



# **Health and Wellbeing Queensland Act 2019**

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Queensland

# Health and Wellbeing Queensland Act 2019

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# Health and Wellbeing Queensland Act 2019

**An Act to establish Health and Wellbeing Queensland to improve the health and wellbeing of the Queensland population**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Health and Wellbeing Queensland Act 2019*.

### **2 Commencement**

This Act, other than part 7, division 4, commences on a day to be fixed by proclamation.

### **3 Main purpose of Act**

The main purpose of this Act is to establish Health and Wellbeing Queensland to improve the health and wellbeing of the Queensland population.

### **4 Act binds all persons**

- (1) This Act binds all persons, including the State.
- (2) However, the State can not be prosecuted for an offence against this Act.

### **5 Definitions**

The dictionary in schedule 1 defines particular words used in this Act.

## **Part 2**                      **Health and Wellbeing Queensland**

### **Division 1**                **Establishment**

#### **6**            **Establishment**

Health and Wellbeing Queensland is established.

#### **7**            **Legal status**

Health and Wellbeing Queensland—

- (a) is a body corporate; and
- (b) may sue and be sued in its corporate name.

#### **8**            **Health and Wellbeing Queensland represents the State**

- (1) Health and Wellbeing Queensland represents the State.
- (2) Without limiting subsection (1), Health and Wellbeing Queensland has the status, privileges and immunities of the State.

#### **9**            **Application of other Acts**

- (1) Health and Wellbeing Queensland is—
  - (a) a unit of public administration under the *Crime and Corruption Act 2001*; and
  - (b) a statutory body under—
    - (i) the *Financial Accountability Act 2009*; and
    - (ii) the *Statutory Bodies Financial Arrangements Act 1982*.



- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way that Act affects Health and Wellbeing Queensland's powers.

## Division 2 Objective, functions and powers

### 10 Objective

The objective of Health and Wellbeing Queensland is to improve the health and wellbeing of the Queensland population, including, for example, by—

- (a) reducing the burden of chronic diseases through targeting risk factors for those diseases; and

*Examples of risk factors for chronic diseases—*

poor nutrition, low physical activity, obesity

- (b) reducing health inequity.

*Example of health inequity—*

higher rates of chronic disease in population groups with low socio-economic status than in population groups with high socio-economic status

### 11 Functions

- (1) The main functions of Health and Wellbeing Queensland are as follows—

- (a) to facilitate and commission activities to prevent illness and promote health and wellbeing;

- (b) to develop partnerships and collaborate with other entities to further its objective or carry out its functions under this Act;

- (c) to give grants for activities to further its objective or carry out its functions under this Act;

- (d) to monitor and evaluate activities to prevent illness and promote health and wellbeing;

- (e) to develop policy, and advise the Minister and government entities, about preventing illness and promoting health and wellbeing;
  - (f) to coordinate the exchange of information about activities to prevent illness and promote health and wellbeing.
- (2) Health and Wellbeing Queensland's functions also include any other function given to it under this Act or another Act.
- (3) In this section—  
*activity* includes a project, program, service and research.

## 12 Powers

- (1) Health and Wellbeing Queensland has the powers of an individual.
- (2) Health and Wellbeing Queensland also has the powers given to it under this Act or another Act.

## 13 Ministerial directions generally

- (1) The Minister may give Health and Wellbeing Queensland a written direction (a *ministerial direction*) about the performance of its functions or the exercise of its powers.
- (2) However, the Minister may not give a ministerial direction about an employment matter relating to a particular person.
- (3) Health and Wellbeing Queensland must comply with a ministerial direction.

## 14 Ministerial directions to prepare special report

- (1) Without limiting section 13(1), the Minister may give Health and Wellbeing Queensland a ministerial direction to—
  - (a) prepare a report (a *special report*) about a matter the Minister considers relevant to Health and Wellbeing Queensland's functions or powers; and

- (b) give the special report to the Minister.
- (2) However, the Minister may not give a ministerial direction about the content of a special report.
- (3) A special report may contain recommendations.
- (4) The Minister may publish a special report in a way the Minister considers appropriate.

## **Part 3                      Board**

### **Division 1                      Establishment, functions and powers**

#### **15                      Establishment**

A board is established as the governing body of Health and Wellbeing Queensland.

#### **16                      Functions**

The board has the following functions—

- (a) to ensure the proper, efficient and effective performance of Health and Wellbeing Queensland's functions;
- (b) to decide the objectives, strategies and policies to be followed by Health and Wellbeing Queensland;
- (c) to ensure Health and Wellbeing Queensland complies with its obligations under this Act or another law;
- (d) any other function given to the board under this Act or another Act.

#### **17                      Powers**

- (1) The board has the power to do anything necessary or convenient to be done in performing its functions.

- (2) Without limiting subsection (1), the board may give the chief executive officer a written direction about the performance of the officer's responsibilities.
- (3) However, the board may not give a direction about an employment matter relating to a particular person.
- (4) Anything done in the name of, or for, Health and Wellbeing Queensland by the board, or with the authority of the board, is taken to have been done by Health and Wellbeing Queensland.

## Division 2                      Membership

### 18            Board members

- (1) The board consists of the following persons (each a *board member*)—
  - (a) at least 1, and not more than 4, chief executives;
  - (b) at least 1, and not more than 6, other persons.
- (2) A board member must be appointed by the Governor in Council.
- (3) A board member mentioned in subsection (1)(b) must have qualifications or experience in at least 1 of the following areas—
  - (a) law;
  - (b) business or financial management;
  - (c) public health;
  - (d) academia;
  - (e) community service organisations;
  - (f) the not-for-profit sector;
  - (g) another area the Minister considers relevant or necessary to support the board in performing its functions.

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- (4) Also, at least 1 board member must be an Aboriginal person or a Torres Strait Islander.

## **19 Chairperson and deputy chairperson**

- (1) The Governor in Council may appoint—
- (a) a board member to be the chairperson of the board; and
  - (b) another board member to be the deputy chairperson of the board.
- (2) A board member may be appointed as the chairperson or deputy chairperson at the same time the person is appointed as a board member.
- (3) A person holds office as chairperson or deputy chairperson for the term, ending not later than the person's term of appointment as a board member, stated in the person's appointment as chairperson or deputy chairperson.
- (4) The deputy chairperson must act as chairperson—
- (a) during a vacancy in the office of chairperson; and
  - (b) during all periods when the chairperson is absent from duty or for another reason can not perform the duties of the office.

## **20 Disqualification as board member**

A person is disqualified from becoming, or continuing as, a board member if the person—

- (a) has a conviction, other than a spent conviction, for an indictable offence; or
- (b) is an insolvent under administration; or
- (c) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or
- (d) is the chief executive officer or another staff member of Health and Wellbeing Queensland; or
- (e) is a contractor of Health and Wellbeing Queensland; or

- (f) contravenes section 31(3).

## **21 Term of appointment**

- (1) A board member holds office for the term, not longer than 4 years, stated in the member's instrument of appointment.
- (2) Subsection (1) does not prevent a board member being reappointed.

## **22 Conditions of appointment**

- (1) A board member is to be paid the remuneration and allowances decided by the Governor in Council.
- (2) A board member holds office on the terms and conditions, not provided for by this Act, decided by the Governor in Council.

## **23 Vacancy in office**

A board member's office becomes vacant if the member—

- (a) completes a term of office and is not reappointed; or
- (b) resigns office by signed notice given to the Minister; or
- (c) becomes disqualified from continuing as a board member under section 20; or
- (d) is removed from office.

## **24 Acting board member**

- (1) This section applies if the office of a board member is vacant.
- (2) The Minister may appoint a person to act in the office for a period of not longer than 6 months.
- (3) However, the Minister may extend the appointment for a further period of not longer than 6 months.
- (4) A person can not be appointed to act in the office unless the person could be appointed as a board member under section 18.

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- (5) This section does not limit the Governor in Council's power under the *Acts Interpretation Act 1954*, section 25(1)(b)(iv).

## **Division 3            Board meetings**

### **25        Conduct of business**

Subject to this division, the board may conduct its business, including its board meetings, in the way it considers appropriate.

### **26        Board meetings**

- (1) The chairperson may convene a meeting of the board members.
- (2) The chairperson must convene a board meeting—
- (a) at least 6 times each year; and
  - (b) if asked, in writing, by—
    - (i) at least half of the board members for the time being; or
    - (ii) the Minister.

### **27        Presiding at board meetings**

- (1) The chairperson is to preside at all board meetings at which the chairperson is present.

*Note—*

See section 19(4) for the circumstances in which the deputy chairperson must act as chairperson.

- (2) If neither the chairperson nor deputy chairperson is present at a board meeting, the board member chosen by the board members present is to preside.

## **28 Quorum at board meetings**

- (1) A quorum for a board meeting is a majority of the board members for the time being.
- (2) However, if at a board meeting a board member present at the meeting is required under section 31 not to be present during deliberations, or not to take part in any decision, of the board for a particular matter, the remaining board members present at the meeting constitute a quorum for the meeting.
- (3) Despite subsections (1) and (2), there is no quorum for a board meeting if a majority of the board members present are members mentioned in section 18(1)(a).

## **29 Voting at board meetings**

- (1) A question at a board meeting is decided by a majority of the votes of the board members present at the meeting and able to vote on the question.
- (2) If the votes are equal, the board member presiding at the board meeting also has a casting vote.

## **30 Minutes**

The board must keep minutes of its meetings.

# **Division 4 Disclosure of interests**

## **31 Disclosure of interests at board meetings**

- (1) This section applies to a board member if—
  - (a) a matter is being considered, or is about to be considered, at a board meeting; and
  - (b) the board member has a material personal interest in the matter; and



- (c) the material personal interest could conflict with the proper performance of the board member's duties in relation to the consideration of the matter.
- (2) For subsection (1), a board member has a ***material personal interest*** in a matter if any of the following entities stands to gain a benefit or suffer a loss (either directly or indirectly) because of the outcome of the consideration of the matter—
- (a) the board member;
  - (b) the board member's spouse;
  - (c) a parent, child or sibling of the board member;
  - (d) an employer, other than a government entity, of the board member;
  - (e) an entity, other than a government entity, of which the board member is an office holder.
- (3) As soon as practicable after the relevant facts come to the knowledge of the board member, the board member must disclose the nature of the material personal interest to the other board members at the meeting.
- (4) The board member may further participate in the meeting only if a majority of the other board members at the meeting vote in favour of the board member's further participation.
- (5) However, the board member may not participate in any vote on the matter at the meeting.
- (6) A disclosure under subsection (3) must be recorded in the minutes of the meeting.
- (7) A failure to make a disclosure under subsection (3) does not, of itself, invalidate a decision of the board.

## **Part 4                      Staff of Health and Wellbeing                                          Queensland**

### **Division 1                      Chief executive officer**

#### **32            Appointment**

- (1) Health and Wellbeing Queensland must have a chief executive officer.
- (2) The chief executive officer is appointed by the Governor in Council.
- (3) The Minister may only recommend a person for appointment as the chief executive officer with the approval of the board.
- (4) The chief executive officer—
  - (a) is an employee of Health and Wellbeing Queensland; and
  - (b) is appointed under this Act and not under the *Public Service Act 2008*.

#### **33            Chief executive officer's responsibilities**

- (1) The chief executive officer is responsible for the day-to-day administration of Health and Wellbeing Queensland, including—
  - (a) employing Health and Wellbeing Queensland's staff; and
  - (b) engaging contractors of Health and Wellbeing Queensland.
- (2) In carrying out the chief executive officer's responsibilities, the chief executive officer must comply with the written policies and directions of the board.
- (3) The chief executive officer is accountable to the board.

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### **34 Disqualification as chief executive officer**

A person is disqualified from becoming, or continuing as, the chief executive officer if the person—

- (a) has a conviction, other than a spent conviction, for an indictable offence; or
- (b) is an insolvent under administration; or
- (c) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or
- (d) is a board member; or
- (e) is a contractor of Health and Wellbeing Queensland; or
- (f) contravenes section 39.

### **35 Term of appointment**

- (1) The chief executive officer is appointed for the term, not longer than 4 years, stated in the officer's instrument of appointment.
- (2) Subsection (1) does not prevent a person from being reappointed as chief executive officer.

### **36 Conditions of appointment**

- (1) The chief executive officer is to be paid the remuneration and allowances decided by the Governor in Council.
- (2) For matters not provided for under this Act or stated in the chief executive officer's instrument of appointment, the chief executive officer holds office on the terms and conditions decided by the Governor in Council.

### **37 Vacancy in office**

- (1) The office of the chief executive officer becomes vacant if the chief executive officer—
  - (a) completes a term of office and is not reappointed; or

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- (b) resigns office by signed notice given to the board; or
  - (c) becomes disqualified from continuing as the chief executive officer under section 34; or
  - (d) is removed from office.
- (2) If the chief executive officer resigns office under subsection (1)(b), the board must immediately give notice of the resignation to the Minister.

### **38 Acting chief executive officer**

- (1) This section applies if—
- (a) the office of the chief executive officer is vacant; or
  - (b) the chief executive officer is absent from duty or otherwise unable to perform the chief executive officer's functions.
- (2) The Minister may appoint a person to act as chief executive officer for a period of not longer than 6 months.
- (3) However, the Minister may extend the appointment for a further period of not longer than 6 months.
- (4) A person can not be appointed to act in the office unless the Minister could recommend the person for appointment as the chief executive officer under section 32.
- (5) This section does not limit the Governor in Council's power under the *Acts Interpretation Act 1954*, section 25(1)(b)(iv) or (v).

### **39 Conflicts of interest**

If the chief executive officer has an interest that conflicts, or may conflict, with the discharge of the officer's responsibilities, the officer—

- (a) must disclose the nature of the interest and conflict to the board as soon as practicable after the relevant facts come to the officer's knowledge; and

- 
- (b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the board.

## **Division 2            Other staff**

### **40        Health and Wellbeing Queensland staff**

- (1) Health and Wellbeing Queensland may employ other staff it considers appropriate to perform its functions.
- (2) The other staff are employed under the *Public Service Act 2008*.

## **Division 3            Preservation of rights**

### **41        Preservation of rights of particular employees**

- (1) This section applies to—
- (a) a person appointed as the chief executive officer of Health and Wellbeing Queensland who was, immediately before taking up the appointment, a public service employee or health service employee; or
- (b) a person appointed as another employee of Health and Wellbeing Queensland who was, immediately before taking up the appointment, a health service employee.
- (2) The person is entitled to retain all accrued or accruing rights as if service as an employee of Health and Wellbeing Queensland were a continuation of the person's service as a public service employee or health service employee.

### **42        Preservation of rights of employees appointed as public service employee or health service employee**

- (1) This section applies to—

[s 43]

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- (a) a person appointed as a public service employee who was, immediately before taking up the appointment, the chief executive officer; or
  - (b) a person appointed as a health service employee who was, immediately before taking up the appointment, an employee of Health and Wellbeing Queensland.
- (2) The person's service as an employee of Health and Wellbeing Queensland must be regarded as service as a public service employee or health service employee.

## Part 5 Annual report

### 43 Annual report to include particular matters

- (1) This section applies to an annual report Health and Wellbeing Queensland is required to prepare and give the Minister under the *Financial Accountability Act 2009*, section 63.
- (2) The annual report must include details of—
  - (a) functions performed by Health and Wellbeing Queensland during the year; and
  - (b) how efficiently and effectively Health and Wellbeing Queensland performed its functions; and
  - (c) each ministerial direction given by the Minister during the financial year to which the report relates; and
  - (d) action taken by Health and Wellbeing Queensland because of the ministerial direction.
- (3) The board must approve the report before it is given to the Minister.
- (4) The report must not disclose confidential information without the consent of the person to whom the information relates.

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## **Part 6 Administration**

### **Division 1 Criminal history information**

#### **44 Criminal history report**

- (1) This section applies for deciding if a person, under section 20 or 34—
  - (a) is disqualified from becoming a board member or the chief executive officer; or
  - (b) is disqualified from continuing as a board member or the chief executive officer.
- (2) The Minister may ask the commissioner of the police service for a written report about the person's criminal history that includes a brief description of the circumstances of a conviction mentioned in the criminal history.
- (3) However, if subsection (1)(a) applies, the Minister may make the request only if the person has given the Minister written consent for the request.
- (4) The commissioner must comply with the request.
- (5) The duty to comply applies only to information in the commissioner's possession or to which the commissioner has access.

#### **45 Changes in criminal history must be disclosed**

- (1) This section applies if a board member or the chief executive officer is charged with or convicted of an indictable offence.
- (2) The person must, unless the person has a reasonable excuse, immediately give notice of the charge or conviction to the Minister.  
Maximum penalty—100 penalty units.
- (3) The notice must include the following information—

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- (a) the existence of the charge or conviction;
- (b) details adequate to identify the offence committed or alleged to have been committed;
- (c) when the offence was committed or alleged to have been committed;
- (d) for a conviction—the sentence imposed on the person.

#### **46 Confidentiality of criminal history information**

- (1) This section applies to a person who possesses criminal history information because the person is or was—
- (a) the Minister or a member of the Minister’s staff; or
  - (b) the chief executive officer, another staff member or a contractor of Health and Wellbeing Queensland; or
  - (c) an employee or contractor of the department; or
  - (d) a board member.
- (2) The person must not use or, directly or indirectly, disclose to another person the criminal history information unless the use or disclosure is permitted under subsection (3).

Maximum penalty—100 penalty units.

- (3) The person may use or disclose to another person the criminal history information—
- (a) to the extent necessary to perform the person’s functions under this Act; or
  - (b) if the use or disclosure is authorised under an Act; or
  - (c) if the use or disclosure is otherwise required or permitted by law; or
  - (d) if the person to whom the information relates consents to the use or disclosure; or
  - (e) if the use or disclosure is in a form that does not identify the person to whom the information relates; or



- 
- (f) if the information is, or has been, lawfully accessible to the public.
  - (4) The person must ensure a report given to the Minister under section 44 is destroyed as soon as practicable after it is no longer needed for the purpose for which it was given.
  - (5) Subsection (4) applies despite the *Public Records Act 2002*.
  - (6) In this section—
    - criminal history information* means the information contained in—
      - (a) a report given to the Minister under section 44; or
      - (b) a notice given to the Minister under section 45.

## **Division 2            Other matters**

### **47        Use of confidential information**

- (1) This section applies to a person who—
  - (a) is, or has been—
    - (i) a board member; or
    - (ii) the chief executive officer, another staff member or a contractor of Health and Wellbeing Queensland; and
  - (b) obtains confidential information in administering, or performing a function under, this Act.
- (2) The person must not, whether directly or indirectly, disclose the confidential information unless the disclosure is—
  - (a) in the performance of a function under this Act; or
  - (b) with the consent of the person to whom the information relates; or
  - (c) authorised under an Act or otherwise required or permitted by law.

Maximum penalty—100 penalty units.

## 48 Offences against this Act

- (1) A proceeding for an offence against this Act is to be heard and decided summarily.
- (2) A proceeding for the offence must start within whichever is the longer of the following—
  - (a) 1 year after the commission of the offence;
  - (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

## 49 Protecting prescribed persons from liability

- (1) A prescribed person is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to a prescribed person, the liability attaches to the State.
- (3) This section does not apply to a prescribed person if the person is a State employee within the meaning of the *Public Service Act 2008*, section 26B(4).

*Note—*

For protection from civil liability in relation to State employees, see the *Public Service Act 2008*, section 26C.

- (4) In this section—

***prescribed person*** means—

  - (a) the Minister; or
  - (b) a board member.

## 50 Delegations

- (1) Health and Wellbeing Queensland may delegate its functions under this Act, other than its function of deciding to give a grant mentioned in section 11(1)(c), to a board member or the chief executive officer.

- (2) The board may delegate its functions under this Act to a board member or the chief executive officer.
- (3) A board member may subdelegate a function delegated to the member under subsection (1) or (2) to the chief executive officer or an appropriately qualified staff member of Health and Wellbeing Queensland.
- (4) The chief executive officer may delegate any of the officer's responsibilities to an appropriately qualified staff member of Health and Wellbeing Queensland.
- (5) The chief executive officer may subdelegate a function delegated or subdelegated to the officer under subsection (1), (2) or (3) to an appropriately qualified staff member of Health and Wellbeing Queensland.
- (6) In this section—  
*function* includes power.

## **51 Regulation-making power**

The Governor in Council may make regulations under this Act.

## Schedule 1 Dictionary

### section 5

**board** means the board established under section 15.

**board member** see section 18(1).

**chairperson** means the person appointed as chairperson of the board under section 19(1)(a).

**chief executive officer** means the person appointed as chief executive officer under section 32(2).

**confidential information**—

- (a) means any information that—
  - (i) could identify an individual; or
  - (ii) is about an individual's personal affairs; or
  - (iii) is about a person's reputation, current financial position or financial background; or
  - (iv) would be likely to damage the commercial activities of a person to whom the information relates; but
- (b) does not include—
  - (i) information that is publicly available; or
  - (ii) statistical or other information that could not reasonably be expected to result in the identification of the individual to whom it relates.

**contractor** of Health and Wellbeing Queensland, means a person, other than the chief executive officer or another staff member of Health and Wellbeing Queensland, who performs services for Health and Wellbeing Queensland—

- (a) under a contract between the person and Health and Wellbeing Queensland; or
- (b) under an arrangement between Health and Wellbeing Queensland and another person.

**conviction** means a finding of guilt or acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

**criminal history**, for a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

**deputy chairperson** means the person appointed as deputy chairperson of the board under section 19(1)(b).

**government entity** see the *Public Service Act 2008*, section 24.

**Health and Wellbeing Queensland** means Health and Wellbeing Queensland established under section 6.

**health service employee** see the *Hospital and Health Boards Act 2011*, schedule 2.

**insolvent under administration** see the Corporations Act, section 9.

**ministerial direction** see section 13(1).

**notice** means written notice.

**spent conviction** means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.