise the person in charge of the place at least 24 hours before the entry; and
 - (b) must not do anything that adversely affects the privacy of a person undergoing, or waiting to undergo, a cosmetic procedure.
- ‘(4) In this section—
- cosmetic procedure* see section 213A.’.

8 Insertion of new ch 12, pt 1 hdg

Chapter 12, before section 462—

insert—

‘Part 1 Savings and transitional provisions for Act No. 48 of 2005’.

9 Insertion of new ch 12, pt 2

Chapter 12, after section 491—

insert—

‘Part 2 Transitional provision for Health Legislation (Restriction on Use of Cosmetic Surgery for Children and Another Measure) Amendment Act 2008

‘492 When prohibition on performing cosmetic procedures on children does not apply

‘(1) Section 213B does not apply to a person who performs a cosmetic procedure on a child within 3 months after the commencement if the person agreed before the commencement, in the normal course of the person’s business, to perform the procedure on the particular child.

‘(2) In this section—

commencement means the commencement of this section.

cosmetic procedure see section 213A.’.

10 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

‘*cosmetic procedure*, for chapter 5A, see section 213A.’.

Part 3 Amendment of Radiation Safety Act 1999

11 Act amended in pt 3

This part amends the *Radiation Safety Act 1999*.

12 Amendment of pt 6, div 8 hdg (Banned radiation sources)

Part 6, division 8, heading, after ‘sources’—

insert—

‘**and radiation practices**’.

13 Insertion of new s 47A

Part 6, division 8—

insert—

‘47A Banning of certain radiation practices

‘(1) A person in possession of a prescribed radiation source must not allow a radiation practice to be carried out that exposes another person prescribed under a regulation to radiation emitted from the source in the circumstances prescribed under a regulation.

Maximum penalty—400 penalty units.

‘(2) For this section, a solarium is taken to be a radiation apparatus.

Note—

A radiation apparatus is a radiation source (see schedule 2, definition *radiation source*).

‘(3) In this section—

prescribed radiation source means—

- (a) a solarium; or
- (b) another radiation source prescribed under a regulation.

solarium means an electrically powered apparatus designed to produce tanning of human skin by exposure of the skin to non-ionising radiation emitted by the apparatus.’.

Part 4

Amendment of Dental Practitioners Registration Act 2001

14 Act amended in pt 4

This part amends the *Dental Practitioners Registration Act 2001*.

15 Amendment of s 45 (Fitness to practise the profession)

Section 45(2)—

insert—

‘(d) any conviction of the applicant for an offence against the *Public Health Act 2005*, section 213B.’.

Part 5 **Amendment of Medical Practitioners Registration Act 2001**

16 Act amended in pt 5

This part amends the *Medical Practitioners Registration Act 2001*.

17 Amendment of s 45 (Fitness to practise the profession)

Section 45(2)—

insert—

‘(d) any conviction of the applicant for an offence against the *Public Health Act 2005*, section 213B.’.

18 Amendment of s 150D (Suitability of proposed non-practising registrant)

(1) Section 150D(1)—

insert—

‘(ca) any conviction of the applicant for an offence against the *Public Health Act 2005*, section 213B;’.

(2) Section 150D(1)(ca) to (e)—

renumber as section 150D(1)(d) to (f).