



Queensland

Criminal Code (Medical Treatment) Amendment Act 2009

Act No. 33 of 2009



Contents

		Page
1	Short title	4
2	Code amended	4
3	Replacement of s 282 (Surgical operations)	4
	282 Surgical operations and medical treatment	4
4	Insertion of new pt 9, ch 85	5
	Chapter 85 Transitional provision for the Criminal Code (Medical Treatment) Amendment Act 2009	
	722 Retrospective application of amendment	5



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Criminal Code (Medical Treatment) Amendment Act 2009

Act No. 33 of 2009

**an Act to amend the Criminal Code to ensure the lawfulness of particular
medical matters**

[Assented to 5 September 2009]

The Parliament of Queensland enacts—

1 Short title

This Act may be cited as the *Criminal Code (Medical Treatment) Amendment Act 2009*.

2 Code amended

This Act amends the Criminal Code.

3 Replacement of s 282 (Surgical operations)

Section 282—

omit, insert—

‘282 Surgical operations and medical treatment

- ‘(1) A person is not criminally responsible for performing or providing, in good faith and with reasonable care and skill, a surgical operation on or medical treatment of—
- (a) a person or an unborn child for the patient's benefit; or
 - (b) a person or an unborn child to preserve the mother's life;
- if performing the operation or providing the medical treatment is reasonable, having regard to the patient's state at the time and to all the circumstances of the case.
- ‘(2) If the administration by a health professional of a substance to a patient would be lawful under this section, the health professional may lawfully direct or advise another person, whether the patient or another person, to administer the substance to the patient or procure or supply the substance for that purpose.
- ‘(3) It is lawful for a person acting under the lawful direction or advice, or in the reasonable belief that the advice or direction was lawful, to administer the substance, or supply or procure the substance, in accordance with the direction or advice.

‘(4) In this section—

health professional has the same meaning as in the *Health Services Act 1991*, section 60.

medical treatment, for subsection (1)(a), does not include medical treatment intended to adversely affect an unborn child.

patient means the person or unborn child on whom the surgical operation is performed or of whom the medical treatment is provided.

surgical operation, for subsection (1)(a), does not include a surgical operation intended to adversely affect an unborn child.’.

4 Insertion of new pt 9, ch 85

Part 9—

insert—

‘Chapter 85 Transitional provision for the Criminal Code (Medical Treatment) Amendment Act 2009

‘722 Retrospective application of amendment

‘(1) This Code as amended by the *Criminal Code (Medical Treatment) Amendment Act 2009*, section 3 applies to proceedings for an offence—

- (a) started but not finished before 19 August 2009; or
- (b) started after 19 August 2009, whether the act or omission constituting the offence happened before or after 19 August 2009.

‘(2) Subsection (1) does not apply to proceedings for an appeal against a conviction or sentence that happened before 19 August 2009.’.

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