Health Legislation Amendment Bill (No. 2) 2025

Explanatory Notes

Short title

The short title of the Bill is the Health Legislation Amendment Bill (No. 2) 2025.

Policy objectives and the reasons for them

The Health Legislation Amendment Bill (No. 2) 2025 (Bill) amends the *Pharmacy Business Ownership Act 2024* (PBO Act), *Public Health Act 2005, Queensland Mental Health Commission Act 2013* (QMHC Act) and *Radiation Safety Act 1999.* The objectives of the Bill are to:

- clarify operational requirements relating to the regulation of pharmacy business ownership in Queensland, to ensure the PBO Act operates as intended when the licensing framework under the PBO Act commences;
- support the transition of the state-based Notifiable Dust Lung Disease Register to the National Occupational Respiratory Disease Registry;
- enable equipment and materials to be left at places to collect samples of designated pests, including adult mosquitoes, for detecting the presence of Japanese Encephalitis Virus;
- ensure it is clear that the Minister can appoint an Acting Mental Health Commissioner to the Queensland Mental Health Commission where a Mental Health Commissioner's term has ended; and
- clarify that any person can apply for and hold an approval to dispose of radioactive material.

The Bill also makes amendments to the *Public Health Regulation 2018* to reflect the changes made to the Public Health Act relating to the Notifiable Dust Lung Disease Register.

Amendments to the *Pharmacy Business Ownership Act 2024*

The PBO Act creates a licensing framework for the ownership of pharmacy businesses in Queensland, establishes the Queensland Pharmacy Business Ownership Council (Council), transfers responsibility for the administration of pharmacy ownership regulation from Queensland Health to the Council, and makes other reforms to support effective enforcement of pharmacy business ownership restrictions. The PBO Act partially commenced in 2024, primarily to establish the Council. The PBO Act must commence in full by 29 March 2026. When this occurs, the *Pharmacy Business Ownership Act 2001* (2001 Act) will be repealed.

The intent of the PBO Act is to ensure ownership of, and interests in, pharmacy businesses in Queensland are primarily restricted to practising pharmacists and pharmacist-controlled corporations, with limited exceptions for certain friendly societies and Mater Misericordiae Limited.

Several issues requiring legislative change have been identified during implementation of the PBO Act. Changes are required to clarify provisions in the PBO Act and ensure they operate as intended when the PBO Act commences in full.

Review of Council decisions

Under the PBO Act, a person can only seek external review of a decision of the Council if the matter has first been subject to internal review. The PBO Act provides that an application for internal review of the original decision may only be dealt with by a person who did not make the original decision and who holds a more senior office than the person who made the original decision.

If the Council collectively makes a decision on an application, there is no more senior decision-maker available to conduct an internal review under the PBO Act. This would prevent an affected person from seeking internal review and, in turn, also prevent the affected person from seeking external review, denying the opportunity for natural justice.

Amendments are required to ensure an affected person can seek external review of a decision from the Queensland Civil and Administrative Tribunal where the decision was made by the Council as a whole rather than by a delegate of the Council.

Shareholders holding on trust

The PBO Act provides that a corporation whose directors and shareholders are a combination of practising pharmacists and close adult relatives of practising pharmacists, and in which the majority of shares and all voting shares are held by practising pharmacists, is an eligible person to own a pharmacy business.

Under the PBO Act, a material interest in a pharmacy business includes an interest in the business as a beneficiary of a trust of which an owner of the business is trustee. Only a practising pharmacist or close adult relative of a practising pharmacist may hold a material interest in a pharmacy business in Queensland.

Potentially, the PBO Act as drafted would allow a shareholder to hold their shares on trust for a person who is not a practising pharmacist or a close adult relative of a practising pharmacist, because their interest would not be captured as a material interest (as the trustee of the trust is a shareholder, not an owner). This conflicts with the premise and intent of the PBO Act which is that ownership of, and interests in, pharmacy businesses should be limited to practising pharmacists and their close adult relatives. It was not intended that shareholders could hold shares on trust for other persons unless those other persons are practising pharmacists or close adult relatives of practising pharmacists.

To remove this ambiguity, ensure the intent of the PBO Act is met and ensure those that are subject to the PBO Act can understand their obligations, amendments are required to clarify that a shareholder of a corporate owner of a pharmacy business cannot hold their shares on trust for another person unless the person is a practising pharmacist or close adult relative of a practising pharmacist.

Core pharmacy services

The PBO Act defines a pharmacy business as a business that provides pharmacy services that include core pharmacy services. *Core pharmacy service* is defined as the compounding of medicines for sale to members of the public or the dispensing by, or under the supervision of, a practising pharmacist of medicines to members of the public.

Some stakeholders have raised concerns that the definition of *core pharmacy service* is too narrow as it does not capture some core services carried out by a pharmacist in a pharmacy business. In particular, a business that sells medicines by or under the supervision of a practising pharmacist without a prescription, but does not dispense or compound, currently would not be considered a pharmacy business. Stakeholders consider this may enable businesses to circumvent the ownership restrictions in the PBO Act by establishing new business models.

It is intended to clarify that the sale of medicines by or under the supervision of a pharmacist is a core pharmacy service.

Change to timeframes for requests for information / requests for inspection

As currently drafted, the PBO Act allows the Council to request further information from licence applicants across a range of application types within 30 days of receipt of an application. However, there is no ability to extend this timeframe or to make multiple requests for information as part of the consideration of the application. This lack of flexibility may result in the Council needing to reject applications where necessary information cannot be obtained within the legislated timeframe. Amendments are required to ensure that the Council can obtain all of the information required to make a considered decision on relevant applications.

Similarly, the PBO Act currently imposes a 30-day timeframe in which the Council must issue a notice that premises be available for inspection following receipt of a licence application. Again, this is unduly inflexible and may result in the Council needing to reject applications in circumstances where concerns could be resolved through a later inspection or a re-inspection. Amendments are required to provide the Council with sufficient flexibility to ensure premises comply with all relevant requirements before deciding a licence application.

Reporting requirements

Section 183 of the PBO Act requires the Council to annually give the Minister a report about the performance of the Council's functions during each financial year. Section 209 of the PBO Act requires the Council to publish a report about any compliance and audit activities undertaken in the previous financial year.

The Council must also comply with the requirements of the *Financial Accountability Act 2009* (FA Act). Section 63 of the FA Act and the *Financial and Performance Management Standard 2019* require statutory bodies to prepare an annual financial and performance report for the Minister.

This duplication of reporting requirements will impose an unnecessary administrative burden on the Council. Amendments are required to ensure that the Council is not required to provide

multiple annual reports where the information is otherwise captured by the report required under the FA Act, reducing the administrative burden on the Council.

Change to the register

Section 207 of PBO Act currently requires the Council to keep a register of licensed pharmacy businesses. The register must contain the business name for the business and the address of the licensed premises for the business. The register may also contain information about pharmacy services provided by the business.

There is no ability under the current provision for the register to also include the names of licence holders and the status of each licence (for example, whether the licence is current or suspended). This information is important to promote transparency and assist the Council in meeting one of the objectives of the Act, which is to maintain public confidence in the pharmacy profession. Amendments are required to ensure these details are included in the register.

Additionally, the current ability to include within the register details of services provided by pharmacy businesses is considered unnecessary. If published, details of services offered by each licensed business would be likely to quickly become outdated. It would impose a significant administrative burden on pharmacy businesses and the Council to ensure details of services offered by all licensed pharmacy businesses are kept current. Given this information is likely available to the public in other ways, for example, through the websites of individual pharmacy businesses, it is considered reasonable to not include it in the register.

Finally, the PBO Act currently provides that the Council 'may' publish the information contained in the register on the Council's website. To promote transparency about industry compliance with the PBO Act, it is preferable that the Council be required, rather than simply enabled, to publish the register on the Council's website.

Publication of temporary closures

Section 80 of the PBO Act requires pharmacy business licensees who propose to temporarily stop carrying on their pharmacy businesses for a period of more than one week to notify the Council. However, there is currently no ability for the Council to publish this information. Publishing details of temporary closures would ensure the public has visibility of any changes to the availability of pharmacy services. This may be particularly important in rural or regional areas where the closure of a pharmacy business may impact the ability of the community to obtain necessary medicines and also have flow-on effects for other healthcare professionals.

Council to represent the State

Section 145 of the PBO Act provides that the Council does not represent the State. The Council is a Queensland Government agency performing a regulatory and licensing function. The Council's staff are employed under the *Public Sector Act 2022*. For these reasons, it is considered appropriate that the Council represent the State and have the privileges and immunities of the State.

Protection from liability for officials

Section 210 of the PBO Act provides that officials are not civilly liable for acts done, or omissions made, honestly and without negligence under the PBO Act. *Official* means a Council member, the chief executive officer, another member of the Council's staff, an inspector or a person acting under the direction of a person mentioned above.

If the Council represents the State, these persons will have protection from civil liability under section 269 of the Public Sector Act. As such, amendments are required to remove section 210 of the PBO Act so that section 269 of the Public Sector Act can instead apply.

Surrender of joint licences

While the PBO Act provides for an individual licence holder to surrender a licence, it does not expressly reference joint holders. It is therefore unclear how a licence held by more than one person can be surrendered. An amendment is required to clarify how a joint licence may be surrendered.

Definition of compound

Under schedule 1 of the PBO Act, *compound*, in relation to a medicine, is defined to be mixing, compounding, formulating or reconstituting a medicine with any other substance.

However, under the *Medicines and Poisons (Medicines) Regulation 2021*, *compound* means mixing, compounding, formulating or reconstituting a medicine with any other substance for a particular patient or animal, but does not include reconstituting a registered medicine for a particular patient or animal in accordance with the manufacturer's instructions for reconstituting the medicine.

An amendment to the definition of *compound* in the PBO Act is required to refer to the definition in the Medicines and Poisons (Medicines) Regulation to promote consistency and avoid confusion between the different definitions.

Additionally, section 20 of the PBO Act states that compounding must take place at licensed premises. Amending the definition of *compound* to ensure the concept of compounding reflects the definition in the Medicines and Poisons (Medicines) Regulation will ensure that reconstitution of a medicine is not considered compounding under the PBO Act and can, therefore, be undertaken at another place, providing it is done under the direction or control of the licence holder or an authorised pharmacist. This includes, for example, reconstitution of a vaccine prior to administration at an outreach clinic in an aged care facility.

Ability of close adult relatives to hold a material interest

Section 16 of the PBO Act provides that a person must not hold a material interest in a pharmacy business unless the person is a practising pharmacist or a close adult relative of a practising pharmacist who holds an interest in the business. The maximum penalty for non-compliance is 200 penalty units.

The intent of this section is to ensure that the close adult relative of a practising pharmacist may only hold a material interest in a pharmacy business if the practising pharmacist to whom they are related holds an interest in the same pharmacy business.

It would not be acceptable, for example, for the close adult relative of a practising pharmacist to hold a material interest in pharmacy business A, while their practising pharmacist relative was the owner of pharmacy business B – it must be the same business.

Amendments to section 16 are necessary to further clarify this requirement.

Information sharing

The PBO Act allows a person who has obtained confidential information in performing a function under the PBO Act (for example, a member of the Council or a staff member of the Council) to share confidential information with specified entities, including the Health Ombudsman or the Australian Health Practitioner Regulation Agency, and another entity of the Commonwealth or another State for performing certain functions.

However, the current information sharing provisions do not allow the Council to share information with Queensland Health. This may be required, for example, to assist Queensland Health to determine whether a person owns a licensed pharmacy business and is therefore eligible for Council membership upon recommendation of the Minister, or to determine whether a pharmacy business is licensed to support functions under other legislation, such as the *Medicines and Poisons Act 2019*.

Additionally, the current information sharing provisions do not allow the Council to seek information from Queensland Health to confirm a person's suitability as a fit and proper person under section 72 of the PBO Act.

Finally, the PBO Act does not currently facilitate Queensland Health sharing existing pharmacy business ownership information with the Council, as part of the transfer of regulatory responsibility from Queensland Health to the Council.

Amendments to the PBO Act are required to ensure appropriate information sharing can occur to support the functions of the Council and Queensland Health.

Consideration of beneficiaries as part of licence applications

Section 25 of the PBO Act sets out the application requirements for a pharmacy business licence. To reflect the change made to clarify who is permitted to hold a material interest under the PBO Act, an amendment is required to provide that, where a person holds shares in the applicant as a trustee of a trust, the name of each beneficiary of the trust must be provided in an application for a pharmacy business licence. This ensures the material interest of a beneficiary can be considered when deciding whether to grant a licence to ensure they meet the requirements of the PBO Act, including that they are either a practising pharmacist or a close adult relative of a practising pharmacist.

Applications to add a new licence holder

Under section 38 of the PBO Act, the holder of a pharmacy business licence and one other eligible person (the *incoming party*) may jointly apply to the Council to add the incoming party as a holder of the licence.

Section 40 provides that the Council may grant an application under section 38 only if satisfied the incoming party is an eligible person, a fit and proper person to own a pharmacy business and does not already hold an interest in the maximum number of pharmacy businesses permitted under section 17.

However, unlike section 28 which sets out the criteria for the grant of a new licence, section 40 does not require the Council to consider whether any other person who would hold a material interest in the licensed pharmacy business if the application was granted is entitled to do so. This is an inadvertent omission which does not align with the premise of the PBO Act.

Transitional arrangements relating to the Pharmacy Business Ownership Act 2001

The PBO Act includes transitional provisions that preserve certain arrangements under the 2001 Act.

Section 221 of the PBO Act provides that a person who was able to own a pharmacy business for a specified period of time under sections 139C, 139D, 139E or 139F of the 2001 Act may continue to own the business until the specified period ends. For the specified period, the person may continue to own, and carry on, the pharmacy business and does not commit an offence under sections 15, 16 or 19 of the PBO Act because they do not yet hold a pharmacy business licence under the PBO Act. Instead, the 2001 Act continues to apply as if the PBO Act had not been enacted, with the effect that relevant businesses are subject to repealed sections 139C, 139D, 139E or 139F of the 2001 Act, as if those sections had not been repealed. However, because sections 139C and 139D of the 2001 Act refer to decisions of the chief executive of Queensland Health, amendments are also required to section 221 to clarify that, following commencement of the PBO Act, the relevant decisions under the repealed sections will be made by the Council, not the chief executive. This reflects the transfer of responsibility for pharmacy ownership regulation from Queensland Health to the Council.

Section 222 of the PBO Act applies if a pharmacist's professional registration was cancelled or surrendered, and the chief executive was deciding under section 139C of the 2001 Act whether to grant an approval to allow the person to continue to own the business for a specified period or periods. Where these circumstances apply, the PBO Act states that the chief executive must decide whether to grant the approval under the 2001 Act as if the PBO Act was not enacted. As currently drafted, these provisions refer to the chief executive and not the Council. Similar to section 221, amendments are required to section 222 to clarify that, following commencement of the PBO Act, the Council, rather than the chief executive of Queensland Health, is the decision-maker for approvals.

Transitional arrangements for the membership of the Council

Section 150 of the PBO Act provides eligibility requirements for Council members.

Under subsection (3)(a), the Minister may recommend a person for appointment to the Council if the person is an individual who owns a licensed pharmacy business, a director of a corporation that owns a licensed pharmacy business or a practising pharmacist who is an employee of a licensed pharmacy business. Under subsection (3)(b), the Minister may also recommend for appointment members with other skills and experience, including, for example, in accounting, business or law.

Subsection (4) provides that the Council must include at least one person who owns a licensed pharmacy business and at least one member who is employed as a pharmacist at a licensed pharmacy business.

These requirements will commence at the same time as the licensing provisions. However, under the transitional provisions in part 14 of PBO Act, existing pharmacy businesses will have one to two years in which to apply for a licence after the licensing provisions commence. Provided the existing business owner applies for a licence within this period, the business can continue to operate until the Council decides the licence application.

Given that some businesses may not be licensed until up to two years from commencement of the PBO Act, amendments are required to accommodate those Council members who own pharmacy businesses but are yet to be granted a licence under the transitional provisions, directors of corporate owners in the same position and employee pharmacists who are employed by pharmacy businesses that are yet to be granted a licence under the PBO Act. This will ensure that the Council can be properly constituted in the period following commencement of licensing.

Amendments to the *Public Health Act 2005* and the *Public Health Regulation 2018*

Transition to the National Occupational Respiratory Disease Registry

Under section 279AF of the Public Health Act, the diagnosis of a *notifiable dust lung disease* must be notified to the Notifiable Dust Lung Disease Register (Queensland Register). The term *notifiable dust lung disease* is defined in section 49A of the Public Health Regulation to include cancer, chronic obstructive pulmonary disease (including chronic bronchitis and emphysema) and pneumoconiosis (including asbestosis, coal worker's pneumoconiosis, mixed-dust pneumoconiosis and silicosis).

On 22 May 2024, the *National Occupational Respiratory Disease Registry Act 2023* (Cth) (NORDR Act) commenced, including the provisions establishing the National Occupational Respiratory Disease Registry (National Registry). The NORDR Act defines *occupational respiratory disease* as a respiratory disease caused or exacerbated by a person's occupation. It differentiates between a *prescribed occupational respiratory disease*, which is subject to mandatory reporting, and a *non-prescribed occupational respiratory disease*, which can be reported voluntarily to the National Registry. To date, silicosis is the only prescribed disease under the NORDR Act. However, the definition of *occupational respiratory disease* under the NORDR Act is sufficiently broad to allow all *notifiable dust lung diseases* (as defined in the Public Health Act) to be voluntarily notified to the National Registry.

Over time, it is expected that the Commonwealth Government will expand the list of *occupational respiratory diseases* that must be notified to the National Registry under the NORDR Act. To avoid duplicative reporting requirements, amendments to the Public Health

Act and Public Health Regulation are required to transition the notification of all diagnoses of *notifiable dust lung diseases* from the Queensland Register to the National Registry.

Improving detection and monitoring of mosquitoes for Japanese Encephalitis Virus

Japanese encephalitis is a rare but potentially serious illness caused by the Japanese Encephalitis Virus (JEV) which is spread to humans by infected mosquitoes.

The World Health Organisation issued guidance on JEV in 2024. This guidance notes thatwhile most JEV infections are mild or without apparent symptoms, infections can result in severe clinical illness. Severe disease is characterised by the rapid onset of high fever, headache, neck stiffness, disorientation, coma, seizures, paralysis and ultimately death. The case fatality rate can be as high as 30 per cent among those with disease symptoms.[1]

In Australia, JEV is a nationally notifiable disease in both humans and animals. Prior to 2022, JEV had been detected sporadically in the Torres Strait and Cape York since the 1990s. In 2022, there was a widespread and unprecedented outbreak of JEV across the eastern states of Australia, including in Queensland, and in the Northern Territory. At the time, the situation was declared a Communicable Disease Incident of National Significance. There were 45 human cases associated with this outbreak, with five cases recorded in Queensland, including one death. Concurrently, there were numerous detections of JEV in commercial piggeries, feral pigs and mosquitoes.

Since then, JEV has been sporadically detected in the north of Australia but continues to be an increasing and significant risk in Queensland with the virus recently detected across a number of local government areas. The increasing risk of JEV follows human cases and detections in mosquitoes, birds and pigs in Queensland, Victoria and New South Wales. Locally acquired JEV in humans has now emerged in Queensland. Amendments are required to ensure an effective public health response to this risk.

Currently, the Public Health Act provides powers for authorised persons to enter places to search for designated pests and take equipment and materials to take samples for analysis and testing. However, these powers do not expressly include the ability to leave equipment and materials at a place when an authorised person leaves.

Some mosquito-borne diseases such as Dengue Fever can be detected by taking a sample of larvae from a water source. However, detecting JEV requires capturing a sample of adult mosquitoes in an area. Light traps must be left at the relevant location overnight or longer when adult mosquitoes are active to gather a sufficient sample for testing.

To enable improved testing and appropriately manage the public health risks associated with JEV, it is necessary to amend the Public Health Act to clarify that the power to take equipment and materials into or onto a place includes the power to leave the equipment and materials behind for a reasonable period to ensure a sufficient sample size is collected.

[1] World Health Organization. “Japanese Encephalitis.” 6 August 2024, https://www.who.int/news-room/fact-sheets/detail/japanese-encephalitis.

Amendments to the *Queensland Mental Health Commission Act 2013*

The QMHC Act establishes the Queensland Mental Health Commission (the Commission), an independent body tasked with driving ongoing reform for mental health and substance misuse in Queensland.

The Commission is managed by the Mental Health Commissioner (the Commissioner). The Commissioner is appointed by the Governor in Council on the recommendation of the Minister for Health and Ambulance Services. The Commissioner may be appointed for a term of up to five years.

The QMHC Act grants the Minister power to appoint a person to act as the Commissioner in the event of a vacancy or during any period when the Commissioner is absent from duty or cannot, for another reason, perform the functions of the office.

The Minister's power to appoint an Acting Commissioner is set out under section 23 of the QMHC Act. To date, the power has been read as being limited to the specific circumstances under section 21 which lists where a vacancy in the office arises. Section 21 sets out that a vacancy may occur where the Commissioner resigns by signed notice to the Minister, is convicted of an indictable offence, is a person who is insolvent under administration, is removed from office by the Governor in Council or is suspended by the Minister.

These circumstances do not include the end of the Commissioner's term of office, including where another Commissioner is yet to be appointed. This means that it is not clear whether the Minister can appoint an Acting Commissioner when there is no one available to fill the office of the Commissioner role following the end of a Commissioner's term. Without clarity about the Minister's powers, it may be necessary to rely on the Governor in Council's incidental power of appointment under the *Acts Interpretation Act 1954*.

Appointment through the Governor in Council can be a lengthy process. Any delays that occur during this process can result in an extended period between the end of a Commissioner's term and the appointment of an interim Acting Commissioner until a new Commissioner is appointed.

Amendments are necessary to ensure the streamlined process of ministerial appointment is available when a vacancy in the office arises following the end of a Commissioner's term.

Amendments to the *Radiation Safety Act 1999*

The Radiation Safety Act provides the legislative framework for managing radioactive materials to protect the public and environment from risks associated with exposure to radiation.

One of the ways this is achieved is by making it an offence for a person to dispose of radioactive material without first holding an approval from Queensland Health. The offence helps to encourage people to contact Queensland Health and take the steps directed to appropriately neutralise the risks the material poses.

To obtain an approval to dispose, a person must apply to the chief executive of Queensland Health who will consider the applicant's reason for disposal, the proposed disposal method,

whether alternative ways to deal with the material exist and whether the disposal would violate the Radiation Safety Act.

The Radiation Safety Act does not restrict who can apply for approval to dispose of radioactive material and the policy intent is that any person may apply for such an approval.

However, there is a drafting inconsistency in section 71 of the Radiation Safety Act which sets out 'additional information for approvals to dispose'. This section provides that the applicant's approval instrument must identify both the type and amount of radioactive material 'the licensee' is permitted to dispose of under the approval. This reference to 'the licensee' is inconsistent with other provisions of the Radiation Safety Act which allow any person to apply for and hold an approval to dispose, not just a licensee.

Although most applicants for disposal approvals do in fact hold a possession licence issued under the Radiation Safety Act, there are situations where an applicant is not a licensee but still needs to lawfully dispose of radioactive materials. For example, a person intending to dispose of radioactive material found on a newly purchased property would need to seek an approval notwithstanding that they do not hold a possession licence.

An amendment to the Radiation Safety Act is required to remove this ambiguity and clarify that any person can apply for and hold a disposal approval.

Achievement of policy objectives

Amendments to the *Pharmacy Business Ownership Act 2024*

Review of Council decisions

To ensure natural justice and procedural fairness, the Bill amends the PBO Act to provide that an affected person can seek external review of a decision from the Queensland Civil and Administrative Tribunal where the decision was made by the Council (as constituted as a decision-making entity), rather than by a delegate of the Council.

In relation to forfeiture decisions, the Bill amends the PBO Act to ensure affected persons can apply to the Magistrates Court for a stay of the operation of the decision where the decision was made by the Council as the decision-making entity.

The Bill also makes a number of consequential amendments to accommodate the ability to directly appeal the original decision of the Council where the PBO Act only refers to the internal review pathway. For example, the insertion of references to *decision notice* rather than *information notice* reflects that information notices are only relevant to internal review decisions.

Shareholders holding on trust

To remove ambiguity and give effect to the intent of the PBO Act, the Bill amends section 13 of the PBO Act to clarify that a shareholder of a corporate owner of a pharmacy business cannot hold their shares on trust for another person unless the person is a practising pharmacist or

close adult relative of a practising pharmacist. The interest of that beneficiary will be a material interest under the PBO Act.

The Bill also amends the transitional arrangements in the PBO Act to provide that, where a shareholder of an existing owner holds shares as trustee of a discretionary trust, they have an additional year to comply with the requirements of the PBO Act. This is consistent with the transitional arrangements for existing owners who hold as trustee for a discretionary trust. This ensures that any beneficiaries or owners under such existing arrangements are not taken to contravene the section 16 offence under the PBO Act related to holding material interests for the duration of the transitional period.

Core pharmacy services

To clarify that a business that sells medicines will need to be licensed, regardless of whether the business also compounds or dispenses medicines, the Bill amends the definition of *core pharmacy service* in section 8. Under new subsection (c) of the definition, the selling by, or under the supervision of, a practising pharmacist of medicines to members of the public is a core pharmacy service.

Change to timeframes for requests for information / requests for inspection

To provide additional flexibility to the Council in assessing applications, and ensure applications are not unduly rejected due to the Council's inability to obtain all information relevant to an application within a set timeframe, the Bill amends the application provisions of the PBO Act to remove the current 30-day timeframe in which the Council may request further information from a licence applicant.

It is intended that the Council can make multiple requests for information at any time during the consideration of an application. This ensures that the Council can obtain all information relevant to the application and ensures natural justice and procedural fairness for applicants. Under the Acts Interpretation Act, the Council will be required to make a decision on the application as soon as possible.

If the applicant does not comply with the request, the application is taken to have been withdrawn. The Council may, on its own initiative or if requested by the applicant, extend the period in which the applicant is required to provide the requested information or document.

The Bill also removes the current 30-day timeframe in which the Council must issue a notice that premises be available for inspection following receipt of a licence application. This provides additional flexibility and recognises that inspections or re-inspections may be necessary in some circumstances, for example, to ensure that issues identified during an earlier inspection have been remedied.

Reporting requirements

To reduce the administrative burden on the Council, the Bill amends the PBO Act to consolidate the duplicative reporting requirements under the PBO Act and the FA Act. This is to ensure that the Council is not required to provide multiple annual reports where the

information is otherwise captured by the report required under the FA Act, reducing the administrative burden on the Council.

Change to the register

To ensure the register maintained by the Council includes all relevant information to promote transparency and compliance with the PBO Act, the Bill amends section 207 of the PBO Act to require the Council to keep a register of pharmacy business licences, rather than a register of licensed pharmacy businesses. This will facilitate the register containing details of licences that are no longer in effect, for example, licences that have been suspended or licences that have been cancelled in the last two years. The register must also include details of the licence holder for each licence.

To ensure the register does not contain information of services offered by pharmacy businesses, which is likely to quickly become out-of-date, the Bill omits subsection (3) from section 207.

To promote transparency, the Bill also amends section 207 of the PBO Act to require the Council to publish the register online.

Publication of temporary closures

To provide visibility to the community and other health practitioners about any significant limitations on the availability of pharmacy services, the Bill amends section 80 of the PBO Act to allow the Council to publish details of temporary pharmacy business closures on the Council's website.

Council to represent the State

The Bill amends section 145 of the PBO Act to provide that the Council represents the State and has the privileges and immunities of the State.

Protection from liability for officials

The Bill amends the PBO Act to omit section 210 which provides protection for liability for officials under the PBO Act. These officials will instead have protection from civil liability under section 269 of the Public Sector Act.

Surrender of joint licences

The Bill amends section 69 of the PBO Act to clarify how a joint licence may be surrendered. A joint licence may be surrendered by a notice given jointly by the licence holders to the Council.

Definition of compound

The Bill amends the definition of *compound* in the PBO Act to refer to the definition of *compound* in the Medicines and Poisons (Medicines) Regulation. This will avoid confusion between the different definitions leading to different requirements between the two legislative schemes.

Ability of close adult relatives to hold a material interest

The Bill amends section 16 of the PBO Act to further emphasise that a close adult relative of a practising pharmacist may only hold a material interest in a pharmacy business if the practising pharmacist, to whom they are related, holds an interest in the same pharmacy business.

Information sharing

The Bill amends section 206 of the PBO Act to ensure that the Council can share pharmacy business ownership information with the chief executive of Queensland Health.

The Bill also inserts a new section 73A of the PBO Act. This section provides that the Council may enter into an information-sharing arrangement with the chief executive of Queensland Health for the purposes of sharing information held by the Council or Queensland Health that may be relevant to the Council making an assessment under section 72 as to whether an applicant for a licence is a fit and proper person.

Finally, the Bill inserts a new transitional provision, section 229A, which provides that the chief executive must, upon commencement, give the Council a notice of existing pharmacy business information. The notice must contain the name and contact details of each existing pharmacy business, the name and contact details of each person who owned an existing pharmacy business and, for an existing pharmacy business that was owned by a corporation, the names of the directors and shareholders of the corporation. These arrangements form part of the transfer of responsibility to the Council.

Consideration of beneficiaries as part of licence application

The Bill amends section 25 of the PBO Act to require the name of each beneficiary of a trust to be provided as part of an application for a pharmacy business licence. This ensures the Council can consider if the beneficiaries are permitted to hold a material interest under the PBO Act.

Applications to add a new licence holder

The Bill amends section 40 of the PBO Act to clarify that a criterion the Council must consider when considering an application under section 38 is whether any other person who would hold a material interest in the licensed pharmacy business if the application is granted is entitled to do so. This reflects the original intent of section 40 and ensures the provision aligns with the premise of the PBO Act.

Transitional arrangements relating to the Pharmacy Business Ownership Act 2001

The Bill amends section 221 to clarify that decisions under repealed sections 139C, 139D and 139E or 139F (when made under section 221 after commencement), must be made by the Council, not the chief executive of Queensland Health. This reflects the transfer of responsibility for pharmacy ownership regulation from Queensland Health to the Council.

Similarly, the Bill amends section 222 to clarify that from commencement, the Council, rather than the chief executive, will have responsibility for decision-making for approvals under repealed section 139C of the 2001 Act, made under section 222.

Transitional arrangements for the membership of the Council

To ensure the Council can be properly constituted in the period following commencement of licensing, the Bill inserts a new transitional provision in part 14 of the PBO Act.

Section 150(4) of the PBO Act provides that the Council must include at least one member who owns a licensed pharmacy business (as referred to in section 150(3)(a)(i)) and at least one member who is employed as a pharmacist at a licensed pharmacy business (as referred to in section 150(3)(a)(iii)). Under section 150(3)(a)(ii), a person may also be recommended for appointment to the Council if they are a director of a corporation that owns a licensed pharmacy business.

New section 229B of the PBO Act clarifies that a reference in section 150(3)(a) to a licensed pharmacy business is taken to include a reference to an existing pharmacy business that continues to be owned and carried on by a person under sections 215 or 216. Sections 215 and 216 allow an eligible person, or a deemed eligible person, who owned an existing pharmacy business prior to commencement of the PBO Act to continue to own and carry on the business without a licence for a period of time after commencement. The person must apply for a licence within one year of commencement (or two years for a deemed eligible person) and may continue to own and carry on the business until the licence application is decided or withdrawn.

The effect of new section 229B of the PBO Act is that the Council will be properly constituted on commencement if it includes at least one member who is the owner of an existing pharmacy business that continues to operate under section 215 of the PBO Act, and at least one member who is employed as a pharmacist at an existing pharmacy business that continues to operate under section 215 and 216 of the PBO Act. It will also ensure that a person may be recommended for appointment as a member of the Council under section 150(3)(a)(ii) if they are a director of a corporation that owns an existing pharmacy business that continues to operate under sections 215 or 216.

Amendments to the *Public Health Act 2005* and the *Public Health Regulation 2018*

Transition to the National Occupational Respiratory Disease Registry

The Bill amends the Public Health Act and the Public Health Regulation to transition the notification of all diagnoses of *notifiable dust lung diseases* from the Queensland Register to the National Registry.

These amendments will require prescribed medical practitioners to notify diagnoses of these conditions, now called *notifiable occupational respiratory diseases*, to the Commonwealth chief medical officer for inclusion in the National Registry. Under the Public Health Regulation, the prescribed *notifiable occupational respiratory diseases* will be pneumoconiosis, cancer and chronic obstructive pulmonary disease, where these conditions have been caused or exacerbated by occupational exposure to inorganic dust.

Silicosis is no longer included in the meaning of *notifiable occupational respiratory disease* because the NORDR Act already requires it to be notified to the National Registry as a *prescribed occupational respiratory disease*. The conditions that will be prescribed in the Public Health Regulation as *notifiable occupational respiratory diseases* may also be notified to the National Registry under the provisions of the NORDR Act that allow notification of a

non-prescribed occupational respiratory disease. The amendments to the Public Health Act impose a requirement under Queensland law for prescribed medical practitioners to notify those conditions to the National Registry.

Prescribed medical practitioners must already notify the National Registry of diagnoses of silicosis. As such, it is expected that most practitioners would already have the necessary access to the National Registry to also notify of other conditions. The Public Health Regulation prescribes the period within which a prescribed medical practitioner must notify the National Registry. This is the same as the existing notification period for notifying the Queensland Register, being within 30 days from diagnosis.

The Bill also decommissions the Queensland Register which will become redundant when the amendments take effect. However, the Bill requires the information from this *historical dust lung disease register* to be maintained. The Bill includes continued confidentiality protections for this information.

Improving detection and monitoring of mosquitoes for Japanese Encephalitis Virus

To ensure appropriate management of risks associated with JEV, the Bill amends the Public Health Act to clarify that the power to take equipment and materials into or onto a place includes the power to leave equipment and materials for a reasonable period, including to collect a sufficient sample size.

Amendments to the *Queensland Mental Health Commission Act 2013*

The Bill amends the QMHC Act to clarify that a vacancy in the office of the Commissioner arises when a Commissioner's term of office ends. This clarifies that the Minister's power to appoint an Acting Commissioner under section 23 of the QMHC Act arises at the end of the Commissioner's term where the Commissioner has not been reappointed. This amendment is specifically designed to address an ambiguity in sections 21 and 23 of the QMHC Act to ensure the circumstances for ministerial appointment are clear on the face of the QMHC Act.

In order to ensure that Acting Commissioner appointments are only in place for a limited period, the Bill allows the Minister to appoint an Acting Commissioner for a period of six months, with the option of a further six-month extension.

Amendments to the *Radiation Safety Act 1999*

The Bill amends the Radiation Safety Act to clarify that any person can apply for and hold an approval to dispose. This will help to ensure that radioactive material is disposed of safely, regardless of who finds the material and reports it to Queensland Health. The approval to dispose includes conditions for safe disposal procedures which the person must comply with, ensuring radioactive material is properly disposed of and the risks of harm to the public and environment are appropriately managed.

Alternative ways of achieving policy objectives

Amendments to the *Pharmacy Business Ownership Act 2024*

There are no alternatives to amending the PBO Act to achieve these improvements to the licensing framework before it commences. The objective of establishing a licensing framework under the PBO Act and repealing the 2001 Act is to ensure the requirements relating to who may own or hold an interest in a pharmacy business, and how many pharmacy businesses a person may own or hold an interest in, can be properly monitored and enforced. These amendments ensure both the transition to the licensing framework and its operation on commencement are effective and support the clear and fair operation of the licensing scheme.

Amendments to the *Public Health Act 2005* and the *Public Health Regulation 2018*

Transition to the National Occupational Respiratory Disease Registry

The option of continued operation of the Queensland Register was considered. However, the National Registry meets the policy intention of the Queensland Register by ensuring all relevant diagnoses are still required to be notified. Over time, it is expected that the Commonwealth will make further Rules under the NORDR Act expanding the list of prescribed occupational respiratory diseases that must be notified to the National Registry. This means that continued operation of the Queensland Register will become redundant. After the Queensland Register is decommissioned, Queensland Health will still have access to information about incidences of notifiable dust lung diseases in Queensland by accessing that information directly from the National Registry. For these reasons, the alternative option of continuing operation of the Queensland Register is not recommended.

Improving detection and monitoring of mosquitoes for Japanese Encephalitis Virus

Given that the existing power to take equipment and materials into and onto a place to collect a sample is often consented to by an owner or occupier, authorised persons could continue to rely on owner or occupier consent to also leave the equipment and materials. However, given the serious public health risks presented by JEV, it is considered necessary to include an express power in the Public Health Act. This will clarify that authorised persons can leave equipment and materials behind and return to collect them once a sufficient sample of pests has been captured. This also addresses situations where consent may not be given. Leaving the Public Health Act unchanged would fail to resolve the current uncertainty within the relevant sections as to whether or not there is a power that permits leaving equipment and materials.

Amendments to the *Queensland Mental Health Commission Act 2013*

Alternative options for achieving the introduction of interim arrangements following the end of a Commissioner's term have been considered. These include relying on the incidental powers of the Governor in Council to appoint an Acting Commissioner where a vacancy arises. However, clarifying that the Minister can appoint a person in the role of Acting Commissioner when the Commissioner's term ends will ensure the ambiguity is removed and the appointment occurs in a responsive and timely manner.

Amending the QMHC Act to create an office of the Deputy Commissioner was also considered. This would have involved amending the QMHC Act to accommodate a secondary office and new functions for the person appointed, and to legislate that one of the functions of a Deputy Commissioner is to act as the Commissioner during any period the office of the Commissioner is vacant. This would have had significant resourcing and financial implications for the Commission's budget and potentially duplicate functions between the two roles.

Neither option would satisfactorily address the ambiguity.

Amendments to the *Radiation Safety Act 1999*

The amendment to the Radiation Safety Act is to correct an error. In practice, the current drafting of section 71 does not impede consideration of applications for approvals to dispose from people other than licensees because section 49(1)(c) clearly states that any person can apply for an approval to dispose.

However, failing to amend the Radiation Safety Act would perpetuate the existing confusion from stakeholders about whether members of the public should be seeking approvals to dispose. Approvals to dispose ensure radioactive material is properly disposed of and that risks to the public and environment from radiation exposure are appropriately managed. It is imperative that the Radiation Safety Act reflects the policy intent that any person can apply for and hold an approval to dispose.

Estimated cost for government implementation

The costs associated with the amendments included in the Bill will be managed within existing resources.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles in the *Legislative Standards Act 1992.* However, several clauses may impact on particular principles. The potential departures from fundamental legislative principles are discussed below and are considered justified.

Amendments to the *Pharmacy Business Ownership Act 2024*

Whether the proposed legislation has sufficient regard to the rights and liberties of individuals (Legislative Standards Act, s 4(3))

Does the legislation make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review?

Section 4(3)(b) of the Legislative Standards Act states that whether legislation has sufficient regard to rights and liberties of individuals depends on whether the legislation is consistent with the principles of natural justice. The three key principles of natural justice are that a person should have a right to be heard, a decision-maker must be unbiased and procedural fairness should be followed.

Changes to timeframes for requests for information / requests for inspection

The amendments in the Bill remove the reference to a 30-day period in which the Council can issue a notice of request for further information from applicants and licensees across a range of application types under the PBO Act. Similarly, the Bill removes the 30-day period in which the Council can issue a notice to request that premises be made available for inspection following an application.

The removal of the timeframe in which an applicant or licensee may expect a request for further information or inspection of premises may be seen to limit the certainty with which applications are managed by the Council and, therefore, the procedural fairness afforded to applicants and licensees. The removal of defined timeframes may also mean that applications remain undecided for an unknown period whilst further additional information is sought, including where multiple requests are made. While this may have an impact on the commercial interests of applicants, it is intended that:

- the Council would only make requests for information necessary for the Council to make a decision;
- multiple requests would only be required if, for example, all requested information is not provided in the first instance or the information provided in response to the first request gives rise to further matters requiring inquiry; and
- any requests would be made as soon as possible, consistent with the requirement in the Acts Interpretation Act where timeframes are not set out in legislation.

This change ensures the relevant application is supported by the best available information and enables the Council to make decisions on up-to-date information or information that may have been inadvertently left out of an application. It also ensures that the Council is providing applicants and licensees with further opportunities to provide supporting information for their applications. This promotes natural justice by affording greater procedural fairness as part of application decisions.

For these reasons, any potential breach of the fundamental legislative principles relating to natural justice is considered justified and outweighed by the need to ensure the Council has all available information to make an informed decision on applications.

Does the legislation in all other respects have sufficient regard to the rights and liberties of individuals?

The list of examples in the Legislative Standards Act is not exhaustive of the issues relevant to deciding whether legislation has sufficient regard to the rights and liberties of individuals. An expansive approach is taken in identifying rights and liberties.

Does the legislation infringe on the right to privacy?

The right to privacy, the disclosure of private or confidential information, and privacy and confidentiality issues have generally been identified as relevant to consideration of whether legislation has sufficient regard to individuals' rights and liberties.

The former Scrutiny of Legislation Committee considered comprehensive provisions under public health law that required disclosure of private health matters by a wide range of professional and other persons. The ultimate question was whether an acceptable balance was struck between the obvious need to adequately protect and promote the health of the public on the one hand and the rights and liberties of the individual on the other.

Information sharing

The Bill contains provisions that potentially impact on the privacy of current and prospective owners of pharmacy businesses and the directors and shareholders of corporate owners.

The Bill amends section 206 of the PBO Act to allow the Council to share information with Queensland Health. Such information may be required, for example, to assist Queensland Health to determine whether a person owns a licensed pharmacy business and is therefore eligible for Council membership upon recommendation of the Minister, or to determine whether a pharmacy business is licensed to support functions under other legislation.

Queensland Health engages with pharmacy businesses in a range of contexts, including under the Public Health Act and the Medicines and Poisons Act. It is often necessary for Queensland Health to have accurate contact information about all pharmacy businesses in a particular region to support functions under these Acts.

The intent of this information sharing is to support the effective operation of legislation, including the PBO Act and the Medicines and Poisons Act, and ensure Queensland Health can deliver on its legislative obligations in the interests of public health.

Any impact on privacy is mitigated by the express limitation on the scope of the information that may be shared—that is, the Council must be satisfied the disclosure is reasonably necessary for Queensland Health to exercise its functions. Further, the Council must be satisfied the confidential information will be collected, stored and used by Queensland Health in a way that protects the privacy of the persons to whom the information relates from unjustified intrusion.

The Bill creates a new section 73A which allows the Council to enter into an information-sharing arrangement with Queensland Health for the purposes of sharing or exchanging information held by the Council or the chief executive, or to which the Council or the chief executive has access. Under an information-sharing arrangement, the Council and the chief executive are, despite another Act or law, authorised to ask for and receive information held by the other party to the arrangement, or to which the other party has access, and disclose information to the other party. This amendment may be regarded as adversely affecting an individual's privacy in relation to their personal information.

However, the intent of this amendment is to ensure that the Council can obtain the information required to make a fulsome assessment of whether a person is fit and proper to hold a licence under the PBO Act and therefore own a pharmacy business in Queensland.

The departure from the right to privacy is reasonable given that pharmacy owners are responsible for handling and overseeing the supply of potentially dangerous medicines. If an owner lacks integrity, competence or accountability, it could lead to serious risks to public health, such as misuse, theft or diversion.

Section 73A is limited in scope because the information that may be shared is only that which is relevant to the Council's decision on whether a person is fit and proper under section 72 and other information that is reasonably necessary to facilitate the sharing of that information with the Council. In determining whether a person is a fit and proper person to hold a licence, the Council must have regard to whether the person has contravened the Medicines and Poisons Act, regardless of whether the person has been convicted of an offence. It is likely only Queensland Health will have access to this information. Under new section 73A(4), the Council must ensure any information received under an information-sharing arrangement is not used for any purpose other than the making of a decision under section 72 about the person to whom the information relates.

Finally, new section 229A requires the chief executive, on commencement, to give the Council notice of existing pharmacy business ownership information. This is to support the transfer of responsibility for pharmacy business ownership regulation from Queensland Health to the Council.

The provision of a notice of existing pharmacy businesses to the Council raises privacy issues, including the risk that personal information of past pharmacy business owners may be provided to the Council without their consent. However, given the large number of existing pharmacy businesses in Queensland (some 1,300 businesses), it is considered impractical for the Council to request records on a case-by-case basis, rather than to receive notice of all businesses. The Council will need to have access to this information to ensure it is aware of any pharmacy businesses that are required to have a licence under the PBO Act from commencement where they do not otherwise apply for a licence. Any departure from this fundamental legislative principle is mitigated by the limited scope of information to be provided to the Council.

Any limitations on privacy arising from the above information-sharing amendments are further alleviated by the application of section 205 of the PBO Act which provides that it is an offence for a person to unlawfully disclose confidential information obtained under the PBO Act, with a maximum penalty of 50 penalty units.

For these reasons, any breach of the fundamental legislative principles relating to an individual's privacy are considered appropriately mitigated and necessary to ensure the Council and Queensland Health can perform their legislative functions.

Register of pharmacy businesses

Section 207 of the PBO Act currently requires the Council to keep a register of pharmacy businesses. The register must contain the business name for the business and the address of the licensed premises for the business.

The Bill amends the PBO Act to instead require the Council to keep a register of pharmacy business licences, including the names of each of the licence holders and details of the status of the licence associated with the business. The register must include the details of any current suspension of a licence, and details of licences that have been cancelled in the last two years. The Bill also requires that the register must be published on the Council's website.

These amendments may also affect an individual's privacy in relation to their personal information. However, any impact on privacy is limited to owners who are individuals as corporations do not have a right to privacy.

As pharmacists, licence holders' names are already publicly available in the register of health practitioners maintained by the Australian Health Practitioner Regulation Agency, along with the suburb of their principal place of practice.

These amendments will promote transparency about compliance with the ownership requirements of the PBO Act relating to ownership and the licence status of a pharmacy business. The register will allow members of the public, persons working at the pharmacy business, and other stakeholders to verify ownership details and ensure the business is licensed under the PBO Act. This supports the main purposes of the PBO Act which is to promote the professional, safe and competent provision of pharmacy services by pharmacy businesses, and to maintain public confidence in the pharmacy profession.

The information published does not extend beyond what is required to promote transparency (for example, the required information does not include dates of birth, home addresses or details of material interest holders).

Having regard to the importance of the amendments in promoting transparency, the limitation on privacy rights is justified.

Consideration of beneficiaries as part of licence applications

Section 28 of the PBO Act lists the criteria that must be satisfied for the Council to grant a pharmacy business licence. This includes that each person who the Council is aware holds a material interest in the pharmacy business:

- is a person who is permitted, under section 16, to hold a material interest in the pharmacy business as a result of being a practising pharmacist or a close relative of a pharmacist in the same business; and
- does not already hold an interest in the maximum number of pharmacy businesses permitted under section 17 of the PBO Act (being 5 or 6 businesses in certain circumstances).

Section 25 of the PBO Act sets out the application requirements for a pharmacy business licence. To reflect the change made to clarify who is permitted to hold a material interest under the PBO Act, the Bill amends section 25 to provide that where a person holds shares in the applicant as a trustee of a trust the name of each beneficiary of the trust must be provided in an application for a pharmacy business licence.

These amendments may affect an individual beneficiary's privacy in relation to their personal information where an applicant provides the beneficiary's name in an application for a pharmacy business licence.

A range of safeguards are provided in the PBO Act to mitigate the limitation on this right to privacy. For example, the section 205 offence for the disclosure of confidential information prohibits disclosure of information unless it is required or permitted by the PBO Act. The use of this information is also sufficiently defined given that the name of beneficiaries will only be used for the application process, to consider the person's material interests and position in relation to the pharmacy business to assess compliance with the material interest restrictions in the PBO Act.

The fundamental intent of the PBO Act is to restrict who can own and have an interest in a pharmacy business. As such, this amendment plays an integral role in the identification of material interest holders and achieving the intent of the PBO Act.

Having regard to the purpose of the amendment and ensuring material interest requirements are complied with, the amendment is justified.

Does the legislation impose presumed responsibility on another?

Legislation should not ordinarily make a person responsible for actions or omissions over which the person may have no control. Unilateral imposition of responsibility on a person for a matter is considered an interference with the rights and liberties of a person.

Under section 16 of the PBO Act, it is an offence for a person to hold a material interest in a pharmacy business unless the person is a practising pharmacist or a close adult relative of a practising pharmacist who holds an interest in the business.

The amendments to section 13 of the PBO Act clarify that a material interest includes an interest in the business held by a beneficiary of a trust of which an owner, or a shareholder of an owner, of the business is trustee.

The operation of section 13 could expose a beneficiary to the offence under section 16 if they are not a practising pharmacist or a close adult relative of the pharmacist. This is a potential inconsistency with the fundamental legislative principle concerning the imposition of presumed responsibility by making beneficiaries liable for acts and omissions of a trustee of a discretionary trust over which a beneficiary may not have any control. For example, beneficiaries can be appointed without their knowledge or have little influence over the decisions of the owner of a business that is the trustee of the trust.

However, the imposition of presumed responsibility on beneficiaries of trusts can be justified in this instance because it achieves the policy intent that preserves the long-standing requirement for those involved in a pharmacy business to have professional oversight of the business or a special relationship to the business, for the public benefit and safety of consumers. The Bill serves to clarify the existing policy intent of sections 13 and 16 of the PBO Act.

Any potential departure from this fundamental legislative principle is also mitigated by the two-year transitional provision in section 218 of the PBO Act that protects existing beneficiaries from the section 16 offence and provides trustees and beneficiaries with an opportunity to take action to resolve the potential liability before the offence applies.

Whether the proposed legislation has sufficient regard to the institution of Parliament (Legislative Standards Act, s 4(4))

Does the legislation have sufficient regard to the institution of Parliament by only authorising the amendment of an Act only by another Act?

The Legislative Standards Act states that whether legislation has sufficient regard to the institution of Parliament depends on whether primary legislation is only amended by virtue of another Act.

Definition of compound

The Bill amends the definition of *compound* in the dictionary to the PBO Act to cross-reference the definition provided for in the Medicines and Poisons (Medicines) Regulation. This raises an inconsistency with the fundamental legislative principle that only an Act can amend another Act.

Any amendments to the Medicines and Poisons (Medicines) Regulation to change the definition will have the effect of amending the PBO Act. By referencing the Medicines and Poisons (Medicines) Regulation from time to time instead of another Act, a reversal in the authority of legislation is occurring and the subordinate legislation is influencing the content of an Act. Given that subordinate legislation operates for a finite period under section 54 of the *Statutory Instruments Act 1992*, it is also unusual to reference a regulation as part of a fundamental definition to an Act.

However, the inconsistency is justified in this exceptional case, as having a different definition in the PBO Act will raise a contrary intention to the meaning of the term in the Medicines and Poisons (Medicines) Regulation and cause confusion between the different definitions and the potential for different requirements between the two legislative schemes. Both the Medicines and Poisons legislative framework and the PBO Act operate in the pharmacy context and, as such, it is important that the legislation complement each other.

It is not possible to avoid this inconsistency with the principles by duplicating the definition from the Medicines and Poisons (Medicines) Regulation as *compound* is defined in relation to a number of other terms defined in the Medicines and Poisons (Medicines) Regulation. This would increase the risk of further deviations between the two frameworks.

Given the compounding concept is fundamental to pharmacies and the regulation of medicines, it is considered unlikely the definition would be removed from the Medicines and Poisons (Medicines) Regulation. As such, it is considered appropriate to include it by reference, and to rely on section 14H of the Acts Interpretation Act to infer that the definition applies as amended from time to time.

Amendments to the *Public Health Act 2005* and the *Public Health Regulation 2018*

Whether the proposed legislation has sufficient regard to the rights and liberties of individuals (Legislative Standards Act, s 4(3))

As noted above, the right to privacy, the disclosure of private or confidential information, and privacy and confidentiality issues have generally been identified by the former Scrutiny of

Legislation Committee as relevant to consideration of whether legislation has sufficient regard to individuals' rights and liberties.

Transition to the National Occupational Respiratory Disease Registry

The Bill engages the right to privacy by amending the Public Health Act to require prescribed medical practitioners to notify the Commonwealth chief medical officer of a person's diagnosis with a *notifiable occupational respiratory disease*. The diagnosis will then be recorded in the National Registry. The amendment will replace a similar existing requirement to notify the diagnosis to the chief executive of Queensland Health for inclusion in the Queensland Register. The personal information in question is the same under both the existing and proposed notification requirements.

Recording and analysing *notifiable occupational respiratory disease* diagnoses in Australia is prudent and in the public interest. Requiring relevant patient information to be provided to the Commonwealth chief medical officer, rather than the chief executive, will improve the scope and quality of national dust lung disease data and assist in preventing further worker exposure to respiratory disease-causing agents.

Both the Public Health Act and the NORDR Act make misuse of confidential patient information an offence. They also both generally prohibit disclosure of the information. However, they authorise limited sharing of information, such as arrangements across Commonwealth and State agencies.

As an extra protection, the NORDR Act limits access to identifiable data. States and Territories may only access identifiable data for diagnosed patients residing in their jurisdiction. In effect, this mirrors the existing situation in Queensland. However, in keeping with the concept of a national database, State and Territory authorities can access de-identified information about diagnoses of patients from other jurisdictions. Restricting access by jurisdiction reflects a commitment to preserving privacy as much as possible.

As the proposed amendments will mean that all future diagnoses of *notifiable occupational respiratory diseases* will be notified to the Commonwealth, the Queensland Register will be decommissioned. However, the Bill maintains the existing duties of confidentiality in relation to information held on the Queensland Register, including any information previously disclosed for authorised purposes.

The Bill also requires the chief executive to keep the information already recorded in the Queensland Register in a form the chief executive considers appropriate, including, for example, an electronic form. As the Queensland Register is kept electronically, it is expected that this will continue to be the form in which the information in the Register is retained after the Register is decommissioned. However, as it will no longer be necessary to update the Queensland Register, the secure electronic program or platform used for the Register may change.

The National Registry commenced in May 2024 and only currently requires mandatory notification of silicosis. This means that significant historical data about diagnoses of *notifiable occupational respiratory disease* in Queensland is held on the Queensland Register. To ensure Queensland Health can undertake or facilitate public health analysis and investigations in relation to *notifiable occupational respiratory disease*, the information in the Queensland

Register must remain accessible for legitimate research purposes. Accordingly, it is critical to retain the information held on the Queensland Register. As noted, the Bill maintains the existing duties of confidentiality in relation to information held on the Queensland Register.

Under the *Right to Information Act 2009*, a person whose diagnosis is recorded on the Queensland Register may apply for access to that information. The proposed amendments do not change any existing right a person may have to access personal information about themselves.

However, once the Queensland Register is decommissioned, existing entries will not be updated to note any revised or additional diagnoses about a person. Although this information will be available to Queensland Health through the National Registry portal, linking this to entries on the Queensland Register would continue the duplication that decommissioning the Register was meant to stop. As such, the information held on the Queensland Register will remain static as at the date of decommission. This is consistent with the overall intention for the National Registry to become the single source of truth for information on diagnoses of notifiable occupational respiratory disease.

The proposed amendments do not impose any further limitations on the right to privacy than apply under the current notification requirements in the Public Health Act. The public health benefits of recording and analysing the incidence of *notifiable occupational respiratory disease* diagnoses across Australia outweighs any limitation on privacy rights.

Leaving equipment for the purposes of sampling

Under sections 43(2)(c) and 399(3)(e) of the Public Health Act, an authorised person can take equipment and materials into or onto a place for the purposes of exercising certain powers, including the taking of samples for analysis or testing. The Bill amends the Public Health Act to clarify that equipment and materials can be left behind at the place for a reasonable period to ensure a sufficient sample is collected. This will ensure Queensland Health has sufficient information about the prevalence of designated pests (such as mosquitoes carrying JEV) in an area to help avert and prevent public health risks from going undetected.

This amendment may infringe on a person's right to property and right to privacy as such places may include private property. However, this infringement is considered justified given the public health interests of detecting the presence of certain mosquito-borne diseases by capturing a sufficient sample over a longer period.

The Public Health Act includes safeguards to minimise the impact of authorised persons' powers on individual rights and liberties. Authorised persons can only enter and use equipment where they are authorised to enter. For example, as part of a Prevention and Control Program, the program must first be approved by the chief executive of Queensland Health and a public notice issued. Entry can only occur if it is during a reasonable time of day or night and an authorised person may not enter a dwelling without the occupier's consent.

The Bill has sufficient regard to the rights and liberties of individuals because it achieves an appropriate balance between the need to protect the health of the public and the need to safeguard the rights of individuals.

Does the legislation create offences that are appropriate and reasonable?

For legislation to have sufficient regard to rights and liberties of individuals, new offences should be appropriate and reasonable, and the penalty should be proportionate to the wrong occasioned by the breach.

Transition to the National Occupational Respiratory Disease Registry

As discussed above, the Bill proposes amendments to transition the notification of all diagnoses of *notifiable occupational respiratory diseases* from the Queensland Register to the National Registry.

Under section 279AF(2) of the Public Health Act, when a prescribed medical practitioner diagnoses a person as having a *notifiable dust lung disease*, the practitioner must give the chief executive a notification about the disease unless the practitioner has a reasonable excuse. The section provides a maximum penalty of 20 penalty units for contravention of this notification requirement.

The Bill proposes to replace this existing notification requirement with a similar requirement to instead notify the diagnosis to the Commonwealth chief medical officer. For a contravention of this new notification requirement, the same maximum penalty of 20 penalty units will apply. Also, the same defence of a reasonable excuse will apply.

The proposed amendments will expand national data on *notifiable occupational respiratory diseases*. In turn, this will assist in preventing further worker exposure to respiratory disease-causing agents.

Given the importance of maintaining the accuracy and completeness of the National Registry, the offence provision is necessary to ensure there is a sufficient deterrent against non-compliance with the new notification requirement. However, as with the existing notification requirement, it is expected that Queensland Health would first engage with a practitioner to rectify the omission and ensure the notification is made, rather than immediately take enforcement action against the practitioner. The offence provision and its associated penalty and defence provisions are consistent with the existing provisions in the Public Health Act.

For these reasons, it is considered the new offence in the Bill is appropriate and reasonable.

The Bill also requires the chief executive to keep the information that was recorded in the Queensland Register that is being decommissioned by this Bill. To protect the confidentiality of this information, the Bill will make it an offence for a person to unlawfully disclose confidential information from the *historical dust lung disease register*. A maximum penalty of 50 penalty units will apply to unauthorised disclosures. This is the same penalty that applies under the existing provisions in the Public Health Act for unauthorised disclosures of information from the Queensland Register.

For certain offences under the Public Health Act that are committed prior to commencement, the Bill allows persons to be charged, convicted and punished despite those offences being repealed by the Bill. Those offences are failure to notify the chief executive of a notifiable dust lung disease (section 279AF), failure to provide further information as required

(section 279AG) and failure to maintain confidentiality (section 279AL). It is expected that Queensland Health would first engage with a practitioner or other person to rectify the breach, rather than immediately taking enforcement action. However, the offence provisions are necessary to ensure there is a sufficient deterrent against non-compliance. Also, as these will be historical offences after commencement, the affected cohort of practitioners and other persons will greatly diminish over time.

Given the importance of ensuring that information held on the Queensland Register is complete and remains confidential, these offences and associated penalties are appropriate and reasonable.

Whether the proposed legislation has sufficient regard to the institution of Parliament (Legislative Standards Act, s 4(4))

Does the legislation only allow the delegation of legislative power in appropriate cases and to appropriate persons?

The Legislative Standards Act states that whether legislation has sufficient regard to the institution of Parliament depends on whether it allows the delegation of legislative power only in appropriate cases and to appropriate persons.

Transition to the National Occupational Respiratory Disease Registry

By reference, the Bill incorporates requirements of the NORDR Act into the Public Health Act. For example, diagnoses of notifiable occupational respiratory diseases must be notified to the National Registry in the approved form under the NORDR Act and contain the minimum notification information as determined under the NORDR Act.

This may be considered a delegation of legislative power to the Commonwealth. It engages fundamental legislative principles because the delegation may potentially allow legal obligations under Queensland law to change without the involvement or scrutiny of the Queensland Parliament.

The delegation is intended to ensure that where a prescribed medical practitioner in Queensland notifies the diagnosis of a *non-prescribed occupational respiratory disease* to the National Registry, the notification is consistent with the notification requirements under the NORDR Act. Also, given the National Registry involves cooperative information-sharing arrangements with States and Territories, it is expected that any change to the scope or operation of the National Registry, including notification requirements, would first be canvassed with affected jurisdictions. This means that despite the potential delegation of legislative power, Queensland will continue to have a significant deciding role in any future changes to the relevant NORDR Act requirements.

For these reasons, the proposed amendment to the Public Health Act is an appropriate and justified delegation of legislative power and the delegation is to an appropriate person, being the Commonwealth.

Whether the proposed legislation has sufficient regard to the institution of Parliament (Legislative Standards Act, s 4(5))

Does the legislation contain only matters appropriate to subordinate legislation?

The Legislative Standards Act states that whether legislation has sufficient regard to the institution of Parliament depends on whether it contains only matters appropriate to subordinate legislation.

Transition to the National Occupational Respiratory Disease Registry

The Bill proposes amendments to transition the notification of all diagnoses of *notifiable occupational respiratory diseases* from the Queensland Register to the National Registry.

The NORDR Act allows for concurrent operation of State and Territory laws in relation to the use, reporting or other disclosure of information concerning occupational respiratory diseases. To the extent that State or Territory laws are capable of operating concurrently with the NORDR Act, those laws are not excluded or limited.

The NORDR Act only requires notification of diagnoses of a *prescribed occupational respiratory disease*. Under the *National Occupational Respiratory Disease Registry Rules 2024* (Cth) (NORDR Rules), the only *prescribed occupational respiratory disease* is silicosis. However, the NORDR Act anticipates also receiving notifications of diagnoses of a *non-prescribed occupational respiratory disease*, where the notification is for the purpose of complying with a requirement under a law of a State or Territory.

Under the existing Queensland Register provisions in the Public Health Act, the definition of *notifiable dust lung disease* refers to the respiratory diseases prescribed by regulation.

The Bill amends the Public Health Regulation to replace the existing definition of *notifiable dust lung disease* with a new definition of *notifiable occupational respiratory disease*. Other than no longer including silicosis, the new definition prescribes the same conditions. In effect, this means that a *non-prescribed occupational respiratory disease* under the NORDR Act includes the conditions that are prescribed in the new definition of *notifiable occupational respiratory disease* in the Public Health Regulation. Should one of those conditions be added to the list of *prescribed occupational respiratory diseases* in the NORDR Rules, the Public Health Regulation may be amended to remove that condition from the list of *notifiable occupational respiratory diseases*. Silicosis is no longer included in the meaning of *notifiable occupational respiratory disease* because the NORDR Act already requires it to be notified to the National Registry as a *prescribed occupational respiratory disease*.

The reason for continuing to prescribe the conditions in the Public Health Regulation is to allow them to be revised or updated in an easier and more timely manner than if they were in the Public Health Act itself. As such, the proposed amendment to the Public Health Regulation is appropriate and justified for inclusion in subordinate legislation.

Consultation

In March 2025, Queensland Health published a consultation paper relating to the proposals in the Bill and relevant stakeholders for each amendment were notified. Stakeholders consulted

included pharmacy owners, pharmacy peak bodies, local councils, professional bodies, legal organisations, Queensland Register notifiers and the Radiation Advisory Council. 26 stakeholders responded to the consultation paper.

All stakeholder feedback was carefully considered. Stakeholders were generally supportive of the proposals in the Bill.

A further targeted consultation process was undertaken with key pharmacy stakeholders on a consultation draft of the Bill. No changes were made to the Bill following this.

The main areas of feedback are outlined below.

Amendments to the *Pharmacy Business Ownership Act 2024*

Overall, stakeholders were generally supportive of the proposed amendments to the PBO Act. Key pharmacy peak bodies, The Pharmacy Guild of Australia - Queensland Branch (Guild) and the Pharmaceutical Society of Australia (PSA), supported the amendments.

The Guild considered the PBO Act should provide that the Council must publish the register of pharmacy businesses on its website, rather than giving the Council discretion to publish. The Bill has been amended to adopt this feedback.

The Guild supported removing the provisions requiring requests for further information or inspections to be made within 30 days of an application being made but considered the PBO Act should provide a reasonable maximum timeframe in which applications must be decided by the Council. Queensland Health notes that the time taken to decide applications under the Act will vary significantly depending on, for example, the complexity of the ownership structure and underlying contractual agreements. For this reason, it is not intended to mandate a timeframe for the Council to decide applications under the PBO Act. It is expected the Council will develop internal processing standards, establish performance indicators and provide public guidance to minimise the impact of any delays to pharmacy business owners.

The Guild also raised concerns that the proposed amendments to the definition of *core pharmacy service* did not go far enough and should also encompass the cognitive, consultative and other professional services connected with dispensing and compounding. The Guild also provided feedback that the definition of *material interest* should be expanded to refer to legal and beneficial interests, and that the definition of *supermarkets* should be amended to capture online supermarkets. These concerns have been raised previously. Queensland Health considers the proposed changes would introduce a lack of clarity in the PBO Act and inappropriately expand the scope of the PBO Act.

Pharmaceutical Defence Ltd (PDL) suggested that the definition of *core pharmacy service* should include ‘supply’, rather than ‘sell’. *Supply* is defined in the Medicine and Poisons legislation to include sell, dispense and give a treatment dose. With the amendment proposed by the Bill, the PBO Act will capture businesses that sell and dispense. However, other health professionals and pharmacists in public hospitals are authorised to give a treatment dose. Referencing ‘supply’ may inadvertently capture these as pharmacy businesses. PDL also considered the definition of *core pharmacy service* should capture the provision of advice. Queensland Health considers that such an amendment may risk inadvertently capturing

businesses other than community pharmacies or pharmacists working in such businesses and, therefore, may also inappropriately expand the scope of the PBO Act.

PSA was supportive of the proposed amendments to the definition of a *core pharmacy service* to capture selling by or under the supervision of pharmacists. PSA noted that pharmacists provide pharmacy services in a range of locations outside of a community pharmacy, including in medical practices, aged care homes and Aboriginal Community Controlled Health Services, and advised that it is vital that any amendments made to the definition of *core pharmacy service* does not impact the delivery by pharmacists of these essential pharmacy services. PSA was supportive of the proposed amendments to the definition of *compound* to better align with the definition in the Medicines and Poisons (Medicines) Regulation.

The Royal Australian College of General Practitioners (RACGP) notes that the PBO Act does not limit the application of the Medicines and Poisons Act and should, therefore, have no impact on Queensland medical practitioners storing, supplying, administering or dispensing medicines directly to their patients, or their patients' access to existing unscheduled medicines from supermarkets. The RACGP would oppose any amendments that would inhibit pharmacists from working to their full scope of practice in general practices or other primary care settings or prohibit medical practitioners from storing, supplying, administering or dispensing medicines directly to their patients. Queensland Health notes that the amendments proposed by the Bill do not alter the current authorisations under the Medicines and Poisons Act.

Amendments to the *Public Health Act 2005* and *Public Health Regulation 2018*

Transition to the National Occupational Respiratory Disease Registry

The stakeholders who provided feedback on this amendment were supportive of transitioning notifications of diagnoses of notifiable dust lung diseases to the National Registry. One stakeholder suggested that nurse practitioners should have access to the National Registry. Queensland Health notes that access to the National Registry is a matter for the Commonwealth Government.

Improving detection and monitoring of mosquitoes for Japanese Encephalitis Virus

Several local councils responded to the consultation, all indicating support for the amendment to the Public Health Act to allow equipment and materials to be left to better monitor designated pests. Several noted that it would greatly assist local councils with their role in detecting and controlling public health risks associated with designated pests.

Amendments to the *Queensland Mental Health Commission Act 2013*

Stakeholders supported the proposed amendment to the QMHC Act, stating that the clarifying amendment was non-controversial and important to the continuity of the Commission's leadership.

Amendments to the *Radiation Safety Act 1999*

The small number of stakeholders who provided feedback on the proposed amendments to the Radiation Safety Act were supportive.

Consistency with legislation of other jurisdictions

In all jurisdictions, ownership of pharmacy businesses is restricted primarily to pharmacists and companies controlled by pharmacists. Some exceptions apply in relation to friendly societies and other organisations. Each jurisdiction has a legislative scheme that covers pharmacy business ownership which can include a licensing or registering scheme. The amendments to the PBO Act are largely related to improving the operation of the Queensland licensing scheme, and correcting technical issues identified during implementation, before the PBO Act commences in full.

In relation to the proposed amendments to the Public Health Act, New South Wales (NSW) is the only other Australian jurisdiction with a Dust Disease Register. In compliance with the NORDR Act, NSW physicians now must notify all silicosis diagnoses directly to the National Registry. However, under the *Public Health Act 2010* (NSW), physicians and health practitioners must still notify asbestosis and mesothelioma to NSW Health for inclusion in the Dust Disease Register.

The other amendments in the Bill are unique to Queensland legislation and are otherwise minor and technical.

Notes on provisions

Part 1 Preliminary

Short title

Clause 1 states that the short title of the Act will be the *Health Legislation Amendment Act (No. 2) 2025*.

Part 2 Amendment of Pharmacy Business Ownership Act 2024

Act amended

Clause 2 states that this part amends the *Pharmacy Business Ownership Act 2024* (PBO Act).

Amendment of s 8 (What is a *pharmacy business*)

Clause 3 amends section 8 of the PBO Act, to include a further *core pharmacy service*, which is the selling, by or under the supervision of a practising pharmacist, of medicines to members of the public other than on prescription.

Amendment of s 13 (What is a *material interest* in a pharmacy business)

Clause 4 amends section 13 of the PBO Act to clarify that a *material interest* includes an interest in the business as a beneficiary of a trust of which an owner, or a shareholder of an owner, of the business is trustee.

Amendment of s 16 (Who may hold material interest in pharmacy business)

Clause 5 amends the structure of section 16. Under this section, a person must not hold a material interest in a pharmacy business unless the person is a practising pharmacist, or the close adult relative of a practising pharmacist and the practising pharmacist holds an interest in the business. This is intended to clarify that the practising pharmacist to whom the close adult relative is related must hold an interest in the same pharmacy business as the close adult relative.

Amendment of s 20 (Licensed pharmacy business must be carried on at or from licensed premises)

Clause 6 amends section 20(2)(b)(i) of the PBO Act to confirm that a pharmacy business can be carried on mainly at the licensed premises and also partly at another place, provided the pharmacy services delivered at the other place do not involve the compounding or dispensing of a medicine, or the selling of a medicine other than on prescription.

This reflects the change to clause 8 to include the selling, by or under the supervision of a practising pharmacist, of medicines to members of the public other than on prescription, as a core pharmacy service.

Amendment of s 25 (Requirements for application)

Clause 7 amends section 25 to insert a new subparagraph (1)(b)(iiia) to require that, where a person holds shares in the applicant as a trustee of a trust, the name of each beneficiary of the trust must be provided in an application for a pharmacy business licence. This reflects the change made to section 13(1)(b) and ensures the material interest of a beneficiary can be considered when deciding whether to grant a licence.

This clause renumbers subparagraphs (1)(b)(iiia) and (1)(b)(iv) as subparagraphs (1)(b)(iv) and (1)(b)(v).

Amendment of s 26 (Requesting further information or document)

Clause 8 amends section 26 to omit current subsection (2) to remove the 30-day timeframe for the Council to provide a notice requesting further information or a document after the application is made and renumbers subsection (3) as subsection (2).

Amendment of s 27 (Requesting inspection of premises)

Clause 9 amends section 27 to omit current subsection (2). It amends subsection (5) to replace the reference to subsection (4) with a reference to subsection (3), and then renumbers subsections (3) to (5) as subsections (2) to (4).

The effect of this change is to remove the current requirement in subsection (2) for the notice to an applicant requesting inspection of a premises to be provided within 30 days after the application is made.

Amendment of s 39 (Requesting further information or document)

Clause 10 amends section 39 in similar terms to the amendment to section 26. Current subsection (2) is omitted, and subsection (3) is renumbered as subsection (2).

The effect of this change is to remove the 30-day timeframe for the Council to provide a notice requesting further information or a document after the application is made.

Replacement of s 40 (Criteria for grant)

Clause 11 omits current section 40 and inserts a replacement section 40.

New section 40 provides that the Council may grant an application under section 38 only if satisfied that the incoming party is an eligible person, a fit and proper person to own a pharmacy business and does not already hold an interest in the maximum number of pharmacy businesses permitted under section 17.

Under this section, the Council must also be satisfied that any other person who would hold a material interest in the pharmacy business because of the application being granted is permitted under section 16 to hold a material interest in the business and does not already hold an interest in the maximum number of pharmacy businesses permitted under section 17.

Amendment of s 44 (Requesting further information or document)

Clause 12 amends section 44 in similar terms to the amendments to section 26. Current subsection (2) is omitted, and subsection (3) is renumbered as subsection (2).

The effect of this change is to remove the 30-day timeframe for the Council to provide a notice requesting further information or a document after the application is made.

Amendment of s 50 (Requesting further information, document or inspection of premises)

Clause 13 amends section 50 in similar terms to section 26. Subsection (2) is omitted and the reference to subsection (4) is replaced in sections 50(5)(c) with a reference to subsection (3). Section 50(6) is amended to clarify that if the applicant has paid the fee under subsection (3), and the application is taken to be withdrawn under subsection (4), the Council must refund the fee to the applicant. Subsections (3) to (6) are renumbered as subsections (2) to (5).

Amendment of s 54 (Requesting further information or document)

Clause 14 amends section 54 in similar terms to the amendment to section 26. Current subsection (2) is omitted, and subsection (3) is renumbered as subsection (2).

The effect of this change is to remove the 30-day timeframe for the Council to provide a notice requesting further information or a document after the application is made.

Amendment of s 60 (Requesting further information or document)

Clause 15 amends section 60 in similar terms to the amendment to section 26. Current subsection (2) is omitted, and subsection (3) is renumbered as subsection (2).

The effect of this change is to remove the 30-day timeframe for the Council to provide a notice requesting further information or a document after the application is made.

Amendment of s 69 (Surrender)

Clause 16 amends section 69 to omit current subsections (1) to (3) and insert new subsections (1) to (3).

New subsection (1) provides that the holder of a pharmacy business licence may surrender the licence by notice to the Council at any time.

New subsection (2) clarifies that if the pharmacy business licence is held jointly by two or more persons, the notice must be given jointly by each of the persons, despite section 14(4).

New subsection (3) replicates the offence previously found in subsection (2) - that is, if a pharmacy business licence is held by only one person, the person must, unless the person has a reasonable excuse, surrender the licence by notice to the Council within 14 days after the person:

- stops being an eligible person; or

- disposes of the person's interest as owner of the pharmacy business to which the licence relates.

The maximum penalty for this offence is 50 penalty units.

Insertion of new s 73A

Clause 17 inserts a new section 73A, with the heading 'Exchange of information'.

Subsection (1) states that the Council may enter into an *information-sharing arrangement* with the chief executive of Queensland Health for the purposes of sharing or exchanging information held by the Council or the chief executive of Queensland Health, or to which the Council or the chief executive has access.

Subsection (2) provides that an information-sharing agreement may relate only to information, obtained by the chief executive of Queensland Health in the performance of a function under an Act, that may be relevant to the Council making a decision under section 72 about a person, or other information that is reasonably necessary to facilitate the sharing with the Council of information for this purpose.

Subsection (3) authorises the Council and the chief executive of Queensland Health to ask for and receive information held by each other, or to which one has access, and disclose this information to each other.

Subsection (4) requires the Council to ensure any information received under an information-sharing arrangement is not used for any purpose other than the making of a decision under section 72 about the person to whom the information relates.

Amendment of s 80 (Notification of temporary closure of licensed pharmacy business)

Clause 18 amends section 80. Section 80 requires the holder of a pharmacy business licence, who is proposing to temporarily stop carrying on their pharmacy business for a period of more than one week, to notify the Council of this fact.

The Bill inserts a new subsection (3), which provides that the Council may, within 14 days after receiving notice of a temporary closure, publish details of the temporary closure on the Council's website.

Amendment of s 88 (Requirements for temporary operators of pharmacy businesses)

Clause 19 inserts reference to the selling of a medicine other than on prescription to reflect the change made to the definition of *core pharmacy service*. This section applies to a person who is permitted under part 7 of the PBO Act to carry on a pharmacy business after the licence for the business stops having effect. This change ensures these temporary operators are sufficiently captured by the amended definition.

This clause also amends subsection (9) to replace reference to section (7)(b) with subsection (8)(b).

Amendment of s 128 (How property may be dealt with)

Clause 20 replaces the reference to 'chief executive' in section 128 with 'council', reflecting the transfer of responsibility from Queensland Health to the Council.

Replacement of s 145 (Council does not represent the State)

Clause 21 omits and replaces section 145 of the PBO Act. The new section 145 is titled 'Council represents the State'. This section provides that the Council represents the State and has the privileges and immunities of the State.

Amendment of s 149 (Direction by Minister)

Clause 22 amends section 149, to omit the current requirement in subsection (4) for the Council to include details in its annual report of any directions made by the Minister and actions taken by the Council as a result of those directions.

This reflects the changes to section 183.

Replacement of s 183 (Report about council's functions)

Clause 23 omits and replaces section 183. The heading of new section 183 is 'Annual report to include particular matters'.

Subsection (1) provides that section 183 applies to an annual report the Council is required to prepare and give the Minister under section 63 of the *Financial Accountability Act 2009*.

Subsection (2) clarifies that the annual report must include details of the following in relation to the relevant financial year:

- each ministerial direction given by the Minister under section 149(1);
- action taken by the Council because of the ministerial direction;
- audits conducted by the Council under section 208; and
- action taken by the Council to ensure compliance with the PBO Act by holders of pharmacy business licences.

Under subsection (3), the annual report must not include confidential information unless the information was provided to the Council by the person to whom the information relates for the purpose of publication.

Amendment of s 185 (Definitions for part)

Clause 24 amends section 185 to omit the definitions of *decision notice, QCAT information notice* and *seizure or forfeiture decision.* This clause also inserts new definitions of *forfeiture decision* and *seizure decision*.

Insertion of new s 185A

Clause 25 inserts a new section 185A. This section is titled 'Application of division' and provides that division 2 of part 10 of the PBO Act, which relates to internal review, does not apply to a decision of the Council made other than under a delegation.

Amendment of s 189 (Internal review)

Clause 26 amends section 189 to clarify that section 189(1)(c)(i), which requires the council to give an affected person for an original decision a decision notice for the decision, applies to both seizure decisions and forfeiture decisions.

Replacement of s 190 (Stay of operation of seizure or forfeiture decision)

Clause 27 omits and replaces section 190, which relates to stays of seizure and forfeiture decisions. New section 190 is titled 'Stay of operation of seizure decision or forfeiture decision.'

Subsection (1) provides that section 190 applies in relation to an original decision if the decision is a seizure decision or a forfeiture decision, and an application is made for an internal review of the decision under division 2. Section 190 also applies to an original decision that is a forfeiture decision to which division 2 does not apply, where an appeal against the decision is started under division 5.

Under subsection (2), the applicant for the internal review or appellant for the appeal may immediately apply to the court for a stay of the operation of the original decision.

Subsection (3) clarifies that where section (1)(a) applies, the court may, by order, stay the operation of the decision to secure the effectiveness of the internal review of the decision under division 2, or any later appeal against the decision under division 5. Where section (1)(b) applies, the court may also stay the operation of the original decision to secure the effectiveness of the appeal against the decision under division 5.

Subsection (4) provides that the court may stay the operation of the decision on conditions the court considers appropriate.

Subsection (5) provides that the stay operates for the period decided by the court, however under subsection (6), the period of the stay must not extend past the time when the court decides the appeal.

Amendment of s 191 (Stay of operation of other original decision)

Clause 28 amends section 191(1) to clarify that section 191 applies if an application is made for an internal review of an original decision, other than a seizure decision or a forfeiture decision.

This clause also inserts a note to section 191(1) to clarify that section 192 of the PBO Act and section 22(3) of the *Queensland Civil and Administrative Tribunal Act 2009* (QCAT Act) apply in relation to staying the operation of an original decision, other than a forfeiture decision to which division 2 does not apply.

Amendment of s 192 (Applying for external review)

Clause 29 amends section 192(1) to clarify that section 192 applies to both an affected person for an original decision to whom division 2 does not apply, and an internal review decision.

The clause also amends subsection (2) and the note to subsection (2), to remove the words 'internal review'. Subsection (2) will therefore provide that the person referred to in subsection (1) may apply to QCAT, as provided under the QCAT Act, for a review of the decision. The note will clarify that section 22(3) of the QCAT Act enables QCAT to stay the operation of the review decision, either on application by a person or on its own initiative.

This change ensures that persons who were subject to a decision of the Council as a whole may seek external review, notwithstanding that they have not first gone through an internal review process.

Amendment of s 193 (Appealing internal review decision)

Clause 30 amends the heading of section 193 to refer to 'particular decisions' rather than internal review decisions.

Subsection (1) is amended to provide that section 193 applies to a person who must be given a decision notice for an original decision to which division 2 does not apply, and an internal review decision.

Subsections (2) and (4) are amended to omit the words 'internal review'.

Subsection (7) is amended to remove the words 'seizure or forfeiture' and insert a note that cross-references section 190 in relation to the stay of the operation of an original decision that is a forfeiture decision to which division 2 does not apply.

The effect of these changes is to ensure that a person who must be given a decision notice for an original decision to which division 2 does not apply, or an internal review decision, may appeal to a court against the decision by filing a notice of appeal against the decision. The notice of appeal must state fully the grounds of the appeal, and the notice of appeal must be filed within 28 days after a decision notice is given to the person. The court may, on application and at any time, extend the time for filing the notice of appeal. The person must serve a copy of the notice of appeal, and any application to extend the time for filing the notice of appeal, on the council. The appeal does not affect the operation of the decision or prevent the decision being implemented.

Amendment of s 194 (Powers of court on appeal)

Clause 31 amends section 194 to reflect the changes made to section 193.

Under amended subsection (1), when deciding an appeal against a decision started under section 193, the court has the same powers as the Council in making the decision, is not bound by the rules of evidence and must comply with natural justice.

Under amended subsection (3), the court may confirm the decision, substitute another decision for the decision or set aside the decision and return the matter to the Council with directions the court considers appropriate.

Replacement of s 195 (Effect of court's decision on appeal)

Clause 32 amends section 195 to reflect the changes made to section 193. The heading of section 195 remains 'Effect of court's decision on appeal'.

Subsections (1) and (2) are amended to refer to appealed decisions, rather than internal review decisions, and decisions of the original decision-maker, not just the Council.

Under subsection (1), if the court substitutes another decision for the decision appealed against, the substituted decision is taken to be a decision of the original decision-maker for the decision, and the original decision-maker may give effect to the decision as if the decision were the original decision and no application for review or appeal of the original decision had been made.

Under subsection (2), if the court sets aside the decision appealed against and returns the matter to the original decision-maker for the decision with directions, any decision made by the original decision-maker in accordance with the directions may not be reviewed or appealed against under part 10 of the PBO Act.

Subsection (3) inserts a definition of *original decision-maker*, for a decision, which means the inspector who made a seizure decision or otherwise, the Council.

Amendment of s 206 (Disclosure of confidential information to entities performing relevant functions)

Clause 33 amends subsection 206(2) to insert a new paragraph (aa) before paragraph (a).

New paragraph (aa) clarifies that a person to whom part 12 of the PBO Act applies may disclose confidential information, other than criminal history information, to the chief executive of Queensland Health.

The clause then renumbers paragraphs (aa) to (f) as paragraphs (a) to (g).

Replacement of s 207 (Council must keep register of licensed pharmacy businesses)

Clause 34 omits current section 207, which requires the Council to keep a register of licensed pharmacy businesses, and replaces it with a new section 207.

The heading of new section 207 is 'Council must keep register of pharmacy business licences.'

Subsection (1) requires the Council to keep a register of pharmacy business licences.

Under subsection (2), the register must contain the following information for each pharmacy business licence:

- the relevant information for the licence, which is defined at new subsection (6) to include the name of the holder of the licence, the address of the licensed premises stated on the licence and the business name stated on the licence; and
- if the licence has been suspended under part 4, division 4 – the period of the suspension.

Subsection (3) provides that the register must contain, for each pharmacy business licence that has been cancelled under part 4, division 4, the relevant information for the licence immediately before the cancellation, and the day the cancellation took effect.

Under subsection (4), the register must be kept in the way the council considers appropriate, including, for example, in an electronic form.

Subsection (5) provides that the Council must publish the information contained in the register on the Council's website, other than information related to a suspension of a pharmacy business licence that has ended, or information about a pharmacy business licence cancelled more than two years ago.

Subsection (6) inserts two new definitions that apply to this section, *current pharmacy business licence* and *relevant information*.

Omission of s 209 (Council must publish report about compliance and audits for financial year)

Clause 35 omits current section 209. The requirement to publish information about compliance and audit activities taken by the Council during each financial year is now captured within new section 183.

Omission of s 210 (Protection from liability)

Clause 36 omits section 210 to remove the provision from the PBO Act. It is not necessary to include this provision in the PBO Act to afford officials of the Council protection from liability, as section 269 of the Public Sector Act already provides such protection.

Amendment of s 218 (Interests in existing pharmacy businesses held by beneficiaries of discretionary trusts)

Clause 37 amends section 218 to extend the transitional arrangements in that section to beneficiaries of discretionary trusts where the trustee is a shareholder of a corporate owner of a pharmacy business.

Beneficiaries of those trusts who are not practising pharmacists or close adult relatives of practising pharmacists do not commit an offence against section 16 in relation to holding an interest in the existing pharmacy business because of the trust, for the duration of the transitional period.

Amendment of s 221 (Continued limited ownership or operation of pharmacy businesses)

Clause 38 amends section 221. Section 221 will apply if, immediately before commencement, a person continued to own or operate a pharmacy business under repealed section 139C, 139D, 139E or 139F and the period for which the person could continue to own or operate the business under that repealed section had not ended.

Until that period ends, sections 15, 16 and 19 do not apply in relation to the person owning, or carrying on, the pharmacy business, and repealed sections 139I, 141, 141A and 141B continue to apply in relation to the business as if the sections had not been repealed and each reference in the sections to the chief executive were a reference to the Council.

Amendment of s 222 (Approvals for continued ownership of pharmacy businesses if registration suspended or cancelled)

Clause 39 amends section 222 to clarify that the Council, rather than the chief executive, is the decision-maker for decisions under repealed section 139C(2) of the 2001 Act.

This clause omits and replaces subsection (2) and inserts new sections (2A) and (2B).

Under new subsection (2), the chief executive is required upon commencement to notify the Council that the chief executive was considering whether to grant an approval under repealed section 139C(2) of the 2001 Act, prior to commencement. The chief executive is required to give the Council all information relevant to making the decision for the Council to assume the decision-making role.

New subsection (2A) clarifies subsection (2)(b) is in addition to new section 229A, which relates to the information that the chief executive must give to the Council on commencement.

New subsection (2B) provides that the Council must decide whether to grant the approval having regard to the main purposes of the PBO Act, the financial circumstances of the pharmacy business, the information given to the Council by the chief executive under subsection (2) and any other information the Council considers relevant.

This clause omits a reference to the chief executive and replaces it with the Council in subsection (3).

This clause updates the reference to subsection (3) as subsection (5) in the current section 222(4) and then renumbers sections 222(2A) to (4) as 222(3) to (6).

Insertion of new ss 229A and 229B

Clause 40 inserts new sections 229A and 229B.

New section 229A is a transitional provision, with the heading ‘Notice of existing pharmacy business information’. This provision provides for the transfer of information in the control of Queensland Health about existing pharmacy businesses to the Council.

Under subsection (1), on commencement, the chief executive must give the Council a notice of existing pharmacy business information.

Subsection (2) provides that the notice must contain certain information held by the chief executive immediately before the commencement, specifically, the name and contact details of each existing pharmacy business, the name and contact details of each person who owned an existing pharmacy business, and, for each existing pharmacy business that was owned by a corporation mentioned in repealed section 139B(b) or (ba) immediately before commencement, the name of each director and shareholder of the corporation.

New section 229B inserts a further new transitional provision, with the heading 'Particular references to licensed pharmacy businesses for appointing council members'. This section states that from commencement, a reference in section 150(3)(a) to a licensed pharmacy business is taken to include a reference to an existing pharmacy business that continues to be owned and carried on by a person under section 215 or 216.

This ensures that individual owners of pharmacy businesses, directors of corporate owners of pharmacy businesses and practising pharmacists employed by pharmacy businesses can be appointed as members of the Council during the transitional periods outlined in sections 215 and 216.

Amendment of sch 1 (Dictionary)

Clause 41 amends the dictionary in schedule 1 to omit the current definitions for *compound, decision notice, information notice, QCAT information notice,* and *seizure or forfeiture decision.*

This clause also amends the dictionary to insert new definitions for *compound, decision notice, forfeiture decision, information notice, QCAT information notice, seizure decision* and *selling.*

This clause also amends the definition of *fit and proper person* to replace a reference to the chief executive with the Council, reflecting the transfer of responsibility from Queensland Health to the Council.

Part 3 Amendment of Public Health Act 2005

Act amended

Clause 42 states that this part amends the *Public Health Act 2005.*

Amendment of s 43 (Powers of authorised persons after entry)

Clause 43 amends section 43 to insert a clarifying subsection (5) that ensures the power under section 43(2)(c) for authorised persons to take into or onto the place any persons, equipment and materials they reasonably require for exercising a power under section 43, includes the power to leave equipment and materials at the place for a reasonable period.

Replacement of ch 6, pt 3A (Notifiable dust lung diseases)

Clause 44 omits existing chapter 6, part 3A and inserts a new part 3A. The heading of the new part 3A is 'Notifiable occupational respiratory diseases'.

The heading of division 1 of part 3A is 'Notifying information for national registry'. This division includes new section 279AA, which inserts definitions for *Commonwealth Act*, *Commonwealth chief medical officer, national registry* and *prescribed medical practitioner*. The Commonwealth Act is the *National Occupational Respiratory Disease Registry Act 2023* (Cth).

New section 279AB creates an obligation to notify the Commonwealth chief medical officer.

Subsection (1) provides that section 279AB applies if a prescribed medical practitioner diagnoses a person with a notifiable occupational respiratory disease.

Subsection (2) requires the prescribed medical practitioner to give a notification to the Commonwealth chief medical officer. The notification must be given within the period prescribed by regulation, be in the approved form and state the minimum notification information in relation to the person. There is a penalty of 20 penalty units for non-compliance. However, the requirement to notify does not apply if the prescribed medical practitioner has a reasonable excuse.

Subsection (3) provides that the requirement in subsection (2) applies whether or not the person consents to the notification.

Subsection (4) inserts definitions for *minimum notification information*, *notifiable occupational respiratory disease* and *person*. For *notifiable occupational respiratory disease*, the definition notes that it does not include a medical condition that is a prescribed occupational respiratory disease under the Commonwealth Act and notes the section in the Commonwealth Act that creates a requirement to notify under that Act (section 14).

This clause also inserts new section 279AC, which is titled 'Authorisation relating to information in national registry'.

Subsection (1) provides that new section 279AC applies if:

- a prescribed medical practitioner gives the Commonwealth chief medical officer information for inclusion in the national registry, or if a prescribed medical practitioner corrects or updates information in the national registry;
- the giving, correcting or updating of the information was required or permitted under a provision of the Public Health Act or the Commonwealth Act, or was in compliance with a request for information made under a provision of the Commonwealth Act; and
- the prescribed medical practitioner would otherwise be required to maintain confidentiality about the information under an Act, oath, rule of law or practice.

Subsection (2) provides that in giving, correcting or updating the information, the prescribed medical practitioner does not breach the Public Health Act, an oath, rule of law or practice and is not liable for disciplinary action.

Similarly, subsection (3) provides that in giving, correcting or updating information, the prescribed medical practitioner cannot be held to have breached any code of professional etiquette or ethics, or departed from accepted standards of professional conduct.

The heading of division 2 of part 3A is 'Historical dust lung disease register'. This division includes new section 279AD, which inserts definitions for *confidential information*, *disclose*, *historical dust lung disease register*, *information* and *relevant person*.

New section 279AE(1) requires the chief executive to keep the information held on the *historical dust lung disease register* in a form that the chief executive considers appropriate, including in electronic form.

New section 279AE(2) inserts a definition for *former section 279AB*. The section also inserts a definition for *historical dust lung disease information*, being the information kept in the Notifiable Dust Lung Disease Register immediately before commencement under former section 279AB.

New section 279AF(1) prohibits a relevant person from disclosing confidential information, other than under the division. The penalty for contravention is 50 penalty units.

New section 279AF(2) states that sections 142 and 142A of the *Hospital and Health Boards Act 2011*, which prohibit disclosures by designated persons or prescribed health professionals, do not apply to a relevant person in relation to disclosing confidential information.

New section 279AG allows a relevant person to disclose confidential information in certain circumstances. This includes, for example, to perform the person's functions under the Public Health Act or another Act, with consent, in compliance with a lawful process, if the information does not identify a person, or if the disclosure is otherwise required or permitted under another law.

New section 279AH allows the chief executive to disclose confidential information to a person who is contracted to analyse, monitor or evaluate public health, if the person is authorised in writing to receive the information and the chief executive is satisfied the person will only use the information for these purposes.

New section 279AI allows the chief executive to disclose confidential information to an entity of the State (or corresponding entity) as required or permitted under a prescribed agreement. The person or entity who receives the confidential information may disclose the information as required or permitted under the agreement or as permitted in writing by the chief executive. The section also inserts definitions for *agreement* and *corresponding entity*.

New section 279AJ allows the chief executive to disclose confidential information to a coroner or an assisting police officer if a coroner is investigating a death under the *Coroners Act 2003*. The coroner or police officer may disclose the information to another person for the purpose of the investigation.

Amendment of s 399 (General powers after entering places)

Clause 45 amends section 399 to insert a clarifying subsection (6) to the general powers of an authorised person following entry to a place, to remove any ambiguity about the ability to leave equipment and materials at the place for a reasonable period.

Insertion of new ch 12, pt 11

Clause 46 inserts new chapter 12, part 11. The heading of the part is 'Transitional provisions for Health Legislation Amendment Act (No. 2) 2025'.

New section 519, titled 'Definition for part', inserts a definition of *former* to mean the provision as in force from time to time before the commencement of the amendments in the Bill.

New section 520 is titled 'Application of new ch 6, pt 3A to particular diagnoses made before commencement'. This section applies to a diagnosis of a *notifiable dust lung disease* within the meaning of former section 279AA made prior to commencement of the amendments, where the diagnosis was not notified, but the existing prescribed period had not ended prior to commencement. The section provides that the new notification requirements under division 1 of chapter 6, part 3A apply. This section also inserts a definition for *new*, to mean a provision as in force following commencement.

New section 521 is titled 'Proceedings for particular offences'. This section applies to offences against certain former sections of the Public Health Act that were committed by a person before commencement. These former sections are 279AF(2), 279AG(4) and 279AL(1). This section states that a proceeding for the offence may be continued or started, and the person may be convicted of and punished for the offence, as if chapter 6, part 3A had not been replaced by the *Health Legislation Amendment Act (No. 2) 2025*. This applies despite section 11 of the Criminal Code.

Amendment of sch 2 (Dictionary)

Clause 47 amends the dictionary in schedule 2 of the Public Health Act.

This clause omits redundant definitions of *approved operator*, *health practitioner*, *notifiable dust lung disease*, *occupational exposure*, *regulator*, *relevant chief executive* and *relevant employee*.

The clause inserts new definitions relevant to the amendments above for *Commonwealth Act*, *Commonwealth chief medical officer*, *disclose*, *health practitioner*, *historical dust lung disease register* and *national registry*.

Several definitions are also amended, including *confidential information*, *health information held by a health agency*, *information*, *prescribed medical practitioner*, *register* and *relevant person*.

Part 4 Amendment of Public Health Regulation 2018

Regulation amended

Clause 48 states that this part amends the *Public Health Regulation 2018.*

Replacement of pt 8, div 5 (Notifiable dust lung diseases)

Clause 49 replaces existing part 8, division 5. The clause inserts a new division heading, 'Notifiable occupational respiratory diseases'.

The clause inserts new subdivision 1. The heading of subdivision 1 is 'Notifying information for national registry'.

The clause inserts new section 49A, which is titled 'Prescribed medical practitioners—Act, s 279AA'.

New section 49A prescribes a class of persons for the definition of *prescribed medical practitioner* in section 279AA of the Public Health Act. The class is medical practitioners registered under the Health Practitioner Regulation National Law as specialist health practitioners in occupational and environmental medicine or respiratory and sleep medicine.

New section 49B prescribes a period for section 279AB(2) of the Public Health Act. The period is 30 days from diagnosis by the prescribed medical practitioner.

New section 49C prescribes various medical conditions for the purpose of the definition of *notifiable occupational respiratory disease* in new section 279AB(5) of the Public Health Act.

The following diseases are prescribed, to the extent each disease is likely to have been caused or exacerbated, in whole or in part, by exposure to inorganic dust:

- pneumoconiosis, other than silicosis;
- cancer; and
- chronic obstructive pulmonary disease.

The clause provides the following examples for pneumoconiosis:

- asbestosis;
- coal worker's pneumoconiosis; and
- mixed-dust pneumoconiosis.

The clause also includes a note, which states that silicosis is a prescribed occupational respiratory disease under the Commonwealth Act.

The following examples of chronic obstructive pulmonary disease are also provided:

- chronic bronchitis; and
- emphysema.

The clause inserts new subdivision 2, with the heading 'Information in historical dust lung disease register'.

New section 49D states that the agreement in schedule 3, part 4, is prescribed for section 279AI(1)(b) of the Public Health Act. Under section 279AI(1)(b) of the Public Health Act, confidential information may be disclosed to an entity of the State or a corresponding entity under an agreement that is prescribed by regulation.

Amendment of sch 3 (Agreements)

Clause 50 replaces the reference to 'notifiable dust lung diseases' in the heading for schedule 3, part 4 with 'historical dust lung disease register'.

Part 5 Amendment of Queensland Mental Health Commission Act 2013

Act amended

Clause 51 states that this part amends the *Queensland Mental Health Commission Act 2013.*

Amendment of s 21 (Vacancy in office of commissioner)

Clause 52 amends section 21 to insert a new circumstance when a vacancy in the Mental Health Commissioner's office arises.

New paragraph (aa) clarifies that the office of Commissioner becomes vacant when a Commissioner completes a term of office and is not reappointed. This means that the office is taken to be vacant at the time the Commissioner's term has ended.

This clause renumbers the paragraphs to read (a) to (f).

Replacement of s 23 (Acting commissioner)

Clause 53 omits current section 23 which sets out when the Minister can appoint a person to act in the office of Commissioner. A new section 23 is inserted.

Subsection (1) provides that section 23 applies if the office of the Commissioner is vacant, or the Commissioner is absent from duty or otherwise unable to perform their functions.

New subsection (2) allows the Minister to appoint a person, other than a member of the Queensland Mental Health and Drug Advisory Council, to act as Commissioner for a period of no longer than six months.

New subsection (3) allows the Minister to extend the period of appointment for a further period of not longer than six months.

New subsection (4) clarifies that the Minister's powers under section 23 do not limit the Governor in Council's powers under the Acts Interpretation Act to appoint a person to act in an office if it is vacant or the person appointed is absent or is unable to discharge the functions.

Part 6 Amendment of Radiation Safety Act 1999

Act amended

Clause 54 states that this part amends the *Radiation Safety Act 1999.*

Amendment of s 71 (Additional information for approvals to dispose)

Clause 55 amends section 71 to replace the reference to 'licensee' with 'holder of approval' in paragraphs (a) and (b) to reflect that any applicant, regardless of whether they hold a licence, can apply for and hold an approval to dispose. This is consistent with the ability for any person to apply for an approval to dispose, as set out in section 49(1)(c) of the Radiation Safety Act.