Queensland

Public Health Act 2005

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Public Health Act 2005

Contents

		Page
Chapter 1	**Preliminary**	
Part 1	**Introduction**	
1	Short title	27
2	Commencement	27
3	Act binds all persons	27
4	Contravention of this Act does not create civil cause of action	28
5	Act does not affect other rights or remedies	28
Part 2	**Object**	
6	Object of Act	28
7	How object is mainly achieved	28
Part 3	**Interpretation**	
8	Definitions	29
9	Notes in text	29
Chapter 2	**Environmental health**	
Part 1	**Public health risks**	
10	Definitions for ch 2	30
11	Meaning of public health risk	30
Part 2	**Roles of the State and local governments for public health risks**	
12	When Act administered only by the State	32
13	When Act administered only by local governments	33
14	When State and local governments administer this Act in partnership	33
15	Action by the State if local government does not administer and enforce this Act	33
16	Procedure before taking action under s 15	34
17	State may require report from local government	35
18	Regulation to prescribe who is to administer this Act for particular public health risks	35

19	Effect of Act on local laws	35
20	Application of Local Government Act 2009	36
Part 3	**Public health orders**	
Division 1	**Preliminary**	
21	What public health order may require	36
22	Public health orders about animals	37
Division 2	**Giving public health orders**	
23	Public health orders	38
Division 3	**Enforcement of public health orders**	
24	Issuing authority may apply for enforcement order	39
25	Notice of hearing must be given	39
26	When magistrate may order enforcement	40
27	What enforcement order may require	40
28	Person must comply with enforcement order	43
29	Application may be dealt with in proceeding for offence	43
Division 4	**Taking steps under enforcement order**	
30	Procedure before entry under enforcement order	43
31	Costs under enforcement order recoverable as a debt	44
32	Cost under enforcement order a charge over land	44
Division 5	**Recovery of costs from third parties**	
33	Recipient may apply for contribution	45
34	Notice of hearing of cost recovery order must be given	46
35	When magistrates court may make cost recovery order	47
Part 4	**Authorised prevention and control programs**	
36	Chief executive may authorise prevention and control program	47
37	What chief executive's authorisation must state	48
38	Publication of authorisation	48
39	Who may undertake prevention and control program	49
40	Powers available for prevention and control program	49
41	Power of authorised persons to enter place for prevention and control program	49
42	Notification of entry	50
43	Powers of authorised persons after entry	50
44	Failure to help authorised person	51
45	Person must not interfere with steps taken	52

46	Notification of prevention and control program	52
Part 5	**Environmental health events**	
Division 1	**Definition**	
47	Meaning of environmental health event	53
Division 2	**Establishment of environmental health event register**	
48	Environmental health event register	53
49	Purposes of register	54
50	What register must contain	54
Division 3	**Notifications about environmental health event register**	
51	Notification of establishment of register	54
52	Notification inviting inclusion in register	55
Division 4	**Confidentiality and use of information supplied for environmental health event register**	
53	Definitions for div 4	55
54	Restriction on inconsistent use of information	56
55	Confidentiality of information	56
56	Release of information for an investigation under the Coroners Act	57
57	Use of environmental health event register	57
Part 5A	**Provisions about drinking water and recycled water**	
Division 1	**Improvement notices**	
57A	Improvement notice	58
57B	Record of compliance with improvement notice	60
Division 2	**Offences about supply of drinking water or recycled water**	
Subdivision 1	**Preliminary**	
57C	When drinking water is unsafe	61
57D	When recycled water is fit for use	61
Subdivision 2	**Offences**	
57E	Supply of unsafe drinking water	61
57F	Supply of recycled water that is not fit for use	62
Division 3	**Information requests**	
57G	Power to require information	62
57H	Failure to give information	63
Part 6	**Lead**	
58	Lead in buildings must not be accessible to children	63
59	Lead must not be used in water collection	64

Part 7 **Paint**

60 Person must comply with standard 65

Part 8 **Regulations about public health risks**

61 Regulations about public health risks 65

Chapter 2A **Water risk management plans**

Part 1 **Preliminary**

61A Definitions for chapter 66

61B Operation of chs 2 and 2A 68

Part 2 **Requirement and content of plans**

61C Requirement for water risk management plans 68

61D Content of water risk management plans 68

61E Amending water risk management plans 69

Part 3 **Compliance**

61F Obligation to give chief executive copy of water risk management plans 70

61G Complying with water risk management plans 70

61H Obligation to notify chief executive of Legionella 71

61I Obligation to give chief executive reports 71

61J False or misleading reports 72

61K Chief executive may publish reports 72

Chapter 3 **Notifiable conditions**

Part 1 **Definitions, purpose of chapter and guiding principles**

62 Definitions for ch 3 73

63 Meaning of controlled notifiable condition 74

64 Meaning of notifiable condition 75

65 Purpose of ch 3 75

66 Guiding principles for ch 3 75

Part 2 **Notifiable Conditions Register**

Division 1 **Establishment and purpose of Notifiable Conditions Register**

67 Register 76

68 Purposes of register 76

Division 2 **Notices about notifiable conditions**

69 Application of div 2 77

70 When a doctor must notify 77

71 When the person in charge of hospital must notify 78

72	When the director of a pathology laboratory must notify a pathological diagnosis notifiable condition	78
73	When the director of a pathology laboratory must notify pathology request notifiable condition	79
74	Anonymity coding	79
75	Further information may be required	79
Division 3	**Confidentiality of information and use of information supplied for Notifiable Conditions Register**	
76	Definitions for div 3	81
77	Confidentiality of information	81
78	Disclosure under an Act or another law	82
79	Disclosure under Act or with written consent etc.	82
80	Disclosure about notifiable conditions and contact tracing	82
81	Disclosure of confidential information in the public interest	83
82	Disclosure for data collection and public health monitoring	84
83	Disclosure for purposes relating to health services	84
84	Disclosure to Commonwealth, another State or Commonwealth or State entity	84
85	Disclosure to allow chief executive to act	85
86	Release of information for an investigation under the Coroners Act	86
87	Use of Notifiable Conditions Register	86
88	Access to information in register for serious offence	87
Part 3	**Contact tracing**	
Division 1	**Contact tracing officers**	
89	Functions of contact tracing officer	87
90	Appointment of contact tracing officer by chief executive	88
91	Qualifications for appointment	89
92	Appointment conditions and limit on powers	89
93	Issue of identity card	90
94	Production or display of identity card	90
95	When contact tracing officer ceases to hold office	91
96	Resignation	91
97	Return of identity card	91
Division 2	**Obtaining contact information**	
98	Definitions for div 2	91
99	Power to require contact information	92

100	Failure to give contact information	93
101	Power to require business contact information	94
102	Failure to give business contact information	96
103	Obtaining contact information from health information held by a health agency	97
Division 3	**Confidentiality of information and use of information supplied for contact tracing**	
104	Definitions for div 3	98
104A	Extraterritorial operation	98
105	Confidentiality of information	98
106	Disclosure under an Act or another law	99
107	Disclosure under Act or with written consent etc.	99
108	Disclosure to protect health of person	99
108A	Disclosure for contact tracing purposes	99
109	Disclosure of confidential information in the public interest	100
110	Disclosure to allow chief executive to act	101
111	Use of contact information and business contact information	101
Part 4	**Orders by chief executive about controlled notifiable conditions**	
Division 1	**Preliminary**	
112	Definition for pt 4	102
Division 2	**Orders by chief executive**	
113	Chief executive may order detention	102
114	Enforcement of chief executive's order	103
115	Duration of chief executive's order	104
Part 5	**Orders by magistrate about controlled notifiable conditions**	
Division 1	**General**	
116	Applying for controlled notifiable conditions order	105
117	Deciding application in person's absence	106
Division 2	**Initial examination orders**	
118	Making initial examination order	106
119	What initial examination order may provide	107
120	Service of initial examination order	108
121	Person must remain at place of detention and undergo medical examination	108
122	When period of detention starts	109
123	Details of medical examination must be explained	109

124 When detained person must be released before the end of initial examination order 109

Division 3 Behavioural orders

125 Making behavioural order 110

126 What behavioural order may provide 110

127 Service of behavioural order 111

128 Person must comply with behavioural order 111

Division 4 Detention orders

129 Making detention order 111

130 What detention order may provide 112

131 Service of detention order 113

132 Person must remain at place of detention and undergo medical examination or treatment 113

133 Details of medical examination or treatment must be explained . 114

Division 5 Extension, variation or revocation of controlled notifiable conditions orders

134 Extension of behavioural or detention orders 114

135 Variation and revocation of initial examination, behavioural or detention orders 115

Division 6 Warrants

136 Application for warrant for apprehension 115

137 Issue of warrant 116

138 Application by electronic communication and duplicate warrant . 116

139 Defect in relation to a warrant 118

Division 7 Procedure for entry under orders and warrants

140 Procedure before entry—orders 119

141 Procedure before entry—warrants 119

Division 8 Appeals against magistrate's decisions

142 Appeal against decision on application for controlled notifiable conditions order or extension of order 120

Part 6 Reckless spread of controlled notifiable conditions

143 Person must not recklessly spread controlled notifiable condition 121

Part 7 Proceedings

144 How proceedings under this chapter heard 122

Part 8 Other matters about controlled notifiable conditions orders

145 Person may give information necessary for authorised person's safety 123

146 Obstructing persons exercising powers 124

Chapter 4 Infection control for health care facilities

Part 1 Preliminary

147 Definitions for ch 4 124

148 Meaning of declared health service 125

149 Meaning of health care facility 126

150 Application of ch 4 126

Part 2 General obligation to minimise infection risks for declared health services

151 Obligation to minimise risk of infection 127

Part 3 Infection control management plans

152 What is an infection control management plan 127

153 Obligation of owner for ICMP 128

154 Obligation of owner/operator for ICMP 128

155 What an ICMP must contain 129

156 Time for developing and implementing an ICMP 130

156A Giving copy of ICMP and information to authorised person 130

156B Amending ICMP 131

Part 3A Improvement notices and directions notices

156C Improvement notice 132

156D Record of compliance with improvement notice 133

156E Directions notice 134

156F Chief executive may extend directions notice 135

156G Court order may extend directions notice 135

156H Offence to fail to comply with a directions notice 136

156I Record of compliance with directions notice 136

Part 4 Reporting contraventions of chapter 4 to other entities

157 Chief executive may report contraventions 137

Chapter 4A Health of persons with major disturbance in mental capacity

Part 1 Preliminary

157A Definitions for ch 4A 137

Part 2 Taking persons to treatment or care place

157B Ambulance officer or police officer may detain and transport person 139

157C What ambulance officer or police officer must tell person 140

157D Giving emergency examination authority 140

157E Detention in treatment or care place 141
157F Examination 141
Part 3 Return of persons who abscond
157G Application of pt 3 142
157H Person in charge of facility may require return of absent person 142
157I Duration of authorisation or request 143
157J Authorised person may transport absent person 144
157K Effect on examination period 145
Part 4 Powers
157L Use of force to detain and transport 145
157M Transfer to another treatment or care place 145
157N Use of reasonable force to detain person 146
157O Examination of person without consent and with use of reasonable force 146
157P Return after examination or treatment and care to person's requested place 146
Part 5 Warrant for apprehension of person to transport person
157Q Application for warrant for apprehension of person 147
157R Issue of warrant 147
157S Electronic application 148
157T Additional procedure if electronic application 149
157U Defect in relation to a warrant 150
157V Warrants—entry procedure 151
Part 6 Searches of persons in treatment or care place
157W Application of pt 6 151
157X Definitions for pt 6 152
157Y Power to search on belief of possession of harmful thing 153
157Z Requirements for personal search 154
157ZA Requirements for search requiring the removal of clothing 154
157ZB Requirements for search of possessions 156
157ZC Record of search must be made 156
157ZD Seizure of harmful thing 156
157ZE Receipt for seized thing 158
157ZF Access to seized thing 158
Part 7 Miscellaneous
157ZG Relationship with Guardianship and Administration Act 2000 . . . 158

Chapter 5 **Child health**

Part 1 **Definitions**

158 Definitions for ch 5 159

159 Who is a parent 161

160 What is a prescribed period for a contagious condition 162

Part 2 **Contagious conditions**

Division 1AA **Exclusion of unvaccinated children from particular services**

160A Definitions for div 1AA 163

160B When person in charge may exclude child not yet enrolled 164

160C When person in charge may exclude enrolled child 165

160D Immunisation status of children allowed to attend without statement 166

Division 1 **Directions about attendance of children at a school, education and care service or QEC approved service**

161 When parent must not send a child to school, education and care service or QEC approved service 167

162 When teacher or educator must advise person in charge 167

163 Person in charge may advise parent about suspicion of contagious condition 167

164 Person in charge may direct parent not to send child to school, education and care service or QEC approved service 168

165 Person in charge may advise parent of child not vaccinated about suspicion of vaccine preventable condition 169

166 Person in charge may direct parent not to send child to school, education and care service or QEC approved service 169

167 Chief executive may authorise examination of children at school, education and care service or QEC approved service 170

168 Chief executive must advise parent about examination 171

169 Chief executive may direct person in charge in relation to child . 172

170 Person in charge must include information in direction 173

171 When person in charge may readmit child before prescribed period ends 173

Division 2 **Information sharing**

172 Chief executive may require details if child suspected of having a contagious condition 175

173 Giving health information held by a health agency 176

Division 3 **Confidentiality of information and protection for persons**

174 Definitions for div 3 177

175 Confidentiality of information 177

176 Disclosure under an Act or another law 177

177 Disclosure under Act or with written consent etc. 177

178 Disclosure to a person to help prevent or minimise transmission of a contagious condition 178

179 Protection for persons acting under pt 2 178

Division 4 Other action to control contagious conditions

180 Directions to person in charge of school, education and care service or QEC approved service 179

181 Temporary closure of school, education and care service or QEC approved service 180

Division 5 Review of order to close school, education and care service or QEC approved service

182 Review of Minister's order to close school, education and care service or QEC approved service 181

Division 6 Approved provider must ensure person complies with this part

184A Approved provider must ensure person in charge complies with pt 2 182

Part 3 Child abuse and neglect

Division 1 Principles under which part 3 to be administered

185 Guiding principles for pt 3 183

Division 2 Relationship with Child Protection Act 1999

186 Relationship with Child Protection Act 1999 184

Division 3 Custody of child held at health service facility

187 Person in charge of facility has custody of child held at facility . . 184

Division 4 Designated medical officers

188 Appointment 185

189 When person in charge taken to be a designated medical officer 185

190 Powers 185

Division 6 Care and treatment order for child

197 Designated medical officer may make care and treatment order for child 186

198 Designated medical officer must notify person in charge of facility where child held 186

199 Designated medical officer must advise chief executive (child safety) 187

200 Designated medical officer must advise parents of child held . . . 188

Division 7 Extension of care and treatment order

201 Designated medical officer may extend care and treatment order 188

202 Designated medical officer must notify person in charge of facility about extension of order 189

203 Designated medical officer must advise chief executive (child safety) about extension of order 190

204 Designated medical officer must advise child's parents about extension of order 190

Division 8 Enforcement and duration of care and treatment order

205 Enforcement of care and treatment order 191

206 Duration of order 191

207 Limit on the number of care and treatment orders 191

Division 9 Chief executive (child safety) may require information about child held under care and treatment order

208 Chief executive (child safety) may require information from designated medical officer 192

Division 10 Measures that may be taken in relation to a child held under a care and treatment order

209 Medical examination or treatment of child held under order 193

210 Designated medical officer may request information from doctors 194

211 Transfer of child from one facility to another 194

212 Parent may choose doctor to examine child 195

Division 11 Offences relating to child held at health service facility

213 Offence to remove child 195

Part 4 Disclosure of information for school health programs

213AA Definitions for part 196

213AB Application of part 197

213AC Identifying school health program providers 197

213AD Disclosure of information about students 197

213AE Application of Information Privacy Act 2009 to contracted service providers 198

213AF Delegation by health service chief executive for this part 198

Chapter 5A Performance of cosmetic procedures on children

213A Definition for ch 5A 199

213B Offence to perform, or offer to perform, cosmetic procedure on a child 200

213C Offence to procure, or offer to procure, performance of cosmetic procedure on a child 202

213D Chief executive may report contravention 202

Chapter 5B Conversion therapies

213E Definitions for chapter 202
213F Meaning of conversion therapy 203
213G Meaning of gender identity 204
213H Prohibition of conversion therapy 205
213I Proceedings for indictable offence 205
Chapter 6 Health information management
Part 1 Perinatal statistics
Division 1 Definitions
214 Definitions for pt 1 206
Division 2 Establishment and purposes of collection
215 Collection 208
216 Purposes of collection 208
Division 3 Notifications about perinatal statistics
217 Giving notifications to chief executive 208
218 Further information may be required 209
Division 4 Confidentiality
219 Definitions for div 4 210
220 Confidentiality of information 210
221 Disclosure under an Act or another law 211
222 Disclosure under Act or with written consent etc. 211
223 Disclosure of confidential information in the public interest 211
224 Disclosure for data collection and public health monitoring 212
225 Disclosure for purposes relating to health services 212
226 Disclosure to Commonwealth, another State or Commonwealth or State entity 213
227 Disclosure to quality assurance committee 214
228 Disclosure to allow chief executive to act 214
228A Disclosure of information for an investigation under the Coroners Act 214
228B Arrangements about transfer of information 214
228BA Disclosure for purpose of Health Transparency Act 2019 215
Part 1A Maternal death statistics
Division 1 Definitions
228C Definitions for pt 1A 215
Division 2 Establishment and purposes of collection
228D Collection 216

228E Purposes of collection 216

Division 3 Notifications about maternal death statistics

228F Giving information to chief executive 217

228G Further information may be required 217

Division 4 Confidentiality

228H Definitions for div 4 218

228I Confidentiality of information 219

228J Disclosure under an Act or another law 219

228K Disclosure under Act or with written consent etc. 219

228L Disclosure of confidential information in the public interest 220

228M Disclosure for data collection and public health monitoring 220

228N Disclosure for purposes relating to health services 221

228O Disclosure to Commonwealth, another State or Commonwealth or State entity 221

228P Disclosure to quality assurance committee 222

228Q Disclosure to allow chief executive to act 222

228R Disclosure of information for an investigation under the Coroners Act 222

228S Arrangements about transfer of information 223

Part 2 Cancer notifications

Division 1 Definitions

229 Definitions for pt 2 223

Division 2 Establishment and purposes of register

230 Register 224

231 Purposes of register 225

232 Responsibility for keeping of register 225

Division 3 Notifications about cancer

233 Application of div 3 225

234 Notification about pathological examination 225

234A Notification about diagnostic imaging procedure 226

234B Notification about cancer diagnosis at hospital 227

234C Notification about cancer-related treatment of hospital patient . . 227

234D Notification about death at hospital 228

235 Directions to give notifications about cancer to contractor 229

236 Further information may be required 229

Division 4 **Confidentiality**

237 Definitions for div 4 231

238 Confidentiality of information 231

239 Disclosure under an Act or another law 232

240 Disclosure under Act or with written consent etc. 232

241 Disclosure of confidential information in the public interest 232

242 Disclosure for data collection and public health monitoring 233

243 Disclosure for purposes relating to health services 233

244 Disclosure to Commonwealth, another State or Commonwealth or State entity 234

245 Disclosure to quality assurance committee 235

246 Disclosure to contractor or employee of contractor for maintaining the register 235

247 Disclosure to allow chief executive to act 235

248 Confidentiality of information for contractors 235

249 Disclosure by contractor 235

Part 3A **Notifiable occupational respiratory diseases**

Division 1 **Notifying information for national registry**

279AA Definitions for division 236

279AB Obligation to notify Commonwealth chief medical officer 237

279AC Authorisation relating to information in national registry 238

Division 2 **Historical dust lung disease register**

279AD Definitions for division 239

279AE Chief executive to keep information in historical dust lung disease register 240

279AF Restriction on disclosure of confidential information 240

279AG Disclosure generally 240

279AH Disclosure for data collection and public health monitoring 241

279AI Disclosure to entity of the State or corresponding entity 241

279AJ Disclosure of information for investigation under Coroners Act 2003 242

Part 4 **Research**

Division 1 **Preliminary**

279A Application of pt 4 242

280 Definitions for pt 4 243

280A Part does not prevent disclosure under other Act 244

Division 2 **Health information held by a health agency for research**

281 Chief executive may give information 244
282 Application to chief executive for information 244
283 Further information or documents to support application 245
284 Decision about application 245
285 What notice must state 247
286 Notification of change of persons being given information 247
287 Chief executive may rescind decision to give information 248
Division 3 Establishment of register
288 Register of approved applications for health information held by a health agency 248
289 Access to register 248
Division 4 Use and disclosure of information supplied for research
290 Restriction on inconsistent use of information 249
291 Restriction on disclosure of information 249
292 Use of health information held by a health agency 249
Chapter 7 Public health inquiries
293 Definitions for ch 7 250
294 Minister may establish or re-establish panels of inquiry 251
295 Role of panel of inquiry 251
296 Conditions of appointment 252
297 Chief executive to arrange for services of staff and financial matters for panel of inquiry 252
298 Procedure 252
299 Notice of inquiry 253
300 Inquiry to be held in public other than in special circumstances . 253
301 Protection of members, legal representatives and witnesses . . . 253
302 Record of proceedings to be kept 254
303 Procedural fairness and representation 254
304 Panel's powers on inquiry 254
305 Notice to witness 254
306 Inspection of documents or other things 255
307 Inquiry may continue despite court proceeding unless otherwise ordered 255
308 Offences by witnesses 255
309 False or misleading statements 256
310 False or misleading documents 257

311 Contempt of panel 257
312 Report of offences 257
313 Change of membership of panel 258
Chapter 7A Pollution events
Part 1 Preliminary
313A Purpose of chapter 258
313B Definitions for chapter 258
313C Meaning of pollution event 259
313D Meaning of pollution notice 259
Part 2 Pollution notices
313E Chief executive may give direction to publish pollution notice . . 259
313F Chief executive may publish pollution notice 260
313G Steps required before giving direction or publishing pollution notice 261
Part 3 Compensation
313H Compensation 261
Chapter 8 Public health emergencies
Part 1 Preliminary
314 Purpose of ch 8 262
315 Definitions for ch 8 262
316 Relationship to other Acts 264
317 Other Acts not affected 264
318 Powers under this chapter and powers under other Acts 264
Part 2 Declaring a public health emergency
319 Declaration of public health emergency 265
320 What public health emergency order must state 265
321 Publication of declaration 266
322 Duration of declared public health emergency 266
323 Extending or further extending declared public health emergency 266
324 Ending declared public health emergency 267
325 Publication of ending of declared public health emergency 267
326 Public health emergency order may be amended 268
Part 3 Emergency notifiable conditions
327 Declaration of emergency notifiable condition as controlled notifiable condition 268
328 What controlled notifiable conditions declaration must state 269
329 Publication of declaration 269

330 Duration of controlled notifiable conditions declaration 269
331 Controlled notifiable conditions declaration may be amended . . 269
Part 4 Role of chief executive
332 Coordination responsibility 270
Part 5 Appointment of emergency officers
333 Appointment of emergency officers (general) 270
334 Qualifications for appointment as emergency officer (general) . . 271
335 Appointment of emergency officers (medical) 271
336 Qualifications for appointment as emergency officer (medical) . . 272
337 Appointment conditions 272
338 Chief executive to give copy of appointment to emergency officer 272
339 Powers 272
340 Identity cards 273
341 Failure to return identity card 273
342 Production or display of identity card by emergency officer 273
Part 6 Powers of emergency officers
Division 1 Entry of places
343 Power to enter places 275
344 Procedure before entry 275
Division 2 Emergency powers
345 Emergency powers 276
346 Failure to comply with requirement 277
347 General powers after entering places 278
348 Failure to help emergency officer 279
Part 7 Extra powers of emergency officers (medical)
Division 1 Detention powers
349 Emergency officer (medical) may order detention 279
350 Duration of order 280
351 Enforcement of order 280
352 Establishing isolation areas 281
353 Person to be given opportunity of voluntarily complying with order 281
354 Medical examination and treatment 281
355 When detained person must be released before the end of the order 282
Division 2 Extension of detention order
356 Application to extend order 283

357	Consideration of application	283
358	Appeal	284
Division 3	**Other provisions about detention**	
359	Application of div 3	285
360	Obligations of emergency officer (medical) in relation to person detained 285	
361	Application to magistrate for order ending person's detention	286
362	Appeal	287
Part 8	**General enforcement matters**	
363	False or misleading statements	288
364	False or misleading documents	288
365	Obstructing emergency officers	288
Part 9	**Compensation**	
366	Entitlement to compensation	289
367	When compensation is not payable	289
368	Applying for compensation	289
369	Lapsing of application	290
370	Deciding application	291
371	Notice about decision	291
372	Review of decision	291
Chapter 9	**Monitoring and enforcement**	
Part 1	**Authorised persons**	
376	Powers generally	292
377	Appointment	292
378	Qualifications for appointment	293
379	Appointment conditions and limit on powers	293
380	Issue of identity card	294
381	Production or display of identity card	294
382	When authorised person ceases to hold office	295
383	Resignation	295
384	Return of identity card	295
Part 2	**Powers of authorised persons**	
Division 1	**Entry of places**	
385	Power to enter places	296
386	Power to enter place to ascertain if public health risk	296
387	Power to enter place to check compliance with public health order	297

388	Power to enter place to take steps if public health order not complied with 297	
388A	Power to enter places to check compliance with improvement notice 298	
389	Power to enter place under approved inspection program	298
389A	Power to enter a prescribed facility—general	299
389B	Power to enter dwellings in residential aged care facilities	299
390	Power to enter health care facility	300
390A	Power to enter place to monitor compliance with ch 5A	301
Division 2	**Procedure for entry**	
391	Entry with consent	301
392	Entry of place under s 386, 387, 388A or 389	302
393	Entry of place under s 388	303
394	Application for warrant	304
395	Issue of warrant	304
396	Application by electronic communication and duplicate warrant	306
397	Defect in relation to a warrant	308
398	Warrants—procedure before entry	308
Division 3	**General powers**	
399	General powers after entering places	309
400	Failure to help authorised person	310
401	Failure to answer questions or give information	310
Division 4	**Vehicles**	
402	Stopping motor vehicle	311
Division 5	**Power to seize evidence**	
403	Seizing evidence at place that may be entered without consent or a warrant	313
404	Seizing evidence at a place that may only be entered with consent or warrant	313
Division 6	**Power to remove or reduce public health risk under a warrant**	
405	Power to remove or reduce public health risk after entering place	314
Division 7	**Recovery of costs and expenses**	
406	Cost of steps recoverable as a debt	315
407	Cost of steps by local government a charge over land	315
Division 8	**Dealing with seized things**	
408	Securing seized things	316
409	Tampering with seized things	316

410	Powers to support seizure	317
411	Authorised person may require thing's return	317
412	Receipts for seized things	318
413	Forfeiture of seized things	318
414	Return of seized things	319
415	Access to seized things	320
Division 9	**Power to obtain information**	
416	Power to require name and address	320
417	Failure to give name or address	321
418	Power to require production of documents	321
419	Failure to produce document	322
420	Failure to certify copy of document	322
Part 3	**General enforcement matters**	
421	Notice of damage	323
422	Compensation	323
423	False or misleading statements	324
424	False or misleading documents	324
425	Obstructing authorised persons	325
426	Impersonation of authorised persons	325
Part 4	**Approved inspection programs**	
427	Approved inspection program	325
428	Notice of proposed inspection program	327
429	Access to program	327
Part 5	**Analysis of things**	
430	Appointment and qualifications	327
431	Appointment conditions	328
432	When State analyst ceases to hold office	328
433	Resignation	328
434	Chief executive may approve laboratory	329
435	Analysis	329
436	Certificate must indicate methodology used	329
Chapter 10	**Legal proceedings**	
Part 1	**Application**	
437	Application of ch 10	330
Part 2	**Evidence**	
438	Appointments and authority	330

439	Signatures	330
440	Evidentiary provisions	331
Part 3	**Proceedings**	
441	Summary offences	332
442	Allegations of false or misleading information or document	333
443	Recovery of costs of investigation	333
444	Application for order for payment of costs under s 443	333
445	Forfeiture on conviction	334
446	Dealing with forfeited thing	334
447	Responsibility for acts or omissions of representative	334
448	Liability of executive officer—particular offences committed by corporation	335
449	Fines payable to local government	336
Part 4	**Appeals**	
450	Who may appeal	337
451	Starting an appeal	337
452	Hearing procedures	337
453	Appeal to District Court	338
Chapter 11	**Miscellaneous**	
Part 1	**Annual report on public health issues**	
454	Chief executive to give Minister annual report	338
Part 1A	**Civil liability for asbestos-related harm**	
Division 1	**Preliminary**	
454A	Definitions for pt 1A	338
Division 2	**Protection from civil liability and indemnity**	
454B	Protecting prescribed persons from civil liability for asbestos-related harm	340
454C	Indemnifying local government against civil liability for asbestos-related harm	341
454CA	Local government must notify State of claim	341
454D	State may recover contribution in particular circumstances	341
454E	Limitation on indemnity	342
Division 3	**Indemnity conditions**	
454F	Purpose of div 3	342
454G	Training	342
454H	Compliance with Act, laws and guidelines	343

454I	Record-keeping	343
Division 4	**Annual compliance certificate**	
454J	Requirement for annual compliance certificate	345
454K	Acknowledgement of receipt of annual compliance certificate	345
454L	Evidentiary provision	346
Part 2	**Other provisions**	
455	Delegations	346
456	Protecting prescribed persons from liability	346
457	Public officials for Police Powers and Responsibilities Act	348
458	Approval of forms	348
459	Service of documents	348
460	Compliance with provisions about explaining and giving documents	349
Part 3	**Regulations**	
461	Regulation-making power	350
Chapter 12	**Savings and transitional**	
Part 1	**Savings and transitional provisions for Act No. 48 of 2005**	
462	Notifiable conditions	351
463	Notifiable Conditions Register	352
464	Order for removal or detention of person with notifiable disease	352
465	Order to cleanse and disinfect premises	353
466	Order closing a school	353
467	Mandatory reporting	353
468	Temporary custody of children	354
469	Abatement of nuisance	355
470	Notice relating to sewer, stormwater drain or sanitary convenience	355
471	Cancer notifications	355
472	Cancer registers	356
473	Continued obligation to give cancer return	356
474	Contractor	357
475	Further information may be required about cancer returns	357
476	Continuing obligation to give further information about cancer return	358
477	Pap Smear Register	358
478	Duty of director to give Pap smear information	358
479	Chief executive's duty to send notice	359
480	Request to remove registered screening history	359

481 Request to change identifying information 359
482 Request for registered screening history 359
483 Agreement to send out notices 360
484 Designated health practitioners 360
485 Perinatal Statistics Collection 360
486 Notification about delivery 360
487 Further information about perinatal statistics 361
488 Notice to comply with standard about paint 361
489 Authority to conduct scientific research and studies 361
490 Offences 362
491 References to Health Act 1937 362

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

492 When prohibition on performing cosmetic procedures on children does not apply 363

Part 3 Transitional provisions for Hospital and Health Boards Act 2011

493 Definitions for pt 3 363
494 Application for information for research 363

Part 4 Transitional provision for Health Legislation Amendment Act 2013

495 Maternal Death Statistics Collection 364

Part 5 Saving provision for Health Legislation Amendment Act 2020

496 Proceeding for particular offence 364

Part 6 Transitional provisions for Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020

497 Application of s 366 365
498 Proceedings against repealed s 362D or 362J 365

Part 7 Transitional provision for Community Services Industry (Portable Long Service Leave) Act 2020

499 Application of s 362MD 366

Part 8 Transitional and validation provisions for Public Health and Other Legislation (Further Extension of Expiring Provisions) Amendment Act 2021

Division 1 Provisions for amendments commencing on assent

507 Validation of particular directions given by emergency officers . . 367
507A Application of ch 8, pt 7A, div 6 368

Division 1A Provisions applying on expiry of chapter 8, part 7A

507B Application of division 368

507C Interpretation 368

507D Continuation of confidentiality requirements 368

507E Continuation of limits on use of relevant information and derived evidence 369

Division 2 Provision for amendments commencing by proclamation

508 Application of s 362ME 369

Division 3 Provisions applying on expiry of chapter 8, part 7AA

509 Application of division 369

510 Interpretation 370

511 Continuation of liability under former s 362MD or 362ME arising before expiry 370

512 Liability under s 362ME arising on or after expiry 370

513 Continued application of former s 362MM 371

514 Continued application of ss 362MN and 362MO 371

Part 9 Transitional provisions for Public Health and Other Legislation (COVID-19 Management) Amendment Act 2022

515 Application of part 372

516 Proceedings for particular offence 372

517 Continued application of s 142R 372

Part 10 Transitional provision for Health and Other Legislation Amendment Act 2023

518 Continued application of former s 234 for giving particular notifications 373

Part 11 Transitional provisions for Health Legislation Amendment Act (No. 2) 2025

519 Definition for part 373

520 Application of new ch 6, pt 3A to particular diagnoses made before commencement 374

521 Proceedings for particular offences 374

Schedule 2 Dictionary 376

Public Health Act 2005

An Act to protect and promote the health of the Queensland public, and for other purposes

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Public Health Act 2005*.

2 Commencement

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

3 Act binds all persons

(1) Subject to subsection (2), this Act binds all persons, including the State and, so far as the legislative power of the Parliament permits, the Commonwealth and all the other States.

(2) The following provisions do not bind the State for local government public health risks—

(a) chapter 2, part 3;

(b) section 386;

(c) sections 394 and 395.

(3) Nothing in this Act makes the Commonwealth or a State liable to be prosecuted for an offence.

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4 Contravention of this Act does not create civil cause of action

No provision of this Act creates a civil cause of action based on a contravention of the provision.

5 Act does not affect other rights or remedies

(1) This Act does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.

(2) Without limiting subsection (1), compliance with this Act does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.

Part 2 Object

6 Object of Act

The object of this Act is to protect and promote the health of the Queensland public.

7 How object is mainly achieved

The object is to be mainly achieved by—

(a) preventing, controlling and reducing risks to public health; and

(b) providing for the identification of, and response to, notifiable conditions; and

(c) imposing obligations on persons and particular health care facilities involved in the provision of declared health services to minimise infection risks; and

(d) providing for persons who have a major disturbance in mental capacity to be transported to a treatment or care place; and

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(e) protecting children who have been harmed or are at risk of harm when the children present at health service facilities; and

(f) restricting the performance of cosmetic procedures on children; and

(g) collecting and managing particular health information, and establishing mechanisms for health information held by a health agency to be accessed for appropriate research; and

(h) inquiring into serious public health matters; and

(i) responding to public health emergencies; and

(j) providing for compliance with this Act to be monitored and enforced.

Part 3 Interpretation

8 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

9 Notes in text

A note in the text of this Act is part of the Act.

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Chapter 2 Environmental health

Part 1 Public health risks

10 Definitions for ch 2

In this chapter—

local government public health risk means a public health risk—

(a) mentioned in section 11(1)(a) or (b)(i), (iv), (v), (vi), (vii) or (viii); or

(b) prescribed under section 18 as a public health risk that is to be administered and enforced only by local governments.

public health risk see section 11.

State public health risk means a public health risk—

(a) mentioned in section 11(1)(b)(ii), (iii), (ix) or (x); or

(b) prescribed under section 18 as a public health risk that is to be administered and enforced only by the State.

11 Meaning of *public health risk*

(1) ***Public health risk*** means—

(a) an animal, structure, substance or other thing that—

(i) is, or is likely to become, a breeding ground or source of food for designated pests; or

(ii) harbours, or is likely to become something that harbours, designated pests; or

(b) any of the following that is, or is likely to be, hazardous to human health, or that contributes to, or is likely to contribute to, disease in humans or the transmission of an infectious condition to humans—

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(i) a designated pest;

(ii) drinking water supplied by a drinking water service provider;

(iii) recycled water produced or supplied under a recycled water scheme within the meaning of the *Water Supply (Safety and Reliability) Act 2008*;

(iv) water, other than water mentioned in subparagraph (ii) or (iii);

(v) waste;

(vi) a dead or living animal, structure, substance or other thing that has been, or is likely to have been, exposed to an infectious condition;

(vii) a dispersal or release of a pesticide, herbicide, solvent or other chemical at a place other than a workplace;

(viii) a dispersal or release of a by-product of manufacturing, construction, repair, alteration, cleaning or demolition work at a place other than a workplace;

(ix) lead used, or being used, in a way that contravenes section 58 or 59;

(x) paint used, or being used, in a way that contravenes the standard mentioned in section 60;

(xi) any other activity, animal, substance or other thing prescribed under a regulation.

Examples for subparagraph (viii)—

1 drifting fibreglass dust resulting from building a fibreglass boat

2 propulsion into the environment of lead particles as a result of sandblasting lead-based paint

3 the release of asbestos fibres through the renovation of a house containing asbestos-cement sheeting or insulation material comprising or containing asbestos

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(2) The Minister must not recommend to the Governor in Council the making of a regulation under subsection (1)(b)(xi) unless the Minister is satisfied the activity, animal, substance or other thing—

(a) is, or is likely to be, hazardous to human health; or

(b) contributes, or is likely to contribute, to disease in humans or to the transmission of an infectious condition to humans.

(3) In this section—

animal does not include a human.

disease includes a non-infectious condition.

waste includes an accumulation or deposit of a substance or a thing.

water includes drinking water, water used for recreational purposes, recycled water, waste water and sewage.

workplace has the meaning given in the *Work Health and Safety Act 2011*.

Part 2 Roles of the State and local governments for public health risks

12 When Act administered only by the State

(1) This Act is to be administered and enforced by the State and not by local governments for—

(a) State public health risks; and

(b) a regulation made under section 61 that states that the regulation is to be administered and enforced by the State only.

(2) This section is subject to section 14.

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13 When Act administered only by local governments

(1) This Act is to be administered and enforced by local governments and not by the State for—

(a) local government public health risks; and

(b) a regulation made under section 61 that states that the regulation is to be administered and enforced by local governments only.

(2) This section is subject to section 14.

14 When State and local governments administer this Act in partnership

(1) The chief executive and the chief executive officer of a local government may agree that—

(a) the State do a thing in the administration or enforcement of this Act for a matter mentioned in section 13(1); or

(b) the local government do a thing in the administration or enforcement of this Act for a matter mentioned in section 12(1).

(2) For subsection (1)(a), the chief executive may perform functions and exercise powers for this Act for a matter mentioned in section 13(1), including appointing authorised persons.

(3) For subsection (1)(b), a chief executive officer may perform functions and exercise powers for this Act for a matter mentioned in section 12(1), including appointing authorised persons.

(4) An appointment under subsection (2) or (3) may be made before or after an agreement under this section.

15 Action by the State if local government does not administer and enforce this Act

(1) Subsection (3) applies if the chief executive—

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(a) is reasonably of the opinion there is a significant risk to public health from a public health risk in a local government's area for a matter mentioned in section 13(1); and

(b) is satisfied a local government has not done, or sufficiently done, a thing in the administration or enforcement of this Act for the matter; and

(c) is reasonably of the opinion that doing the thing is necessary to remove or reduce the risk to public health from a public health risk, or prevent a risk to public health from recurring.

(2) For subsection (1)(a), the chief executive must have regard to the following in forming an opinion about whether there is a significant risk to public health from the public health risk—

(a) the potential consequences for the health of individuals;

(b) the number of persons likely to be exposed to the risk.

(3) The chief executive may do the thing and the reasonable costs and expenses incurred by the chief executive are a debt payable by the local government to the State.

(4) For subsections (1), (2) and (3), the chief executive may perform functions and exercise powers for this Act for a matter mentioned in section 13(1), including appointing authorised persons.

(5) An appointment under subsection (4) may be made before or after a local government has not done a thing mentioned in subsection (1)(b).

16 Procedure before taking action under s 15

Before the chief executive does a thing under section 15(3), the chief executive must—

(a) consult with the chief executive officer of the local government; and

(b) give the chief executive officer a reasonable opportunity to do the thing.

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17 State may require report from local government

(1) This section applies to a matter under this chapter administered and enforced—

(a) by both the State and local governments in partnership under section 14; or

(b) by local governments only.

(2) The chief executive, by notice, may ask a local government to give the chief executive information about the local government's administration and enforcement of the matter within a stated reasonable time.

(3) The local government must comply with the request.

(4) However, before giving notice under this section, the chief executive must consult with the chief executive officer of the local government.

18 Regulation to prescribe who is to administer this Act for particular public health risks

If a regulation is made under section 11(1)(b)(xi) prescribing a public health risk, the regulation must state whether this Act is to be administered and enforced for the public health risk by—

(a) the State only; or

(b) local governments only.

19 Effect of Act on local laws

(1) This Act does not prevent a local government from making local laws about public health risks.

(2) For this Act, local laws about public health risks have effect despite the *Local Government Act 2009*, section 27.

(3) However, subsection (2) does not apply to a local law that is inconsistent with a regulation made under section 61.

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20 Application of Local Government Act 2009

The *Local Government Act 2009*, chapter 5, part 2, does not apply to the administration and enforcement of this Act by a local government.

Part 3 Public health orders

Division 1 Preliminary

21 What public health order may require

(1) A public health order may require a person to do something at a place that is—

(a) reasonably necessary to remove or reduce the risk to public health from a public health risk, or prevent a risk to public health from recurring; and

(b) appropriate in the circumstances having regard to the nature and seriousness of the risk to public health at the time the order is made.

(2) Without limiting subsection (1), a public health order may require a person to do any of the following at the place—

(a) clean or disinfect the place, or part of the place, or a structure or other thing at the place, in the way stated in the order;

(b) carry out insect or pest control at the place in the way stated in the order;

(c) demolish stated structures or other property at the place in the way stated in the order;

(d) remove stated material or items from the place to another place stated in the order in the way stated in the order;

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(e) dispose of stated material or items at the place in the way stated in the order, for example, by burying the material or items;

(f) destroy animals at the place or remove animals from the place for destruction at another place in the way stated in the order;

(g) stop using the place, or part of the place, for a stated purpose, within a stated period or until stated steps are taken.

(3) A public health order must—

(a) be in writing; and

(b) state a period within which the person to whom it is given must comply with the order.

(4) The period stated under subsection (3)(b) must be reasonable having regard to the risk to public health from the public health risk.

22 Public health orders about animals

(1) This section applies if an authorised person reasonably believes there is a public health risk at a place involving an animal that is, or is likely to be, a carrier of—

(a) prohibited matter or restricted matter under the *Biosecurity Act 2014*; or

Notes—

1 See the *Biosecurity Act 2014*, schedule 1 or schedule 2

2 See also the note to the *Biosecurity Act 2014*, schedules 1 and 2.

(b) controlled biosecurity matter or regulated biosecurity matter under the *Biosecurity Act 2014*.

(2) Before an authorised person issues a public health order relating to the animal, the chief executive or chief executive officer must consult the chief executive administering the *Biosecurity Act 2014*.

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(3) In this section—

carrier means a carrier under the *Biosecurity Act 2014*.

Division 2 Giving public health orders

23 Public health orders

(1) If an authorised person reasonably believes that a person is responsible for a public health risk at a place, the authorised person may give a public health order to the person (the ***recipient***).

(2) The public health order must state—

(a) the name and address of the recipient; and

(b) the nature of the public health risk; and

(c) the address of the place of the public health risk; and

(d) the steps the recipient must take, or action the recipient must stop, at the place to remove or reduce the risk to public health from the public health risk, or prevent the risk to public health from recurring; and

(e) the period within which the steps must be taken or the action must be stopped; and

(f) the name of the authorised person; and

(g) the name, address and contact details of the issuing authority; and

(h) that it is an offence for the recipient not to comply with the order, unless the recipient has a reasonable excuse; and

(i) that if the order is not complied with an application may be made to a magistrates court for an enforcement order.

(3) The public health order must also set out, or state the effect of, sections 387 and 388.

(4) The recipient must comply with the public health order, unless the recipient has a reasonable excuse.

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Maximum penalty—200 penalty units.

Note—

If a recipient fails to comply with a public health order, the issuing authority may take action under chapter 9, for example under section 388. Other action may be taken under this Act, for example, under division 3 of this part.

Division 3 Enforcement of public health orders

24 Issuing authority may apply for enforcement order

(1) This section applies if the issuing authority considers a person has contravened a public health order.

(2) The issuing authority may apply to a magistrate for an order enforcing the public health order (an ***enforcement order***).

(3) The application must—

(a) be sworn; and

(b) state the grounds on which the application is made; and

(c) state the nature of the enforcement order sought; and

(d) be accompanied by a copy of the public health order.

(4) The magistrate may refuse to consider the application until the applicant gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application be given by statutory declaration.

25 Notice of hearing must be given

(1) The person to whom the application relates must be given a notice at least 14 days before the day the application is to be heard.

(2) The notice—

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(a) must be accompanied by a copy of the application; and

(b) must state—

(i) the time when and the place where the application is to be heard; and

(ii) that the person may appear at the hearing and be heard on the application; and

(iii) that, if the person does not appear, the application may be decided in the person's absence.

(3) If the person appears at the time and place stated in the notice, the person is entitled to be heard on the application.

(4) If the person does not appear at the time and place stated in the notice, the application may be decided in the person's absence.

26 When magistrate may order enforcement

The magistrate may make an enforcement order against the person only if the magistrate is satisfied—

(a) a public health order was given to the person; and

(b) the public health order was appropriate in the circumstances having regard to the nature and seriousness of the risk to public health from the public health risk at the time the order was given; and

(c) the person has contravened the public health order; and

(d) notice under section 25 has been given to the person.

27 What enforcement order may require

(1) The magistrate may make an enforcement order in the same terms as the public health order, or in other terms the magistrate considers appropriate.

(2) Without limiting subsection (1), the magistrate may order either—

(a) that—

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(i) the person against whom the order is made take steps to remove or reduce the risk to public health from the public health risk, or prevent the risk to public health from recurring; and

(ii) if the person fails to take the steps, the issuing authority may enter the place and take the steps; or

(b) that the issuing authority may enter a place by its employees or agents to take steps to remove or reduce the risk to public health from the public health risk, or prevent the risk to public health from recurring.

(3) If the magistrate makes an order under subsection (2)(a), the order must state—

(a) the address of the place the steps are to be taken; and

(b) the steps the person must take; and

(c) the period within which the steps must be taken; and

(d) that an authorised person—

(i) may enter the place to check whether the steps under the order are being, or have been, taken; and

(ii) may use necessary and reasonable help and force to enter; and

(e) the times and intervals for entry under paragraph (d); and

(f) that if the steps required to be taken under the enforcement order have not been taken within the required period, the issuing authority may take the steps; and

(g) that for paragraph (f), an employee or agent of the issuing authority—

(i) may enter the place to take the steps under the order; and

(ii) may use necessary and reasonable help and force to enter, if the employee or agent is an authorised

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person or is accompanied by an authorised person; and

(h) the times and intervals for entry under paragraph (g); and

(i) who must pay the costs of taking the steps; and

(j) that it is an offence not to comply with the enforcement order unless the person has a reasonable excuse.

(4) If the magistrate makes an order under subsection (2)(b), the order must state—

(a) the address of the place where the steps are to be taken; and

(b) the steps that may be taken at the place by the issuing authority; and

(c) that an employee or agent of the issuing authority—

(i) may enter the place to take the steps under the order; and

(ii) may use necessary and reasonable help and force to enter, if the employee or agent is an authorised person or is accompanied by an authorised person; and

(d) the times and intervals for entry under paragraph (c); and

(e) the day when the order ends; and

(f) that an authorised person—

(i) may enter the place to check whether the steps under the order are being, or have been, taken; and

(ii) may use necessary and reasonable help and force to enter; and

(g) the times and intervals for entry under paragraph (f); and

(h) who must pay the cost of taking the steps.

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28 Person must comply with enforcement order

(1) A person must comply with an enforcement order unless the person has a reasonable excuse.

Maximum penalty—400 penalty units.

(2) Subsection (1) does not limit any other liability a person may incur for a contravention of the order.

29 Application may be dealt with in proceeding for offence

(1) This section applies if a person to whom an application for an enforcement order relates is being prosecuted for an offence against section 23(4).

(2) The application may be dealt with in the prosecution proceedings.

Division 4 Taking steps under enforcement order

30 Procedure before entry under enforcement order

(1) This section applies if—

(a) an enforcement order allows—

(i) an issuing authority to enter a place by its employees or its agents to take steps under the order; or

(ii) an authorised person to enter a place to check whether the steps under the order are being, or have been, taken; and

(b) the employees, agents or authorised person intends to enter the place under the order.

(2) Before entering the place, the employee, agent or authorised person must do or make a reasonable attempt to do the following—

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(a) identify himself or herself to a person present at the place who is an occupier of the place;

(b) give the person a copy of the order;

(c) tell the person that the employee, agent or authorised person is permitted by the order to enter the place;

(d) give the person an opportunity to allow the employee, agent or authorised person immediate entry to the place without using force.

(3) However, the employee, agent or authorised person need not comply with subsection (2) if the employee, agent or authorised person believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the order is not frustrated.

31 Costs under enforcement order recoverable as a debt

(1) The issuing authority may recover the amount payable by a person ordered to pay the costs under an enforcement order as a debt due to the issuing authority.

(2) For subsection (1), the amount becomes payable 30 days after the issuing authority gives the person details of the amount of the costs.

(3) If the issuing authority is a local government—

(a) the amount payable to the local government bears interest as if it were an amount of an overdue rate payable to a local government under the *Local Government Act 2009*; and

(b) the amount payable plus interest may be recovered by the local government as if the total amount were an amount of an overdue rate payable to a local government under the *Local Government Act 2009*.

32 Cost under enforcement order a charge over land

(1) This section applies if an amount (including any interest on the amount) (the ***unpaid amount***) is payable to a local

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government by a person under an enforcement order that relates to a public health risk on land owned by the person.

(2) The unpaid amount is a charge on the land.

(3) The local government may lodge a request to register the charge in the appropriate form over the land with the registrar of titles.

(4) The request must be accompanied by a certificate signed by the local government's chief executive officer stating there is a charge over the land under this section.

(5) A registered charge has priority over all other encumbrances over the land other than—

(a) encumbrances in favour of the State or a government entity; and

(b) rates payable to the local government.

(6) The charge is in addition to any other remedy the local government has for recovery of the unpaid amount.

Division 5 Recovery of costs from third parties

33 Recipient may apply for contribution

(1) This section applies if the recipient of a public health order has complied with the order and considers another person (the ***third party***) is wholly or partly responsible for the public health risk the subject of the order.

(2) The recipient may apply to a magistrates court for an order that the third party pay part or all of the costs of removing or reducing the risk to public health from the public health risk, or of preventing the risk to public health from recurring (the ***cost recovery order***).

(3) The application must—

(a) be sworn; and

(b) state the grounds on which the application is made; and

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(c) state the name of the third party; and

(d) state the amount sought from the third party; and

(e) be accompanied by a copy of the public health order.

(4) The magistrate may refuse to consider the application until the applicant gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application be given by statutory declaration.

34 Notice of hearing of cost recovery order must be given

(1) The third party to whom the application relates must be given a notice at least 14 days before the day the application is to be heard.

(2) The notice—

(a) must be accompanied by a copy of the application; and

(b) must state—

(i) the time when and the place where the application is to be heard; and

(ii) that the third party may appear at the hearing and be heard on the application; and

(iii) that, if the third party does not appear, the application may be decided in the absence of the third party.

(3) If the third party appears at the time and place stated in the notice, the third party is entitled to be heard on the application.

(4) If the third party does not appear at the time and place stated in the notice, the application may be decided in the absence of the third party.

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35 When magistrates court may make cost recovery order

(1) A magistrates court may make a cost recovery order against the third party if it is satisfied—

(a) a public health order was given to a person; and

(b) the person has complied with the order and has paid, or is liable to pay, an amount for the cost of complying with the order; and

(c) the third party is responsible for part or all of the public health risk the subject of the order; and

(d) a copy of the application for the cost recovery order has been given to the third party.

(2) An order made by the court is a judgment in the court's civil jurisdiction.

Part 4 Authorised prevention and control programs

36 Chief executive may authorise prevention and control program

(1) This section applies if the chief executive is satisfied there is, or is likely to be, in an area—

(a) an outbreak of a disease capable of transmission to humans by designated pests; or

(b) a plague or infestation of designated pests.

(2) The chief executive may authorise, in writing, a prevention and control program for the area (the ***chief executive's authorisation***).

(3) However, subsection (4) applies if a prevention and control program relates to 1 of the following that affects animals—

(a) prohibited matter or restricted matter under the *Biosecurity Act 2014*;

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Notes—

1 See the *Biosecurity Act 2014*, schedule 1 or schedule 2.

2 See also the note to the *Biosecurity Act 2014*, schedules 1 and 2.

(b) controlled biosecurity matter or regulated biosecurity matter under the *Biosecurity Act 2014*.

(4) Before authorising the prevention and control program, the chief executive must consult the chief executive administering the *Biosecurity Act 2014*.

(5) Also, before authorising a prevention and control program the chief executive must consult with the local government for the area to which the program relates.

37 What chief executive's authorisation must state

The chief executive's authorisation must state the following—

(a) the reasons for the prevention and control program;

(b) the designated pests to which the program relates;

(c) the area to which the program relates;

(d) the types of places within the area to which the program relates;

(e) the measures to be taken under the program;

(f) the duration of the program;

(g) who is to undertake the program;

(h) any conditions about the way the program is to be undertaken.

38 Publication of authorisation

(1) The chief executive must publish the chief executive's authorisation at least 7 days before the start of the program, in the area to which the program relates, by newspaper, radio or television.

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(2) Failure to publish the authorisation does not affect the authorisation.

39 Who may undertake prevention and control program

(1) For section 37(g) the chief executive may authorise—

(a) 1 or more local governments, if the chief executive officer of each local government agrees; or

(b) the State; or

(c) the State and 1 or more local governments, if the chief executive officer of each local government agrees.

(2) A prevention and control program must be undertaken by authorised persons.

40 Powers available for prevention and control program

(1) For undertaking a prevention and control program, an authorised person may exercise only the powers under this part and must not exercise the powers under chapter 9.

(2) Subsection (1) does not apply to the investigation by an authorised person of the contravention of a provision of this part.

41 Power of authorised persons to enter place for prevention and control program

(1) For undertaking a prevention and control program, an authorised person may enter a place in the area to which the program relates at any reasonable time of the day or night, to search for—

(a) the designated pests to which the program relates; and

(b) an animal, structure, substance or other thing that—

(i) is, or is likely to become, a breeding ground or source of food for designated pests; or

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(ii) harbours, or is likely to become something that harbours, designated pests.

(2) An authorised person may not enter a dwelling under subsection (1) without the occupier's consent.

(3) For subsection (2), the following do not form part of a dwelling—

(a) a carport, other than a carport to which access is restricted;

(b) the area of a verandah or deck to which access is not restricted and no provision is made to restrict access;

(c) the area underneath the dwelling to which access is not restricted and no provision is made to restrict access;

(d) any other external part of the dwelling, including, for example, the dwelling's gutters;

(e) land around the dwelling.

42 Notification of entry

(1) This section applies if an authorised person enters a place under section 41 and an occupier is present at the place.

(2) The authorised person must immediately after entering the place—

(a) produce the authorised person's identity card for the occupier's inspection; and

(b) inform the occupier about the prevention and control program.

43 Powers of authorised persons after entry

(1) This section applies if an authorised person enters a place under section 41.

(2) The authorised person may exercise the following powers—

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(a) take reasonable steps to eradicate or prevent the occurrence or recurrence of the designated pests, including by the use of pesticides;

(b) take a thing, or a sample of or from a thing, at the place for analysis or testing;

(c) take into or onto the place any persons, equipment and materials the authorised person reasonably requires for exercising a power under this section;

(d) require a person at the place to give the authorised person reasonable help to exercise the authorised person's powers under paragraphs (a) to (c).

(3) When making a requirement mentioned in subsection (2)(d), the authorised person must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

(4) Also, the authorised person may, under part 3, give a person a public health order if—

(a) the authorised person is appointed for part 3; and

(b) the public health order is for the prevention or control of the designated pests to which the prevention and control program relates.

(5) To remove any doubt, it is declared that the power mentioned in subsection (2)(c) includes the power to leave at the place for a reasonable period the equipment and materials mentioned in that paragraph.

44 Failure to help authorised person

A person required to give reasonable help under section 43(2)(d) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

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45 Person must not interfere with steps taken

A person must not do anything that interferes with a step taken by an authorised person under a prevention and control program, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

46 Notification of prevention and control program

An authorised person must, after exercising the authorised person's powers under a prevention and control program at a place—

(a) if an occupier is present at the place, inform the occupier—

(i) of any steps taken, or to be taken, under the program to eradicate or prevent the occurrence or recurrence of the designated pests; and

(ii) if steps have been taken, or are to be taken—that it is an offence to do anything that interferes with a step taken; or

(b) if an occupier is not present at the place, leave a notice at the place in a reasonably secure way and in a conspicuous position stating—

(i) the purpose of the prevention and control program; and

(ii) any steps taken, or to be taken, under the program to eradicate or prevent the occurrence or recurrence of designated pests; and

(iii) if steps have been taken, or are to be taken—that it is an offence to do anything that interferes with a step taken; and

(iv) the name and contact details of the authorised person.

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Part 5 Environmental health events

Division 1 Definition

47 Meaning of *environmental health event*

(1) An ***environmental health event*** is an event involving human exposure to a substance or other thing that is known to have, or is reasonably suspected of having, an adverse effect on human health.

(2) Exposure may happen in connection with—

(a) a single identifiable event; or

Example of a single identifiable event—

an outbreak in a hospital of a new strain of a previously controlled bacterial infection

(b) a situation that happens over a period of time.

Example of a situation that happens over a period of time—

the exposure to industrial fumes, over a period of years, of persons in a populated area

Division 2 Establishment of environmental health event register

48 Environmental health event register

(1) The chief executive may establish and keep a register (an ***environmental health event register***) for an environmental health event if the chief executive considers the event has or may have significant direct or indirect adverse effects on human health.

(2) The chief executive may keep the register in a form the chief executive considers appropriate, including an electronic form.

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(3) Before establishing the register, the chief executive must obtain and consider the views of a human research ethics committee about the register.

49 Purposes of register

The purposes for establishing an environmental health event register for an environmental health event are the following—

(a) to help monitor and analyse any adverse effects on human health resulting from the event;

(b) to provide information that may help in the prevention, minimisation or treatment of any adverse effects on human health resulting from the event or a similar future event.

50 What register must contain

An environmental health event register must contain—

(a) the information that is necessary or convenient for giving effect to the purposes of the register; and

(b) any information prescribed under a regulation.

Division 3 Notifications about environmental health event register

51 Notification of establishment of register

(1) As a soon as practicable after establishing an environmental health event register the chief executive must notify the register's establishment in the gazette.

(2) The notification must include the following—

(a) a description of the environmental health event;

(b) a description of the substance or other thing relevant to the event known to have, or suspected of having, an adverse effect on human health;

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(c) the type of human exposure to the substance or thing as a result of the event;

(d) the geographic area of human exposure to the substance or thing as a result of the event;

(e) contact details within the department where further details about the register may be obtained.

52 Notification inviting inclusion in register

(1) As soon as practicable after notifying the establishment of an environmental health event register for an environmental health event the chief executive must—

(a) notify all persons the chief executive considers may have been exposed to a substance or thing because of the event; and

(b) if satisfied a person may have been exposed to a substance or thing as a result of the event, offer the person the opportunity of having the person's details included on the register.

(2) Notification under subsection (1)(a) may be made in the way the chief executive considers appropriate, including, for example, by personal notification or by way of newspaper, radio or television.

Division 4 Confidentiality and use of information supplied for environmental health event register

53 Definitions for div 4

In this division—

confidential information means information that has become known to a relevant person in the course of performing the relevant person's functions for this part.

information includes a document.

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relevant person means the following—

(a) a person who is, or was, the chief executive;

(b) a person who is, or was, involved in the administration or enforcement of this part, including, for example, a health service employee or a public service employee.

54 Restriction on inconsistent use of information

A relevant person must not use confidential information for a purpose inconsistent with the purposes of the relevant environmental health event register.

Maximum penalty—50 penalty units.

55 Confidentiality of information

(1) A relevant person must not, whether directly or indirectly, disclose confidential information.

Maximum penalty—50 penalty units.

(2) However, subsection (1) does not apply if—

(a) the confidential information is disclosed—

(i) in the performance of functions under this Act; or

(ii) with the written consent of the person to whom the information relates; or

(iii) to the person to whom the information relates; or

(iv) in a form that could not identify any person; or

(b) the disclosure of the confidential information is authorised under an Act or another law.

(3) The *Hospital and Health Boards Act 2011*, section 142 does not apply to a relevant person in relation to confidential information.

Note—

As a specific offence is created under subsection (1), subsection (3) provides that the more general provision in the *Hospital and Health*

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Boards Act 2011, section 142 (Confidential information must not be disclosed) does not apply.

56 Release of information for an investigation under the Coroners Act

(1) This section applies if a coroner is investigating the death of a person.

(2) The chief executive may give to the coroner, or to a police officer helping the coroner to investigate the death, information from the environmental health event register that is relevant to the person's death.

(3) The coroner or police officer to whom the information is given and anyone else to whom the information is subsequently given under this subsection must not use or disclose the information other than—

(a) for a purpose of the investigation; or

(b) as otherwise required or permitted under this or another Act.

57 Use of environmental health event register

(1) The Minister may, by gazette notice, declare that information contained in an environmental health event register is protected information.

(2) The Minister may make a declaration under subsection (1) only if the Minister reasonably believes it is in the public interest to do so.

(3) If the Minister makes a declaration under subsection (1), the protected information—

(a) can not be accessed under any order, whether of a judicial or administrative nature, other than an order for the purpose of this Act; and

(b) is not admissible in any proceeding, other than a proceeding under this Act.

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(4) A person can not be compelled to produce the protected information, or to give evidence relating to the protected information, in any proceeding, other than a proceeding under this Act.

(5) Subsections (3)(b) and (4) do not apply if the protected information is admitted or produced, or evidence relating to the information is given, with the consent of the person to whom the information relates.

(6) Nothing in this section limits—

(a) the giving, use or disclosure of information under section 56; or

(b) access to protected information by the chief executive or a person authorised by the chief executive.

(7) In this section—

order includes a direction or other process.

Part 5A Provisions about drinking water and recycled water

Division 1 Improvement notices

57A Improvement notice

(1) This section applies if an authorised person appointed by the chief executive reasonably believes—

(a) a water service provider—

(i) is contravening section 57E or 57F; or

(ii) has contravened section 57E or 57F in circumstances that make it likely the contravention will continue or be repeated; and

(b) a matter relating to the contravention can be remedied; and

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(c) it is appropriate to give the water service provider an opportunity to remedy the matter.

(2) The authorised person may give the water service provider a notice (an ***improvement notice***) requiring the water service provider to remedy the contravention or have the contravention remedied.

(3) The improvement notice must state the following—

(a) the provision the authorised person believes is being, or has been, contravened (the ***relevant provision***);

(b) that the authorised person reasonably believes the water service provider—

(i) is contravening the relevant provision; or

(ii) has contravened the relevant provision in circumstances that make it likely the contravention will continue or be repeated;

(c) briefly, how it is believed the relevant provision is being, or has been, contravened;

(d) the period within which the water service provider must remedy the contravention or have the contravention remedied;

(e) that it is an offence to fail to comply with the improvement notice unless the water service provider has a reasonable excuse.

(4) The period stated under subsection (3)(d) must be reasonable having regard to the risk to public health or safety posed by the contravention.

(5) The improvement notice may also state the reasonable steps that the authorised person considers necessary to remedy the contravention, or avoid further contravention, of the relevant provision.

Example of reasonable steps—

a requirement to issue notices about the need to boil water to remove contaminants from the water

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(6) The authorised person must keep a copy of the improvement notice.

(7) The water service provider must comply with the improvement notice unless the provider has a reasonable excuse.

Maximum penalty—the maximum penalty for contravening the relevant provision.

(8) The water service provider can not be prosecuted for the offence for which the improvement notice is given unless the provider fails to comply with the improvement notice and does not have a reasonable excuse for the noncompliance.

(9) A water service provider may be prosecuted for the contravention of a relevant provision without an authorised person first giving an improvement notice for the contravention.

57B Record of compliance with improvement notice

(1) If a water service provider who is given an improvement notice by an authorised person under this division reasonably believes the provider has complied with the notice, the provider may inform the authorised person of the belief.

(2) If the authorised person is satisfied the water service provider has complied with the improvement notice, the authorised person must—

(a) record the date of the compliance on the authorised person's copy of the notice; and

(b) if asked, give a copy of the notice to the water service provider.

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Division 2 Offences about supply of drinking water or recycled water

Subdivision 1 Preliminary

57C When drinking water is *unsafe*

Drinking water is ***unsafe*** at a particular time if it would be likely to cause physical harm to a person who might later consume it, assuming nothing happened to it after that particular time and before being consumed by the person that would prevent its being used for its intended use.

57D When recycled water is *fit for use*

Recycled water is ***fit for use*** at a particular time if it would not be likely to cause physical harm to a person who might later be exposed to it, assuming—

(a) nothing happened to it after that particular time and before the person was exposed to it that would prevent its being used for its intended use; and

(b) it was used according to its intended use.

Subdivision 2 Offences

57E Supply of unsafe drinking water

A drinking water service provider must not supply drinking water that the provider knows, or reasonably ought to know, is unsafe.

Maximum penalty—3,000 penalty units or 2 years imprisonment.

Note—

This provision is an executive liability provision—see section 448.

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57F Supply of recycled water that is not fit for use

(1) This section applies to a recycled water provider that supplies recycled water for use other than as drinking water.

(2) The recycled water provider must not supply the recycled water if the provider knows, or reasonably ought to know, the recycled water is not fit for use.

Maximum penalty—1,350 penalty units or 2 years imprisonment.

Note—

This provision is an executive liability provision—see section 448.

Division 3 Information requests

57G Power to require information

(1) This section applies if—

(a) an authorised person appointed by the chief executive reasonably believes—

(i) there is a risk to public health or safety because of the production or supply of drinking water or recycled water; and

(ii) a person may be able to give information about the circumstances giving rise to the risk; and

(b) the authorised person has explained to the person that information is needed to attempt to prevent or minimise the risk or potential risk to public health.

(2) The authorised person may ask the person to give the authorised person the following information (the ***required information***) within a stated reasonable period—

(a) the person's name and address where the person can be contacted;

(b) information about the circumstances giving rise to the risk.

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(3) The authorised person may ask the person to give the authorised person evidence of the correctness of the required information, within a stated reasonable period, if the authorised person reasonably suspects the information to be false.

(4) If the person does not comply with a request under subsection (2) or (3), the authorised person may give the person a notice that—

(a) states the required information the person is required to give; and

(b) states the information is needed to attempt to prevent or minimise a risk or potential risk to public health; and

(c) requires the person to give the authorised person the required information within a stated reasonable period; and

(d) warns the person it is an offence to not give the required information, unless the person has a reasonable excuse.

57H Failure to give information

(1) A person who is given a notice under section 57G(4) must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) If the person is an individual, it is a reasonable excuse for the person to fail to comply with the notice that complying with the notice might tend to incriminate the person.

Part 6 Lead

58 Lead in buildings must not be accessible to children

(1) A person must not use or permit the use of lead in, or for the purposes of, constructing, erecting, altering, extending,

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improving, renovating or repairing a building or part of a building if the lead is, or may be, easily accessible to children.

Maximum penalty—100 penalty units.

(2) The owner of a building, or part of a building, must not knowingly allow lead to remain in or on the building or part of the building if the lead is, or may be, easily accessible to children.

Maximum penalty—100 penalty units.

59 Lead must not be used in water collection

(1) A person must not use, or permit the use of, in a building any of the following things if the thing has in or on it a substance that contains lead—

(a) a roof, guttering, downpipe or other thing for carrying water to a tank or other receptacle for potable water;

(b) a tank or other receptacle for potable water.

Maximum penalty—100 penalty units.

(2) The owner of a building must not knowingly allow any of the following to remain in the building if they have in or on them a substance that contains lead—

(a) a roof, guttering, downpipe or other thing for carrying water to a tank or other receptacle for potable water;

(b) a tank or other receptacle for potable water.

Maximum penalty—100 penalty units.

(3) In this section—

potable water means water that is intended to be, or is likely to be, used for human consumption.

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Part 7 Paint

60 Person must comply with standard

A person manufacturing, selling, supplying or using paint must comply with a provision of a standard prescribed by regulation.

Maximum penalty—100 penalty units.

Part 8 Regulations about public health risks

61 Regulations about public health risks

(1) A regulation may be made for this chapter about public health risks including—

(a) standards for water quality in residential and non-residential swimming pools, spas, hydrotherapy pools, water slides and recreational water parks, for human use; and

(b) measures to control designated pests, including—

(i) standards for the proofing of any building against designated pests; and

(ii) procedures to be followed to prevent the breeding of, to eliminate any refuge or food source for, or to eradicate, designated pests; and

(iii) the imposition of a permit system for keeping designated pests; and

(c) measures to prevent and control public health risks.

(2) A regulation made under this section must state whether the regulation is to be administered and enforced by—

(a) the State only; or

(b) local governments only.

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(3) A regulation made under this section does not bind the State except to the extent prescribed by the regulation.

Chapter 2A Water risk management plans

Part 1 Preliminary

61A Definitions for chapter

In this chapter—

approved provider means an entity for which an approval is in force under the *Aged Care Act 1997* (Cwlth).

cooling tower see the *Work Health and Safety Act 2011*, schedule 1, part 1, section 1(6).

hazard means—

(a) Legionella; or

(b) microorganisms, substances or physical properties of water that are reasonably expected to cause injury or illness to an individual; or

(c) microorganisms or substances prescribed by regulation.

hazardous event, for a prescribed facility, means—

(a) an event, or series of events, that causes or has the potential to cause the presence of a hazard in water within a prescribed facility's water distribution system; or

(b) an interruption of the supply of water to the prescribed facility.

hazard source means a location or condition that establishes or increases the presence of a hazard.

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Legionella means bacteria belonging to the genus *Legionella*.

prescribed facility means—

(a) a public sector hospital that provides treatment or care to inpatients; or

(b) a private health facility licensed under the *Private Health Facilities Act 1999*; or

(c) a State aged care facility; or

(d) a residential aged care facility, other than a State aged care facility, prescribed by regulation.

prescribed test means a test for Legionella prescribed by regulation for this chapter.

residential aged care facility means a facility at which an approved provider provides residential care under the *Aged Care Act 1997* (Cwlth).

residential care has the meaning given by the *Aged Care Act 1997* (Cwlth), section 41–3.

responsible person, for a prescribed facility, means—

(a) for a prescribed facility that is a public sector hospital—the health service chief executive for the public sector hospital; or

(b) for a prescribed facility that is a private health facility licensed under the *Private Health Facilities Act 1999*—the licensee for the private health facility under that Act; or

(c) for a prescribed facility that is a State aged care facility—the health service chief executive for the State aged care facility; or

(d) for a prescribed facility that is a residential aged care facility, other than a State aged care facility—the approved provider that provides residential care at the residential aged care facility.

State aged care facility means a residential aged care facility at which the State provides residential care.

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water distribution system, of a prescribed facility—

(a) means the infrastructure within the prescribed facility from every point where water enters the facility through the infrastructure to every point where the water is used; but

(b) does not include a cooling tower.

water risk management plan, for a prescribed facility, means a written plan to prevent or minimise the risks posed by hazards, hazard sources or hazardous events to individuals at the prescribed facility.

61B Operation of chs 2 and 2A

Nothing in this chapter is intended to affect the operation of chapter 2.

Part 2 Requirement and content of plans

61C Requirement for water risk management plans

The responsible person for a prescribed facility must ensure there is a water risk management plan for the prescribed facility that complies with section 61D, unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

61D Content of water risk management plans

The water risk management plan for a prescribed facility must—

(a) describe the prescribed facility's water distribution system; and

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(b) identify hazards, hazard sources and hazardous events relevant to water within the prescribed facility's water distribution system; and

(c) assess the risks associated with hazards, hazard sources and hazardous events identified under paragraph (b); and

(d) state the following—

(i) measures to be taken to control the risks assessed under paragraph (c);

(ii) the procedures that must be implemented for monitoring the effectiveness of the measures;

(iii) a schedule that must be complied with for testing water for Legionella and other identified hazards at a frequency informed by the risks, measures and procedures;

(iv) the way records of results obtained under subparagraphs (ii) and (iii) will be kept; and

(e) state procedures for responding to—

(i) the results of monitoring that indicate the failure of measures taken to control risks assessed under paragraph (c); and

(ii) the results of testing that indicate the presence of a hazard in water within the prescribed facility's water distribution system; and

(f) include a requirement for the water risk management plan to be reviewed and when that review is to be carried out; and

(g) include any other requirement prescribed by regulation.

61E Amending water risk management plans

(1) This section applies if the chief executive is satisfied a water risk management plan for a prescribed facility requires amendment to comply with section 61D.

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(2) The chief executive may give the responsible person for the prescribed facility a notice requiring the responsible person to amend the water risk management plan.

(3) The notice must state the following—

(a) that the responsible person must amend the water risk management plan;

(b) the way the water risk management plan must be amended;

(c) the day by which the water risk management plan must be amended;

(d) the day by which the responsible person must give the chief executive a copy of the amended water risk management plan.

(4) The responsible person must comply with the notice, unless the responsible person has a reasonable excuse.

Maximum penalty—500 penalty units.

Part 3 Compliance

61F Obligation to give chief executive copy of water risk management plans

(1) The chief executive may, by notice, ask the responsible person for a prescribed facility to give the chief executive a copy of the water risk management plan for the prescribed facility by the day stated in the notice.

(2) The responsible person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

61G Complying with water risk management plans

(1) The responsible person for a prescribed facility must ensure the facility operates in a way that complies with the facility's

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water risk management plan, unless the responsible person has a reasonable excuse.

Maximum penalty—500 penalty units.

(2) The responsible person for a prescribed facility must take all reasonable steps to ensure each person who has an obligation to comply with the plan, while the facility is operating, complies with the plan, unless the responsible person has a reasonable excuse.

Maximum penalty—200 penalty units.

61H Obligation to notify chief executive of Legionella

(1) This section applies if the result of a prescribed test confirms the presence of Legionella in water used by a prescribed facility.

(2) A person in charge of the prescribed facility must, under subsection (3), give the chief executive a notice about the result of the test, unless the person has a reasonable excuse.

Maximum penalty—

(a) if the offence is committed intentionally—1,000 penalty units; or

(b) otherwise—200 penalty units.

(3) The notice must—

(a) be in the approved form; and

(b) be given to the chief executive within 1 business day after the person in charge is notified of the result of the test; and

(c) comply with any other requirements prescribed by regulation.

61I Obligation to give chief executive reports

(1) A person in charge of a prescribed facility must, under subsection (2), give the chief executive a report for each

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reporting period about the results of prescribed tests carried out under the water risk management plan for the prescribed facility, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

(2) The report must—

(a) be in the approved form; and

(b) be given to the chief executive within 30 business days after the end of the reporting period; and

(c) comply with any other requirements prescribed by regulation.

(3) In this section—

reporting period means a period prescribed by regulation.

61J False or misleading reports

(1) A person must not give the chief executive a report under section 61I containing information the person knows is false or misleading in a material particular.

Maximum penalty—1,000 penalty units.

(2) Subsection (1) does not apply to a person if the person, when giving the report—

(a) tells the chief executive, to the best of the person's ability, how it is false or misleading; and

(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

61K Chief executive may publish reports

(1) The chief executive may publish in a report—

(a) notices about the presence of Legionella given to the chief executive under section 61H; or

(b) reports about prescribed tests given to the chief executive under section 61I.

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(2) The report may also include any other information the chief executive considers relevant to the notices or reports.

(3) However, information may not be included in the report under subsection (2) if the information is adverse to a person unless—

(a) before the report is prepared, the chief executive gives the person an opportunity to make submissions about the information; and

(b) any submissions made by the person are fairly stated in the report.

Chapter 3 Notifiable conditions

Part 1 Definitions, purpose of chapter and guiding principles

62 Definitions for ch 3

In this chapter—

anonymity code means a code of letters, numbers, or letters and numbers used to designate a particular person.

clinical diagnosis notifiable condition means a notifiable condition—

(a) a diagnosis of which can be made on the basis of clinical evidence, including clinical history, signs and symptoms; and

(b) prescribed under a regulation as a clinical diagnosis notifiable condition.

controlled notifiable condition see section 63.

controlled notifiable conditions order see section 116(1).

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notifiable condition see section 64.

Notifiable Conditions Register see section 67.

pathological diagnosis notifiable condition means a notifiable condition—

(a) a diagnosis of which can be made on the basis of a pathological examination of a specimen of human origin; and

(b) prescribed under a regulation as a pathological diagnosis notifiable condition.

pathology request notifiable condition means a notifiable condition prescribed under a regulation as a pathology request notifiable condition.

provisional diagnosis notifiable condition means a notifiable condition—

(a) a provisional diagnosis of which can be made on the basis of clinical evidence, including clinical history, signs and symptoms; and

(b) prescribed under a regulation as a provisional diagnosis notifiable condition.

register means the Notifiable Conditions Register.

63 Meaning of *controlled notifiable condition*

(1) A ***controlled notifiable condition*** is a notifiable condition prescribed under a regulation as a controlled notifiable condition.

(2) However, the Minister must not recommend to the Governor in Council the making of a regulation under subsection (1) unless the Minister is satisfied—

(a) the condition may have a substantial impact on public health; and

(b) the ordinary conduct of a person with the condition is likely to result in the transmission of the condition to someone else; and

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(c) the transmission of the condition will result in, or is likely to result in, long term or serious deleterious consequences for the health of the person to whom the condition is transmitted.

64 Meaning of *notifiable condition*

(1) A ***notifiable condition*** is a medical condition prescribed under a regulation as a notifiable condition.

(2) However, the Minister must not recommend to the Governor in Council the making of a regulation under subsection (1) unless the Minister is satisfied the condition is a significant risk to public health.

65 Purpose of ch 3

The purpose of this chapter is to protect persons from notifiable conditions through mechanisms that provide an appropriate balance between the health of the public and the right of individuals to liberty and privacy.

66 Guiding principles for ch 3

(1) The principles intended to guide the achievement of this chapter's purpose are the following—

(a) the spread of notifiable conditions should be prevented or minimised without unnecessarily infringing the liberty or privacy of individuals;

(b) a person at risk of contracting a notifiable condition should take all reasonable precautions to avoid contracting or being infected with the condition;

(c) a person who suspects he or she may have a notifiable condition should ascertain—

(i) whether he or she has the condition; and

(ii) what precautions should be taken to prevent others from contracting the condition.

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(2) For subsection (1), a person at risk of contracting, who suspects he or she may have, or who has, a notifiable condition has a right—

(a) to be protected from unlawful discrimination; and

(b) to have his or her privacy respected; and

(c) to make informed decisions about his or her medical treatment.

(3) Nothing in this section limits the *Anti-Discrimination Act 1991*, section 107.

Part 2 Notifiable Conditions Register

Division 1 Establishment and purpose of Notifiable Conditions Register

67 Register

(1) The chief executive must establish and keep a register of the persons for whom notifications have been given to the chief executive under this part.

(2) The register must include details of deceased persons for whom notifications have been given.

(3) The chief executive must keep the register in a form the chief executive considers appropriate, including an electronic form.

(4) The register is to be known as the Notifiable Conditions Register.

68 Purposes of register

The purposes for establishing the register are as follows—

(a) to supply data to help in—

(i) monitoring and analysing the incidence and patterns of notifiable conditions; or

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(ii) studying the efficacy of the management and treatment of notifiable conditions; or

(iii) increasing public awareness of notifiable conditions;

(b) to identify outbreaks of notifiable conditions so the Commonwealth, the State or a local government can take steps to protect public health;

(c) to help in the identification of persons who have, or may have, contracted a notifiable condition so that—

(i) the Commonwealth, the State or a local government can take action to prevent or minimise transmission of the notifiable condition; or

(ii) the persons may be medically examined and undergo treatment for the notifiable condition;

(d) to help in the planning of services and strategies to prevent or minimise the transmission of notifiable conditions.

Division 2 Notices about notifiable conditions

69 Application of div 2

The requirement to notify or give information under this division relating to a person applies also in relation to a deceased person.

70 When a doctor must notify

(1) A doctor must, under subsection (2), notify the chief executive if an examination of a person by the doctor indicates that the person—

(a) has or had a clinical diagnosis notifiable condition; or

(b) has or had a provisional diagnosis notifiable condition.

Maximum penalty—20 penalty units.

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(2) The notice must—

(a) comply with the requirements prescribed under a regulation; and

(b) be in the approved form.

(3) Subsection (1) does not apply if the examination was carried out in a hospital.

71 When the person in charge of hospital must notify

(1) A person in charge of a hospital must, under subsection (2), unless the person in charge has a reasonable excuse, notify the chief executive if an examination of a person by a doctor in the hospital indicates the person—

(a) has or had a clinical diagnosis notifiable condition; or

(b) has or had a provisional diagnosis notifiable condition.

Maximum penalty—20 penalty units.

(2) A notice under subsection (1) must—

(a) comply with the requirements prescribed under a regulation; and

(b) be in the approved form.

72 When the director of a pathology laboratory must notify a pathological diagnosis notifiable condition

(1) The director of a pathology laboratory must, under subsection (2), unless the director has a reasonable excuse, notify the chief executive if a pathological examination of a specimen of human origin in the laboratory indicates that the person from whom the specimen was taken has or had a pathological diagnosis notifiable condition.

Maximum penalty—20 penalty units.

(2) The notice must—

(a) comply with the requirements prescribed under a regulation; and

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(b) include the name of the doctor who referred the person's specimen for pathological examination; and

(c) be in the approved form.

73 When the director of a pathology laboratory must notify pathology request notifiable condition

(1) The director of a pathology laboratory must, under subsection (2), unless the director has a reasonable excuse, notify the chief executive if the laboratory receives a request for a pathological examination of a specimen of human origin for a pathology request notifiable condition.

Maximum penalty—20 penalty units.

(2) The notice must—

(a) comply with the requirements prescribed under a regulation; and

(b) include the name of the doctor who referred the person's specimen for pathological examination; and

(c) be in the approved form.

74 Anonymity coding

A person required to notify the chief executive under this division may give the notice using an anonymity code.

75 Further information may be required

(1) This section applies if the chief executive considers further information is required in relation to a notice given under this division—

(a) to ensure the accuracy, completeness or integrity of the register; or

(b) to prevent or minimise the spread of a notifiable condition.

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(2) The chief executive may ask the following persons to give stated information within a stated time to the chief executive—

(a) the person who gave the notice;

(b) the doctor mentioned in a notice under section 72 or 73 as the doctor who referred the specimen for pathological examination;

(c) another doctor or person who is involved in the treatment of the person for whom a notice was given under this division.

(3) If a person refuses or fails to comply with a requirement under subsection (2), the chief executive may give the person a notice requiring the person to give the information stated in the notice to the chief executive within the reasonable time stated in the notice.

(4) A notice under subsection (3) may require a person to give the full name of, and other identifying information about, a person for whom an anonymity code has been used.

(5) The notice must warn the person that failure to comply with the notice is an offence under this Act.

(6) A person given a notice under subsection (3) must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(7) A person who gives information requested under this section who would otherwise be required to maintain confidentiality about the information given under an Act, oath, rule of law or practice—

(a) does not contravene the Act, oath, rule of law or practice by giving the information; and

(b) is not liable to disciplinary action for giving the information.

Note—

See for example the *Hospital and Health Boards Act 2011*, section 142.

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(8) Also, merely because the person gives the information, the person can not be held to have—

(a) breached any code of professional etiquette or ethics; or

(b) departed from accepted standards of professional conduct.

Division 3 Confidentiality of information and use of information supplied for Notifiable Conditions Register

76 Definitions for div 3

In this division—

confidential information means information that has become known to a relevant person in the course of performing the relevant person's functions under this part or the repealed provisions.

information includes a document.

relevant person means the following—

(a) a person who is, or was, the chief executive;

(b) a person who is, or was, involved in the administration or enforcement of this part, including, for example, a health service employee or a public service employee;

(c) a person who was involved in the administration or enforcement of the repealed provisions.

repealed provisions means the *Health Act 1937*, part 3, division 2.

77 Confidentiality of information

(1) A relevant person must not, whether directly or indirectly, disclose confidential information.

Maximum penalty—50 penalty units.

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(2) The *Hospital and Health Boards Act 2011*, section 142, does not apply to a relevant person in relation to confidential information.

78 Disclosure under an Act or another law

Section 77(1) does not apply if the disclosure of the confidential information by a relevant person is authorised under an Act or another law.

79 Disclosure under Act or with written consent etc.

Section 77(1) does not apply if the confidential information is disclosed by a relevant person—

(a) in the performance of functions under this Act; or

(b) with the written consent of the person to whom the information relates; or

(c) to the person to whom the information relates; or

(d) in a form that could not identify any person.

80 Disclosure about notifiable conditions and contact tracing

Section 77(1) does not apply if the disclosure of the confidential information by a relevant person is authorised by the chief executive for the purposes of—

(a) monitoring the incidence and patterns of notifiable conditions; or

(b) identifying the source of outbreaks of notifiable conditions; or

(c) identifying persons who may transmit a notifiable condition to others, to prevent or minimise the transmission of the condition; or

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(d) identifying persons who may have contracted, or may be at risk of contracting, a notifiable condition, to prevent or minimise the transmission of the condition; or

(e) contact tracing by a contact tracing officer.

81 Disclosure of confidential information in the public interest

(1) Section 77(1) does not apply to the disclosure of confidential information by a relevant person if—

(a) the chief executive believes, on reasonable grounds, the disclosure is in the public interest; and

(b) the chief executive has, in writing, authorised the disclosure.

(2) The department's annual report for a financial year under the *Financial Accountability Act 2009* must include details of—

(a) the nature of any confidential information disclosed under subsection (1) during the financial year; and

(b) the purpose for which the confidential information was disclosed.

(3) However, the details mentioned in subsection (2)(a) must not identify, directly or indirectly, the person to whom the confidential information relates.

(4) Despite section 455, the chief executive may delegate the chief executive's powers under this section only to—

(a) the chief health officer; or

(b) another person who—

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

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

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82 Disclosure for data collection and public health monitoring

Section 77(1) does not apply to the disclosure of confidential information by a relevant person if—

(a) the disclosure is to an employee of the department or a person approved by the chief executive who is contracted by the department to analyse, monitor or evaluate public health; and

(b) the disclosure and receipt of the confidential information is for analysing, monitoring or evaluating public health; and

(c) the employee of the department or other person is authorised in writing by the chief executive to receive the confidential information.

83 Disclosure for purposes relating to health services

Section 77(1) does not apply to the disclosure of confidential information by a relevant person if—

(a) the disclosure is to an employee of the department or a person approved by the chief executive who is contracted by the department to evaluate, manage, monitor or plan health services; or

(b) the disclosure is to an entity prescribed under a regulation for this paragraph for evaluating, managing, monitoring or planning health services as stated in the regulation.

84 Disclosure to Commonwealth, another State or Commonwealth or State entity

(1) Section 77(1) does not apply to the disclosure of confidential information by the chief executive if—

(a) the disclosure is to the Commonwealth or another State, or an entity of the Commonwealth or another State and the disclosure—

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(i) is required or allowed under an agreement—

(A) between Queensland and the Commonwealth, State or entity; and

(B) prescribed under a regulation for this paragraph; and

(ii) is considered by the chief executive to be in the public interest; or

(b) the disclosure is to an entity of the State and the disclosure—

(i) is required or allowed under an agreement—

(A) between the chief executive and the entity; and

(B) prescribed under a regulation for this paragraph; and

(ii) is considered by the chief executive to be in the public interest.

(2) The Commonwealth, a State or entity that receives confidential information under an agreement under subsection (1)—

(a) must not give it to anyone else unless allowed to do so by the agreement or in writing by the chief executive; and

(b) must ensure the confidential information is used only for the purpose for which it was given under the agreement.

85 Disclosure to allow chief executive to act

Section 77(1) does not apply if the disclosure of the confidential information by a relevant person is to the chief executive to allow the chief executive to act under this division.

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86 Release of information for an investigation under the Coroners Act

(1) This section applies if a coroner is investigating the death of a person.

(2) The chief executive may give to the coroner, or to a police officer helping the coroner to investigate the death, information from the register that is relevant to the person's death.

(3) The coroner or police officer to whom the information is given and anyone else to whom the information is subsequently given under this subsection must not use or disclose the information other than—

(a) for a purpose of the investigation; or

(b) as otherwise required or permitted under this or another Act.

87 Use of Notifiable Conditions Register

(1) Information in the register—

(a) can not be accessed under any order, whether of a judicial or administrative nature, other than an order for the purpose of this Act; and

(b) is not admissible in any proceeding, other than a proceeding under this Act.

(2) A person can not be compelled to produce the information, or to give evidence relating to the information, in any proceeding, other than a proceeding under this Act.

(3) Subsections (1)(b) and (2) do not apply if the information is admitted or produced, or evidence relating to the information is given, with the consent of the person to whom the information relates.

(4) Nothing in this section limits—

(a) the giving, use or disclosure of information under section 86; or

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(b) the release of information by the chief executive under section 88 or the use of that information in a proceeding for a serious offence under that section; or

(c) access to information by the chief executive or a person authorised to have access by the chief executive.

(5) In this section—

order includes a direction or other process.

88 Access to information in register for serious offence

(1) This section applies if information in the register is required by an entity of the State to investigate a serious offence.

(2) The chief executive may release the information to the entity under an agreement under section 84(1)(b) between the chief executive and the entity.

(3) In this section—

serious offence means an offence under the Criminal Code, section 317.

Part 3 Contact tracing

Division 1 Contact tracing officers

89 Functions of contact tracing officer

(1) A contact tracing officer has the following functions—

(a) identifying persons who may have contracted a notifiable condition;

(b) identifying persons who may transmit a notifiable condition to others;

(c) informing persons who may have contracted a notifiable condition so that they may seek medical examination and treatment;

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(d) providing information to persons who may have contracted a notifiable condition to prevent or minimise transmission of the notifiable condition;

(e) obtaining information about the following to prevent or minimise transmission of a notifiable condition—

(i) how a person has, or may have, been exposed to the notifiable condition;

(ii) how a person has, or may have, exposed other persons to the notifiable condition.

(2) A contact tracing officer's functions may be exercised within or outside Queensland or in relation to persons within or outside Queensland.

(3) Without limiting subsection (2), if the chief health officer has made an arrangement under subsection (4) with the corresponding officer for a jurisdiction, a contact tracing officer's functions may be exercised under the arrangement in relation to the jurisdiction or persons connected with the jurisdiction.

(4) For subsection (3), the chief health officer may make an arrangement with a corresponding officer for a jurisdiction for contact tracing officers to exercise functions in relation to the jurisdiction or persons connected with the jurisdiction.

(5) In this section—

corresponding officer, for a jurisdiction, means a person who has functions under a law of the jurisdiction that correspond with the chief health officer's functions.

jurisdiction means the Commonwealth or another State.

90 Appointment of contact tracing officer by chief executive

(1) The chief executive may appoint any of the following persons as a contact tracing officer for a notifiable condition—

(a) a public service officer or public service employee;

(b) a health service employee;

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(c) a person prescribed under a regulation.

(2) Also, the chief executive may appoint, as a contact tracing officer for a notifiable condition, a person employed by a local government.

(3) An appointment under subsection (2) is for the local government's area and any other local government area stated in the appointment.

(4) For an appointment under subsection (2), the chief executive—

(a) must, before appointing a person, obtain agreement to the appointment from the chief executive officer of the local government that employs the person; and

(b) must state, in the instrument by which the appointment is made, every notifiable condition to which the appointment applies.

(5) For exercising his or her powers under this part, a contact tracing officer appointed under subsection (1) or (2) is subject to the directions of the chief executive.

91 Qualifications for appointment

The chief executive may appoint a person as a contact tracing officer only if—

(a) the chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience; and

(b) the person has the competencies, if any, prescribed under a regulation for this paragraph.

92 Appointment conditions and limit on powers

(1) A contact tracing officer holds office on the conditions stated in—

(a) the instrument under which the contact tracing officer is appointed; or

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(b) a signed notice given to the contact tracing officer; or

(c) a regulation.

(2) The instrument of appointment or a signed notice given to a contact tracing officer or a regulation may limit the contact tracing officer's powers under this part.

(3) In this section—

signed notice means a notice signed by the chief executive.

93 Issue of identity card

(1) The chief executive must issue an identity card to each contact tracing officer.

(2) The identity card must—

(a) contain a recent photo of the contact tracing officer; and

(b) contain a copy of the contact tracing officer's signature; and

(c) identify the person as a contact tracing officer under this Act; and

(d) state an expiry date for the card.

(3) This section does not prevent the issue of a single identity card to a person for this Act and for other purposes.

94 Production or display of identity card

(1) In exercising a power under this part in relation to a person, a contact tracing officer must—

(a) produce the contact tracing officer's identity card for the person's inspection before exercising the power; or

(b) have the identity card displayed so it is clearly visible to the person when exercising the power.

(2) However, if it is not practicable to comply with subsection (1), the contact tracing officer must produce the identity card for the person's inspection at the first reasonable opportunity.

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95 When contact tracing officer ceases to hold office

(1) A contact tracing officer ceases to hold office if any of the following happens—

(a) the term of office stated in a condition of office ends;

(b) under another condition of office, the contact tracing officer ceases to hold office;

(c) the contact tracing officer's resignation under section 96 takes effect.

(2) Subsection (1) does not limit the ways a contact tracing officer may cease to hold office.

(3) In this section—

condition of office means a condition on which the contact tracing officer holds office.

96 Resignation

A contact tracing officer may resign by signed notice given to the chief executive.

97 Return of identity card

A person who ceases to be a contact tracing officer must, unless the person has a reasonable excuse, return the contact tracing officer's identity card to the chief executive within 21 days after ceasing to be a contact tracing officer.

Maximum penalty—20 penalty units.

Division 2 Obtaining contact information

98 Definitions for div 2

In this division—

business contact information see section 101(2).

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business contact information requirement see section 101(5).

contact information see sections 99(2) and 103(2).

contact information requirement see section 99(5).

99 Power to require contact information

(1) This section applies if a contact tracing officer—

(a) reasonably suspects that a person—

(i) has a notifiable condition; or

(ii) has been in contact with a person who has, or may have, a notifiable condition; and

(b) has explained to the person that information is needed to attempt to prevent or minimise the spread of the notifiable condition.

(2) The contact tracing officer may ask the person to give the contact tracing officer all or any of the following information (the ***contact information***) within a stated time—

(a) the person's name and residential address or another address where the person may be contacted;

(b) the name, address, whereabouts and telephone number of any other person—

(i) who may have transmitted the notifiable condition to the person; or

(ii) to whom the person may have transmitted the notifiable condition;

(c) information about the circumstances in which the person may have been exposed to the notifiable condition or may have exposed another person to the notifiable condition.

(3) The contact tracing officer may ask the person to give the contact tracing officer evidence of the correctness of the contact information, within a stated reasonable time, if the

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contact tracing officer reasonably suspects the stated contact information to be false.

(4) If the person fails to comply with a request under subsection (2) or (3), the contact tracing officer may give the person a notice that—

(a) states the contact information the person is required to provide; and

(b) states the information is needed to attempt to prevent or minimise the spread of the notifiable condition; and

(c) requires the person to give the contact tracing officer the contact information within a stated reasonable time; and

(d) warns the person it is an offence to fail to give the contact information, unless the person has a reasonable excuse; and

(e) tells the person the effect of section 100(2).

(5) A requirement under subsection (4) is a ***contact information requirement***.

(6) A person asked or required by a contact tracing officer to give contact information or evidence of the correctness of contact information must not state anything to the officer that the person knows is false or misleading in a material particular.

Maximum penalty for subsection (6)—50 penalty units.

100 Failure to give contact information

(1) A person of whom a contact information requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is not a reasonable excuse to fail to comply with the contact information requirement that complying with the requirement might tend to incriminate the person.

(3) However, the following is not admissible in evidence against an individual in any civil or criminal proceeding—

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(a) any information given by the individual in complying with the contact information requirement or a requirement under section 99(2) or (3) (***primary evidence***);

(b) any information, or document or other thing, obtained as a direct or indirect result of primary evidence (***derived evidence***).

(4) Subsection (3) does not prevent primary evidence or derived evidence being admitted in evidence in—

(a) criminal proceedings about the falsity or misleading nature of the primary evidence; or

(b) proceedings for obtaining a controlled notifiable conditions order under part 5.

(5) Also, subsection (3) does not prevent derived evidence being admitted in evidence in criminal proceedings about a controlled notifiable condition.

101 Power to require business contact information

(1) This section applies if a contact tracing officer—

(a) reasonably suspects that a person may have contracted a notifiable condition while receiving or providing goods or services from or to a business; and

(b) has explained to an owner of the business, or the person apparently in charge of the business, that information is needed to prevent or minimise the spread of the notifiable condition.

(2) The contact tracing officer may ask the owner or person apparently in charge to give the contact tracing officer all or any of the following information (the ***business contact information***) within a stated reasonable time—

(a) the owner's or person's name and residential address or another address where the owner or person may be contacted;

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(b) the name, address, whereabouts and telephone number of any person who received or provided goods or services from or to the business within a stated period;

(c) information about the circumstances in which a person who received or provided goods or services from or to the business may have been exposed to the notifiable condition or may have exposed another person to the notifiable condition.

(3) The contact tracing officer may ask the owner or person apparently in charge to give the contact tracing officer evidence of the correctness of the business contact information within a stated reasonable time if the contact tracing officer reasonably suspects the stated business contact information to be false.

(4) If a person fails to comply with a request under subsection (2) or (3), the contact tracing officer may give the person a notice that—

(a) states the business contact information the person is required to provide; and

(b) states the business contact information is needed to attempt to prevent or minimise the spread of the notifiable condition; and

(c) requires the person to give the contact tracing officer the business contact information within a stated reasonable time; and

(d) warns the person it is an offence to fail to give the business contact information, unless the owner or person has a reasonable excuse; and

(e) tells the person the effect of section 102(2).

(5) A requirement under subsection (4) is a ***business contact information requirement***.

(6) A person asked or required by a contact tracing officer to give business contact information or evidence of the correctness of business contact information must not state anything to the

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officer that the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

(7) In this section—

business includes any organisation whether or not the organisation operates to make a profit.

Example—

a sporting club or charitable organisation

102 Failure to give business contact information

(1) A person of whom a business contact information requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is not a reasonable excuse to fail to comply with the requirement that complying with the requirement might tend to incriminate the person.

(3) However, the following is not admissible in evidence against an individual in any civil or criminal proceeding—

(a) any information given by the individual in complying with the business contact information requirement or a requirement under section 101(2) or (3) (***primary evidence***);

(b) any information, or document or other thing, obtained as a direct or indirect result of primary evidence (***derived evidence***).

(4) Subsection (3) does not prevent primary evidence or derived evidence being admitted in evidence in—

(a) criminal proceedings about the falsity or misleading nature of the primary evidence; or

(b) proceedings for obtaining a controlled notifiable conditions order under part 5.

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(5) Also, subsection (3) does not prevent derived evidence being admitted in evidence in criminal proceedings about a controlled notifiable condition.

103 Obtaining contact information from health information held by a health agency

(1) Subsection (2) applies if a contact tracing officer—

(a) reasonably suspects that a person has a notifiable condition; and

(b) has been unable to locate and question the person despite reasonable attempts to do so.

(2) The contact tracing officer may inspect health information held by a health agency to obtain the following information (also the ***contact information***)—

(a) the person's name and residential address or another address where the person may be contacted;

(b) the name and address, whereabouts and telephone number of another person—

(i) who may have transmitted the notifiable condition to the person; or

(ii) to whom the person may have transmitted the notifiable condition;

(c) information about the circumstances in which the person may have been exposed to the notifiable condition or may have exposed others to the notifiable condition.

Note—

See also section 99(2).

(3) This section applies despite any other provision of this Act or any provision of another law that deals with confidentiality, including, for example, the *Hospital and Health Boards Act 2011*, section 142.

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Division 3 Confidentiality of information and use of information supplied for contact tracing

104 Definitions for div 3

In this division—

confidential information means information that has become known to a relevant person in the course of performing the relevant person's functions under this part or the repealed provisions.

information includes a document.

relevant person means the following—

(a) a person who is, or was, a contact tracing officer or other person involved in the administration or enforcement of this part;

(b) a person who was involved in the administration or enforcement of the repealed provisions.

repealed provisions means the *Health Act 1937*, part 3, division 2.

104A Extraterritorial operation

It is the intention of the Parliament that this division have effect outside Queensland and in relation to persons outside Queensland.

105 Confidentiality of information

(1) A relevant person must not, whether directly or indirectly, disclose confidential information.

Maximum penalty—50 penalty units.

(2) The *Hospital and Health Boards Act 2011*, section 142, does not apply to a relevant person in relation to confidential information.

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106 Disclosure under an Act or another law

Section 105(1) does not apply if the disclosure of the confidential information by a relevant person is authorised under an Act or another law.

107 Disclosure under Act or with written consent etc.

Section 105(1) does not apply if the confidential information is disclosed by a relevant person—

(a) in the performance of functions under this Act; or

(b) with the written or oral consent of the person to whom the information relates; or

(c) to the person to whom the information relates; or

(d) in a form that could not identify any person.

108 Disclosure to protect health of person

Section 105(1) does not apply if the disclosure of the confidential information by a relevant person to another person is authorised by the chief executive to protect the health of that person or another person.

108A Disclosure for contact tracing purposes

(1) Section 105(1) does not apply if the disclosure of the confidential information by a relevant person is to a provider for the purpose of contacting another person (the ***traced person***) who has, or may have, contracted a notifiable condition, to—

(a) provide the traced person with information to prevent or minimise transmission of the notifiable condition; or

(b) enable the traced person to seek medical examination or treatment.

(2) In this section—

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health practitioner means a person who carries on, and is entitled to carry on, an occupation involving the provision of care for another person's physical or mental health or wellbeing.

Examples of a health practitioner—

- a doctor
- a psychologist
- a social worker
- a registered nurse

provider, in relation to a person, means any of the following—

(a) a health practitioner involved in the treatment or care of the person or a health practitioner nominated by the person;

(b) if the person is a child—the person's parent or a person exercising parental responsibility for the child, including a person who, under Aboriginal tradition or Island custom, is regarded as the parent of the child;

(c) the person's legal guardian;

(d) an entity from another jurisdiction that is responsible for preventing or controlling the spread of communicable diseases in that jurisdiction;

(e) another entity prescribed under a regulation.

109 Disclosure of confidential information in the public interest

(1) Section 105(1) does not apply to the disclosure of confidential information by a relevant person if—

(a) the chief executive believes, on reasonable grounds, the disclosure is in the public interest; and

(b) the chief executive has, in writing, authorised the disclosure.

(2) The department's annual report for a financial year under the *Financial Accountability Act 2009* must include details of—

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(a) the nature of any confidential information disclosed under subsection (1) during the financial year; and

(b) the purpose for which the confidential information was disclosed.

(3) However, the details mentioned in subsection (2)(a) must not identify, directly or indirectly, the person to whom the confidential information relates.

(4) Despite the *Public Sector Act 2022*, section 282, the chief executive may not delegate the chief executive's power under subsection (1).

110 Disclosure to allow chief executive to act

Section 105(1) does not apply if the disclosure of the confidential information by a relevant person is to the chief executive to allow the chief executive to act under this division.

111 Use of contact information and business contact information

(1) Contact information or business contact information (the ***information***)—

(a) can not be accessed under any order, whether of a judicial or administrative nature, other than an order for the purpose of this Act; and

(b) is not admissible in any proceeding, other than a proceeding under this Act or a proceeding mentioned in section 100(4)(a) or (5) or section 102(4)(a) or (5).

(2) A person can not be compelled to produce the information, or to give evidence relating to the information, in any proceeding, other than a proceeding under this Act.

(3) Subsections (1)(b) and (2) do not apply if the information is admitted or produced, or evidence relating to the information is given, with the consent of the person to whom the information relates.

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(4) Nothing in this section limits access to information by the chief executive or a person authorised by the chief executive.

(5) In this section—

order includes a direction or other process.

Part 4 Orders by chief executive about controlled notifiable conditions

Division 1 Preliminary

112 Definition for pt 4

In this part—

chief executive's order see section 113(4).

Division 2 Orders by chief executive

113 Chief executive may order detention

(1) This section applies if the chief executive—

(a) reasonably suspects that a person who has presented to a public sector health service has, or may have, a controlled notifiable condition; and

(b) reasonably suspects the person's condition, or the person's condition and likely behaviour, constitutes an immediate risk to public health; and

(c) is satisfied the person has been counselled, or reasonable attempts have been made to counsel the person, about the condition and its possible effect on the person's health and on public health.

(2) However, subsection (1)(c) does not apply if it is not practicable to counsel the person.

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(3) The chief executive may order the detention of the person at a public sector health service.

(4) The order (a ***chief executive's order***) must be in writing and must state the following—

(a) the controlled notifiable condition the person has or is suspected of having;

(b) the reasons for the order;

(c) the name of the public sector health service where the person is to be detained;

(d) that the person must—

(i) if the person is at the public sector health service where the person is to be detained—remain at the service; or

(ii) if the person is not at the public sector health service where the person is to be detained—go immediately with the person enforcing the order to the public sector health service and remain at the service;

(e) that the person, while being detained at a public sector health service, must comply with the reasonable requirements of the person in charge of the service;

(f) when the chief executive's order ends under section 115.

114 Enforcement of chief executive's order

(1) A chief executive's order may be enforced by the person in charge of the public sector health service where the person to whom the order relates is to be detained.

(2) The person in charge must before enforcing the order—

(a) give the person to whom the order relates a copy of the chief executive's order; and

(b) explain to the person, in general terms, the purpose and effect of the chief executive's order including that it is an offence not to comply with the order.

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(3) The person in charge must note on the copy and original of the chief executive's order when the copy was given to the person.

(4) The person given a copy of the chief executive's order under subsection (2)(a) must comply with the order.

Maximum penalty—200 penalty units.

(5) The person in charge of a public sector health service may enforce a chief executive's order with the help, and using the force, that is reasonable in the circumstances.

(6) However, the person in charge of a public sector health service must give the person detained an opportunity to voluntarily comply with the order.

(7) A person authorised by the person in charge of a public sector health service may help the person in charge to enforce a chief executive's order.

115 Duration of chief executive's order

A chief executive's order ends at the earlier of—

(a) 24 hours from the time a copy is given to the person who is the subject of the order unless the chief executive orders the earlier release of the person; or

(b) the time a magistrate decides an application for a controlled notifiable conditions order relating to the person.

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Part 5 Orders by magistrate about controlled notifiable conditions

Division 1 General

116 Applying for controlled notifiable conditions order

(1) The chief executive may apply to a magistrate for any of the following orders for a person (each a ***controlled notifiable conditions order***)—

(a) an initial examination order;

(b) a behavioural order;

(c) a detention order.

(2) The application must be sworn and state the following—

(a) the controlled notifiable condition the person has or is suspected of having;

(b) the grounds on which it is made;

(c) the nature of the order sought;

(d) if an order taking the person into, or keeping the person in, detention is sought—the proposed arrangements for the person's detention and care.

(3) The magistrate may refuse to consider the application until the applicant gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application be given by statutory declaration.

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117 Deciding application in person's absence

(1) A magistrate may decide an application for a controlled notifiable conditions order in the absence of the person for whom the order is sought if the magistrate—

(a) considers the person's presence may be an immediate risk to public health; or

(b) is satisfied the person can not be located; or

(c) is satisfied there is another reason that makes this necessary.

(2) Without limiting subsection (1), a magistrate may decide that representations, if any, for the person must be made through someone acting for the person.

Division 2 Initial examination orders

118 Making initial examination order

(1) A magistrate may make an initial examination order for a person if the magistrate—

(a) reasonably suspects the person may have a controlled notifiable condition; and

(b) is satisfied that if the person has the condition, either of the following may constitute an immediate risk to public health—

(i) the person's condition;

(ii) the person's condition and likely behaviour; and

(c) is satisfied it is necessary for the person to undergo a medical examination to ascertain whether the person has the condition; and

(d) is satisfied the person has been counselled, or reasonable attempts have been made to counsel the person, about the condition and its possible effect on the person's health and on public health.

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(2) However, subsection (1)(d) does not apply if it is not practicable to counsel the person.

119 What initial examination order may provide

(1) An initial examination order may provide for any or all of the following—

(a) that the person be detained at a stated place;

(b) subject to subsection (2), a period that is not more than 72 hours, for which a person may be detained;

(c) that the person be detained in isolation for part or all of the period of detention;

(d) if the person is not at the place where the person is to be detained, that the person be taken to and detained at the place;

(e) that the person undergo the medical examination stated in the order by a doctor nominated by the chief executive to ascertain whether the person has the controlled notifiable condition.

(2) The order may state a period that is more than 72 hours only if the magistrate is satisfied that because of the nature of the controlled notifiable condition a longer period is required to ascertain whether the person has the condition.

(3) The order may be made subject to the conditions the magistrate considers appropriate.

(4) The order may authorise any authorised person, within a stated period—

(a) to enter or re-enter any place the authorised person reasonably believes the person is; and

(b) to search the place to find the person; and

(c) to remain in the place for as long as the authorised person considers is reasonably necessary to find the person; and

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(d) to take the person to the place where the person is to be detained under the order.

(5) An authorised person may exercise powers under the order with the help, and using the force, that is reasonable in the circumstances.

(6) Without limiting section 123, for enforcing the order the chief executive may detain the person and carry out the medical examination with the help, and using the force, that is reasonable in the circumstances.

120 Service of initial examination order

As soon as practicable after an initial examination order is made for a person, an authorised person must—

(a) give the person the subject of the order a copy of the order; and

(b) explain the terms and effect of the order to the person including the effect of section 121; and

(c) give the person an opportunity to voluntarily accompany the authorised person to the place where the person the subject of the order is to be examined; and

(d) give the person notice about the right of appeal against the order and how to appeal.

121 Person must remain at place of detention and undergo medical examination

A person detained under an initial examination order must remain at the place of detention for the period stated in the order and undergo the stated medical examination stated in the order unless the person is released under section 124.

Maximum penalty—400 penalty units.

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122 When period of detention starts

The period of detention of a person under an initial examination order starts—

(a) if the person is at the place where the person is to be examined—from the time the person is detained at the place and given a copy of the order; or

(b) if the person is not at the place where the person is to be examined—from the time the person is detained at the place after being given a copy of the order.

123 Details of medical examination must be explained

(1) This section applies to a doctor undertaking the medical examination of a person under an initial examination order.

(2) The doctor must, if practicable—

(a) give an explanation to the person of the examination to be undertaken in a way likely to be readily understood by the person; and

(b) allow the person an opportunity to submit to the examination voluntarily.

(3) If the person does not submit to the examination voluntarily, the doctor may undertake the examination with the help, and using the force, that is reasonable in the circumstances.

124 When detained person must be released before the end of initial examination order

The chief executive must release a person detained under this division before the initial examination order ends if the chief executive is satisfied the reason for the order no longer exists.

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Division 3 Behavioural orders

125 Making behavioural order

(1) A magistrate may make a behavioural order for a person if the magistrate is satisfied—

(a) the person has a controlled notifiable condition; and

(b) either of the following may constitute an immediate risk to public health—

(i) the person's condition;

(ii) the person's condition and likely behaviour; and

(c) the person needs to do, or not do, stated things to avoid the person's condition, or the person's condition and likely behaviour, constituting a risk to public health; and

(d) the person has been counselled, or reasonable attempts have been made to counsel the person, about the condition and its possible effect on the person's health and on public health.

(2) However, subsection (1)(d) does not apply if it is not practicable to counsel the person.

126 What behavioural order may provide

(1) A behavioural order for a person may provide that the person do any or all of the following for the period stated in the order—

(a) undergo counselling by a stated person or persons;

(b) refrain from stated conduct;

(c) refrain from visiting stated places;

(d) submit to supervision and monitoring by another person.

(2) For subsection (1)(d), the order may specify that the supervision and monitoring—

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(a) be by a particular person or a person nominated by the chief executive; and

(b) be done in a stated way.

(3) Also, the order may be made subject to the conditions the magistrate considers appropriate.

(4) An authorised person may enforce the order with the help, and using the force, that is reasonable in the circumstances.

127 Service of behavioural order

As soon as practicable after a behavioural order is made for a person, an authorised person must—

(a) give a copy of the order to the person; and

(b) explain the terms and effect of the order to the person including that is an offence not to comply with the order; and

(c) give the person notice about the right of appeal against the order and how to appeal.

128 Person must comply with behavioural order

(1) This section applies if a behavioural order has been made for a person and the person has been given a copy of the order.

(2) The person must comply with the order.

Maximum penalty—400 penalty units.

Division 4 Detention orders

129 Making detention order

(1) A magistrate may make a detention order for a person if the magistrate is satisfied—

(a) the person has a controlled notifiable condition; and

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(b) either of the following may constitute an immediate risk to public health—

(i) the person's condition;

(ii) the person's condition and likely behaviour; and

(c) the person needs to be detained at a stated place for a stated period to avoid the person's condition, or the person's condition and likely behaviour, constituting a risk to public health; and

(d) the person has been counselled, or reasonable attempts have been made to counsel the person, about the condition and its possible effect on the person's health and on public health.

(2) However, subsection (1)(d) does not apply if it is not practicable to counsel the person.

130 What detention order may provide

(1) A detention order for a person may provide for any or all of the following—

(a) that the person be detained at a stated place for a stated period of not more than 28 days;

(b) that the person be detained in isolation for part or all of the period of detention;

(c) if the person is not at the place where the person is to be detained, that the person be taken to and detained at the place;

(d) that the person undergo the medical examination or treatment stated in the order by a doctor nominated by the chief executive.

(2) The order may be made subject to the conditions the magistrate considers appropriate.

(3) The order may authorise any authorised person, within a stated period—

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(a) to enter or re-enter any place the authorised person reasonably believes the person is; and

(b) to search the place to find the person; and

(c) to remain in the place for as long as the authorised person considers is reasonably necessary to find the person; and

(d) to take the person to the place where the person is to be detained under the order.

(4) An authorised person may exercise powers under the order with the help, and using the force, that is reasonable in the circumstances.

(5) Without limiting section 133, for enforcing the order the chief executive may detain the person and carry out the medical examination with the help, and using the force, that is reasonable in the circumstances.

131 Service of detention order

As soon as practicable after a detention order is made for a person, an authorised person must—

(a) give the person the subject of the order a copy of the order; and

(b) explain the terms and effect of the order to the person including the effect of section 132; and

(c) if the person is not at the place where the person is to be detained, give the person an opportunity to voluntarily accompany the authorised person to the place; and

(d) give the person notice about the right of appeal against the order and how to appeal.

132 Person must remain at place of detention and undergo medical examination or treatment

A person detained under a detention order must remain at the place of detention for the period stated in the order and

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undergo the medical examination or treatment stated in the order.

Maximum penalty—400 penalty units.

133 Details of medical examination or treatment must be explained

(1) This section applies to a doctor undertaking a medical examination or treatment of a person under a detention order.

(2) The doctor must, if practicable—

(a) give an explanation to the person of the examination or treatment to be undertaken in a way likely to be readily understood by the person; and

(b) allow the person an opportunity to submit to the examination or treatment voluntarily.

(3) If the person does not submit to the examination or treatment voluntarily, the doctor may undertake the examination or treatment with the help, and using the force, that is reasonable in the circumstances.

Division 5 Extension, variation or revocation of controlled notifiable conditions orders

134 Extension of behavioural or detention orders

(1) The chief executive may apply to a magistrate for an order to extend the period of a behavioural order or a detention order.

(2) The application must be made before the order ends.

(3) A behavioural order may be extended once only and for the period decided by the magistrate.

(4) A detention order may be extended once only and for not more than 28 days.

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(5) This part applies, with all necessary changes, to the application as if it were an application for a behavioural order or a detention order.

135 Variation and revocation of initial examination, behavioural or detention orders

(1) The chief executive may apply to a magistrate for an order to vary or revoke an initial examination order, a behavioural order or a detention order.

(2) This part applies, with all necessary changes, to the application as if it were an application for an initial examination order, a behavioural order or a detention order.

(3) Without limiting the things to which the magistrate may have regard in deciding the application, the magistrate may have regard to a contravention of section 121, 128 or 132.

Division 6 Warrants

136 Application for warrant for apprehension

(1) This section applies if a person who is subject to an initial examination order or a detention order—

(a) absconds while being taken to the place where the person is to be detained under the order; or

(b) absconds from the place where the person is being detained under the order; or

(c) absconds from another place before being taken to the place where the person is to be detained under the order.

(2) An authorised person may apply to a magistrate for a warrant for apprehension of the person.

(3) The authorised person must prepare a written application that states the grounds on which the warrant is sought.

(4) The written application must be sworn.

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(5) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application be given by statutory declaration.

137 Issue of warrant

(1) The magistrate may issue a warrant for the apprehension of the person who has absconded if the magistrate is satisfied the warrant is necessary to enable an authorised person to detain the person.

(2) The warrant authorises any authorised person—

(a) to enter or re-enter any place the authorised person reasonably believes the person is; and

(b) to search the place to find the person; and

(c) to remain in the place for as long as the authorised person considers is reasonably necessary to find the person; and

(d) to take the person to the place where the person is to be detained under an initial examination order or a detention order.

(3) The warrant must state the day when it ends.

(4) An authorised person may exercise powers under the warrant with the help, and using the force, that is reasonable in the circumstances.

138 Application by electronic communication and duplicate warrant

(1) An application under section 136 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised person reasonably considers it necessary because of—

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(a) urgent circumstances; or

(b) other special circumstances, including, for example, the authorised person's remote location.

(2) The application—

(a) may not be made before the authorised person prepares the written application under section 136(3); but

(b) may be made before the written application is sworn.

(3) The magistrate may issue the warrant (the ***original warrant***) only if the magistrate is satisfied—

(a) it was necessary to make the application under subsection (1); and

(b) the way the application was made under subsection (1) was appropriate.

(4) After the magistrate issues the original warrant—

(a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised person, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the authorised person; or

(b) otherwise—

(i) the magistrate must tell the authorised person the date and time the warrant is issued and the other terms of the warrant; and

(ii) the authorised person must complete a form of warrant, including by writing on it—

(A) the magistrate's name; and

(B) the date and time the magistrate issued the warrant; and

(C) the other terms of the warrant.

(5) The copy of the warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either

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case the ***duplicate warrant***), is a duplicate of, and as effectual as, the original warrant.

(6) The authorised person must, at the first reasonable opportunity, send to the magistrate—

(a) the written application complying with section 136(3) and (4); and

(b) if the authorised person completed a form of warrant under subsection (4)(b)—the completed form of warrant.

(7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)—

(a) attach the documents to the original warrant; and

(b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.

(8) Despite subsection (5), if—

(a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and

(b) the original warrant is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.

(9) In this section—

relevant magistrates court, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.

139 Defect in relation to a warrant

(1) A warrant is not invalidated by a defect in the warrant, or in compliance with section 136, 137 or 138, unless the defect affects the substance of the warrant in a material particular.

(2) In this section—

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warrant includes a duplicate warrant mentioned in section 138(5).

Division 7 Procedure for entry under orders and warrants

140 Procedure before entry—orders

(1) This section applies if an authorised person is intending to enter a place under an initial examination order or detention order.

(2) Before entering the place, the authorised person must do or make a reasonable attempt to do the following things—

(a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the authorised person's identity card or other document evidencing the appointment;

(b) give the person a copy of the order;

(c) tell the person the authorised person is permitted by the order to enter the place;

(d) give the person an opportunity to allow the authorised person immediate entry to the place without using force.

(3) However, the authorised person need not comply with subsection (2) if the authorised person believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the order is not frustrated.

141 Procedure before entry—warrants

(1) This section applies if an authorised person is intending to enter a place under a warrant under this part.

(2) Before entering the place, the authorised person must do or make a reasonable attempt to do the following things—

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(a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the authorised person's identity card or other document evidencing the appointment;

(b) give the person a copy of the warrant;

(c) tell the person the authorised person is permitted by the warrant to enter the place;

(d) give the person an opportunity to allow the authorised person immediate entry to the place without using force.

(3) However, the authorised person need not comply with subsection (2) if the authorised person believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

(4) In this section—

warrant includes a duplicate warrant mentioned in section 138(5).

Division 8 Appeals against magistrate's decisions

142 Appeal against decision on application for controlled notifiable conditions order or extension of order

The following persons may appeal to the District Court against a decision on an application for a controlled notifiable conditions order or an extension or variation of the order—

(a) the chief executive;

(b) the person to whom the application relates.

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Part 6 Reckless spread of controlled notifiable conditions

143 Person must not recklessly spread controlled notifiable condition

(1) A person must not recklessly put someone else at risk of contracting a controlled notifiable condition.

Maximum penalty—200 penalty units or 18 months imprisonment.

(2) A person must not recklessly transmit a controlled notifiable condition to someone else.

Maximum penalty—400 penalty units or 2 years imprisonment.

(3) A person does not commit an offence against subsection (1) if, when the other person was put at risk of contracting the condition, the other person—

(a) knew the person had the condition; and

(b) voluntarily accepted the risk of contracting the condition.

(4) A person does not commit an offence against subsection (2) if, when the condition was transmitted to the other person, the other person—

(a) knew the person had the condition; and

(b) voluntarily accepted the risk of contracting the condition.

(5) A person does not commit an offence against subsection (1) or (2) by merely refusing, or failing, to be vaccinated against a condition for which there is a recognised and reasonably available vaccine.

Note—

The Criminal Code, section 317 provides for the crime of intentionally transmitting a serious disease to a person.

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Part 7 Proceedings

144 How proceedings under this chapter heard

(1) A court hearing a proceeding under this chapter, including a proceeding for an offence, may by its order limit the extent to which its business is open to the public if the public interest or the interest of justice require it (the ***limitation power***) having regard to—

(a) the subject matter of the proceeding; or

(b) the nature of the evidence expected to be given.

(2) A person must not make or publish a report about a proceeding in relation to which the limitation power is exercised unless the report—

(a) is authorised by the court; or

(b) is made for the purpose of the proceeding or of a proceeding related to that proceeding; or

(c) is contained in or is made for the purpose of being contained in a recognised series of law reports; or

(d) is made for the chief executive.

Maximum penalty—

(a) for a first offence—200 penalty units or 6 months imprisonment; or

(b) for a subsequent offence—400 penalty units or 12 months imprisonment.

(3) This section does not limit the *Supreme Court of Queensland Act 1991*, section 8, the *District Court of Queensland Act 1967*, section 126 or the *Magistrates Courts Act 1921*, section 14A.

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Part 8 Other matters about controlled notifiable conditions orders

145 Person may give information necessary for authorised person's safety

(1) This section applies if—

(a) under a chief executive's order, the person (the ***relevant person***) who is the subject of the order is to be taken to, or detained at, a public sector health service; or

(b) under an initial examination order, the person (also the ***relevant person***) who is the subject of the order is to be taken to, or detained at, a stated place; or

(c) under an behavioural order, the person (also the ***relevant person***) who is the subject of the order is to do or not do stated things for a stated period; or

(d) under a detention order, the person (also the ***relevant person***) who is the subject of the order is to be taken to, or detained at, a stated place; or

(e) a person (also the ***relevant person***) may be apprehended under a warrant issued under section 137 or 138.

(2) To protect the safety of the relevant person or the following persons a doctor, health service employee or person involved in the administration of this Act may give information about the relevant person to the following persons—

(a) an authorised person;

(b) the relevant person;

(c) the person in charge of public sector health service;

(d) a person authorised by the person in charge of public sector health service.

(3) This section applies despite any other provision of this Act or any provision of another law that deals with confidentiality, including, for example, the *Hospital and Health Boards Act 2011*, section 142.

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146 Obstructing persons exercising powers

(1) A person must not obstruct any of the following in the exercise of a power under this chapter, unless the person has a reasonable excuse—

(a) the chief executive;

(b) a doctor;

(c) an authorised person;

(d) a person in charge of a public sector health service;

(e) a person authorised by a person in charge of a public sector health service.

Maximum penalty—100 penalty units.

(2) If a person has obstructed a person mentioned in subsection (1)(a) to (e) (the ***enforcing person***) and the enforcing person decides to proceed with the exercise of the power, the enforcing person must warn the person that—

(a) it is an offence to obstruct the enforcing person, unless the person has a reasonable excuse; and

(b) the enforcing person considers the person's conduct is an obstruction.

Chapter 4 Infection control for health care facilities

Part 1 Preliminary

147 Definitions for ch 4

In this chapter—

commencement means the commencement of this chapter.

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declared health service see section 148.

ICMP see section 152.

invasive procedure means a procedure involving the insertion of an instrument, appliance or other object into human tissue, organs, body cavities or body orifices.

Examples—

subcutaneous and intramuscular injections, blood collection, dentistry, suturing of superficial wounds and examinations of the mouth

mobile premises means premises that—

(a) are a vehicle or are otherwise ordinarily moved from place to place; and

(b) are used for the provision of a declared health service.

operator, of a health care facility, means the person who has the day to day operation and control of the facility.

148 Meaning of *declared health service*

(1) A ***declared health service*** means a service provided to a person that—

(a) is intended to maintain, improve or restore the person's health; and

(b) involves the performance of an invasive procedure or an activity that exposes the person or another person to blood or another bodily fluid.

(2) Without limiting subsection (1), a declared health service includes a declared health service provided to a person at the following—

(a) a public sector hospital;

(b) a medical practice;

(c) a dental practice;

(d) an acupuncture clinic;

(e) a midwifery service;

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(f) an ambulance service;

(g) a blood bank.

149 Meaning of *health care facility*

(1) A ***health care facility*** means a facility at which a declared health service is provided and includes—

(a) mobile premises associated with the facility; and

(b) other premises or places at which persons employed or otherwise engaged at the facility provide declared health services for the facility.

Examples for subsection (1)—

1 an ambulance base and the ambulances that operate from the base

2 a home-based service provided by a public sector hospital

3 an acupuncture clinic operating from an office or residential address that provides home visits

(2) A health care facility includes services supporting the facility.

Example for subsection (2)—

a hospital laundry or cleaning service

150 Application of ch 4

(1) This chapter does not apply to—

(a) a private health facility; or

(b) an area within a health care facility used for food services, including, for example, the preparation, handling and storage of food; or

(c) an aged care service conducted by an approved provider under the *Aged Care Act 1997* (Cwlth).

(2) If this chapter conflicts with either of the following Acts, that Act prevails, but only to the extent of the conflict—

(a) the *Work Health and Safety Act 2011*;

(b) the *Environmental Protection Act 1994*.

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Part 2 General obligation to minimise infection risks for declared health services

151 Obligation to minimise risk of infection

A person involved in the provision of a declared health service must take reasonable precautions and care to minimise the risk of infection to other persons.

Examples of a person involved in the provision of a declared health service—

1 a registered nurse collecting blood for a blood bank

2 the medical superintendent or director of nursing of a public sector hospital

3 the owner of a dental practice that employs dentists, on a permanent or casual basis

4 the owner of a business that operates a first aid room for its employees

Example of how a person might take reasonable precautions and care—

The person complies with the ICMP for the health care facility at which the declared health service is provided and with any measures prescribed under section 461(2)(a) about preventing and controlling the spread of infectious conditions in providing the declared health service

Maximum penalty—1,000 penalty units.

Part 3 Infection control management plans

152 What is an infection control management plan

An infection control management plan (an ***ICMP***), for a health care facility, is a documented plan to prevent or minimise the risk of infection, in relation to a declared health service, for—

(a) persons receiving services at the facility; and

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(b) persons employed or engaged at the facility; and

(c) other persons at risk of infection at the facility.

153 Obligation of owner for ICMP

(1) This section applies if the owner and the operator of a health care facility are different persons.

(2) The owner must ensure—

(a) there is an ICMP for the health care facility that complies with section 155(1) and includes the matters prescribed under section 155(2); and

(b) declared health services provided at the health care facility are provided in compliance with the ICMP; and

(c) the operator reviews the effectiveness and implementation of the ICMP at intervals of not more than 1 year.

Maximum penalty—500 penalty units.

(3) Subsection (2) does not apply if the facility is a health care facility, or of a type of health care facility, prescribed under a regulation.

(4) However, a health care facility, or a type of health care facility, may be prescribed under subsection (3) only if the chief executive is satisfied the infection risks associated with the provision of a declared health service at the facility or a facility of that type can be prevented or minimised without an ICMP for the facility.

154 Obligation of owner/operator for ICMP

(1) This section applies if the owner and the operator of a health care facility are the same person.

(2) The operator must—

(a) ensure there is an ICMP for the health care facility that complies with section 155(1) and includes the matters prescribed under section 155(2); and

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(b) ensure declared health services provided at the health care facility are provided in compliance with the ICMP; and

(c) review the effectiveness and implementation of the ICMP at intervals of not more than 1 year.

Maximum penalty—500 penalty units.

(3) Subsection (2) does not apply if the facility is a health care facility, or of a type of health care facility, prescribed under a regulation.

(4) However, a health care facility, or a type of health care facility, may be prescribed under subsection (3) only if the chief executive is satisfied the infection risks associated with the provision of a declared health service at the facility or a facility of that type can be prevented or minimised without an ICMP for the facility.

155 What an ICMP must contain

(1) An ICMP for a health care facility must state—

(a) the infection risks associated with the provision of declared health services provided at the facility; and

(b) the measures to be taken to prevent or minimise the infection risks for declared health services; and

(c) how the operator is to monitor and review the implementation and effectiveness of the measures; and

(d) details about the provision of training in relation to the ICMP for persons employed or otherwise engaged at the facility; and

(e) how often the ICMP is to be reviewed; and

(f) if a person other than the operator of the facility is also responsible for providing advice about, and monitoring the effectiveness of, the ICMP—the name of that person.

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(2) A regulation may prescribe matters to be included in an ICMP, including the measures under subsection (1)(b) that are to be included in an ICMP.

(3) The ICMP must be written in a way likely to be easily understood by persons employed or otherwise engaged at the facility.

(4) The operator of the facility must—

(a) sign and date the ICMP; and

(b) sign and date the ICMP each time it is reviewed.

(5) The operator must keep a copy of the ICMP at a place at the facility that is readily accessible to persons employed or otherwise engaged at the facility.

Maximum penalty—100 penalty units.

(6) If, after developing an ICMP for a health care facility, the operator of the facility intends to provide a declared health service not identified in the ICMP, the operator must, before providing the service, review and amend the ICMP to address the infection risks associated with the service.

156 Time for developing and implementing an ICMP

The operator of a health care facility must develop and implement an ICMP—

(a) for a health care facility operating at the commencement—within 6 months of the commencement; or

(b) for a health care facility that starts operation after the commencement—before the facility provides a declared health service.

156A Giving copy of ICMP and information to authorised person

(1) An authorised person appointed by the chief executive may, by notice given to the operator of a health care facility, require

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the operator to give the following to the authorised person by the day stated in the notice—

(a) a copy of the ICMP for the health care facility;

(b) other stated information about procedures for preventing or minimising the risk of infection to persons at the health care facility.

(2) The operator must comply with the notice, unless the operator has a reasonable excuse.

Maximum penalty—200 penalty units.

156B Amending ICMP

(1) This section applies if an authorised person appointed by the chief executive is satisfied an ICMP for a health care facility requires amendment to comply with this part.

(2) The authorised person may, by notice given to the operator of the health care facility, require the operator to amend the ICMP.

(3) The notice must state the following—

(a) that the operator must amend the ICMP;

(b) the way the ICMP must be amended;

(c) the day by which the ICMP must be amended;

(d) the day by which the operator must give the authorised person a copy of the amended ICMP.

(4) The operator must comply with the notice, unless the operator has a reasonable excuse.

Maximum penalty—500 penalty units.

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Part 3A Improvement notices and directions notices

156C Improvement notice

(1) This section applies if an authorised person appointed by the chief executive reasonably believes—

(a) the operator or owner of a health care facility—

(i) is contravening a relevant provision; or

(ii) has contravened a relevant provision in circumstances that make it likely the contravention will continue or be repeated; and

(b) a matter relating to the contravention is reasonably capable of being remedied; and

(c) it is appropriate to give the operator or owner an opportunity to remedy the matter.

(2) The authorised person may give the operator or owner a notice (an ***improvement notice***) requiring the operator or owner to remedy the contravention or have the contravention remedied.

(3) The improvement notice must state the following—

(a) the relevant provision the authorised person believes is being, or has been, contravened;

(b) that the authorised person reasonably believes the operator or owner—

(i) is contravening the relevant provision; or

(ii) has contravened the relevant provision in circumstances that make it likely the contravention will continue or be repeated;

(c) briefly, how it is believed the relevant provision is being, or has been, contravened;

(d) the period within which the operator or owner must remedy the contravention or have the contravention remedied;

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(e) that it is an offence to fail to comply with the improvement notice, unless the operator or owner has a reasonable excuse.

(4) The period stated under subsection (3)(d) must be reasonable, having regard to the risk to public health posed by the contravention.

(5) The improvement notice may also state the reasonable steps the authorised person considers necessary to remedy the contravention, or avoid further contravention, of the relevant provision.

(6) The operator or owner must comply with the improvement notice, unless the operator or owner has a reasonable excuse.

Maximum penalty—

(a) if the relevant provision the subject of the improvement notice is section 151—1,000 penalty units; or

(b) if the relevant provision the subject of the improvement notice is section 153(2) or 154(2)—500 penalty units; or

(c) if the relevant provision the subject of the improvement notice is section 155(5)—100 penalty units.

(7) An operator or owner may be prosecuted for the contravention of a relevant provision without an authorised person first giving an improvement notice for the contravention.

(8) In this section—

relevant provision means—

(a) in relation to the operator of a health care facility—section 151, 154(2) or 155(5); or

(b) in relation to the owner of a health care facility who is not the operator of the facility—section 153(2).

156D Record of compliance with improvement notice

(1) If the operator or owner of a health care facility who is given an improvement notice by an authorised person under this part reasonably believes the operator or owner has complied with

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the notice, the operator or owner may inform the authorised person of the belief.

(2) If the authorised person is satisfied the operator or owner has complied with the improvement notice, the authorised person must—

(a) record the date of the compliance on a copy of the notice; and

(b) if asked, give a copy of the dated notice to the operator or owner.

156E Directions notice

(1) This section applies if the chief executive reasonably believes—

(a) the operator of a health care facility—

(i) is contravening section 151; or

(ii) has contravened section 151 in circumstances that make it likely the contravention will continue or be repeated; and

(b) there is a serious risk of harm to a person's health because of the contravention or likely contravention.

(2) The chief executive may give the operator a notice (a ***directions notice***) directing the operator to stop providing a stated declared health service at the health care facility for a stated period of not more than 30 days.

(3) The directions notice must also state the following—

(a) that the chief executive reasonably believes the operator—

(i) is contravening section 151; or

(ii) has contravened section 151 in circumstances that make it likely the contravention will continue or be repeated;

(b) briefly, how it is believed section 151 is being, or has been, contravened;

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(c) the period within which the operator must remedy the contravention or have the contravention remedied;

(d) the serious risk of harm caused by the contravention or likely contravention;

(e) that it is an offence to fail to comply with the notice, unless the operator has a reasonable excuse.

(4) The directions notice may also state the reasonable steps the chief executive considers necessary to remedy the contravention, or avoid further contravention, of section 151.

(5) The directions notice takes effect when it is given to the operator of the health care facility.

156F Chief executive may extend directions notice

(1) This section applies if, before the end of the period stated under section 156E(2) for a directions notice, the chief executive still believes the matters mentioned in section 156E(1) for the directions notice.

(2) The chief executive may, by notice given to the operator, extend the period during which the operator must not provide the stated declared health service by not more than 30 days.

156G Court order may extend directions notice

(1) This section applies if the chief executive has given a directions notice to the operator of a health care facility.

(2) The chief executive may apply to a magistrate for an order to extend the period during which the operator must not provide the stated declared health service.

(3) The application must be made before the end of—

(a) the period stated under section 156E(2) for the directions notice; or

(b) if the period is extended under section 156F(2)—the extended period.

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(4) If the magistrate has not decided the application before the end of the period in which the application must be made, the directions notice continues in effect until the magistrate decides the application.

(5) The magistrate may refuse to consider the application until the chief executive gives the magistrate all the information the magistrate requires to make the order.

(6) The magistrate may make an order to extend the period mentioned in subsection (2) for a further stated period if the magistrate is satisfied—

(a) the operator—

(i) is contravening section 151; or

(ii) has contravened section 151 in circumstances that make it likely the contravention will continue or be repeated; and

(b) there is a serious risk of harm to a person's health because of the contravention or likely contravention.

156H Offence to fail to comply with a directions notice

The operator of a health care facility must comply with a directions notice given to the operator, unless the operator has a reasonable excuse.

Maximum penalty—3,000 penalty units.

156I Record of compliance with directions notice

(1) If the operator of a health care facility who is given a directions notice under this part reasonably believes the operator has complied with the notice, the operator may inform the chief executive of the belief.

(2) If the chief executive is satisfied the operator has complied with the directions notice, the chief executive must—

(a) record the date of the compliance on a copy of the notice; and

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(b) if asked, give a copy of the dated notice to the operator.

(3) The directions notice stops having effect on the date of compliance.

Part 4 Reporting contraventions of chapter 4 to other entities

157 Chief executive may report contraventions

(1) If the chief executive considers a person has contravened this chapter, the chief executive may report the alleged contravention to a relevant entity.

(2) In this section—

relevant entity means—

(a) the health ombudsman; or

(c) a board established under the Health Practitioner Regulation National Law; or

(d) another entity that has the power under an Act of the State, the Commonwealth or another State to deal with the matter.

Chapter 4A Health of persons with major disturbance in mental capacity

Part 1 Preliminary

157A Definitions for ch 4A

In this chapter—

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ambulance officer see the *Ambulance Service Act 1991*, schedule.

authorised person means—

(a) a police officer; or

(b) an appropriately qualified health service employee appointed as an authorised person by the person in charge of a public sector health service facility; or

(c) an ambulance officer; or

(d) a security officer.

emergency examination authority see section 157D(1).

examination period see section 157E(1).

health practitioner means a person registered under the Health Practitioner Regulation National Law, or another person who provides health services, including, for example, a social worker.

public sector health service facility see the *Hospital and Health Boards Act 2011*, schedule 2.

security officer means a person employed or engaged by a public sector health service facility to provide security services, regardless of how the person's employment or engagement is described.

treatment or care place means a public sector health service facility or another place, other than a watch house, where a person may receive treatment and care appropriate to the person's needs.

Example of another place where a person may receive treatment and care appropriate to the person's needs—

the person's home

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Part 2 Taking persons to treatment or care place

157B Ambulance officer or police officer may detain and transport person

(1) This section applies if an ambulance officer or police officer believes—

(a) a person's behaviour, including, for example, the way in which the person is communicating, indicates the person is at immediate risk of serious harm; and

Example—

a person is threatening to commit suicide

(b) the risk appears to be the result of a major disturbance in the person's mental capacity, whether caused by illness, disability, injury, intoxication or another reason; and

(c) the person appears to require urgent examination, or treatment and care, for the disturbance.

(2) For the *Police Powers and Responsibilities Act 2000*, section 609(1)(a)(i), the police officer may consider advice received from a health practitioner about the person in forming a view as to whether there is an imminent risk of injury to a person.

(3) The ambulance officer or police officer may detain the person and transport the person to a treatment or care place.

(4) If the treatment or care place is a public sector health service facility that is not an inpatient hospital, the person may only be transported to the facility with the approval of the person in charge of the facility.

(5) If the person is detained and transported to a treatment or care place, other than a public sector health service facility, the person can not be detained at the place unless an Act otherwise requires.

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Note—

See section 157E for detention in a treatment or care place that is a public sector health service facility.

(6) In this section—

inpatient hospital means a hospital where a person may be discharged on a day other than the day on which the person was admitted to the hospital.

157C What ambulance officer or police officer must tell person

(1) The ambulance officer or police officer must—

(a) tell the person that the officer is detaining the person and transporting the person to a treatment or care place; and

(b) explain to the person how taking action under paragraph (a) may affect the person.

(2) The ambulance officer or police officer must take reasonable steps to ensure the person understands the information given under subsection (1), including by telling the person or explaining the thing to the person—

(a) in an appropriate way having regard to the person's age, culture, mental impairment or illness, communication ability and any disability; and

(b) in a way, including, for example, in a language, the person is most likely to understand.

157D Giving emergency examination authority

(1) If the ambulance officer or police officer takes the person to a treatment or care place that is a public sector health service facility, the officer must immediately make an authority (an ***emergency examination authority***) for the person.

(2) The authority must—

(a) be in the approved form; and

(b) state the time when it is given.

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(3) The person may be detained in the treatment or care place while the authority is being made.

(4) Immediately after making the authority, the ambulance officer or police officer must give the authority to a health service employee at the treatment or care place.

157E Detention in treatment or care place

(1) A person subject to an emergency examination authority may be detained in a treatment or care place that is a public sector health service facility for a period (the ***examination period***) of not more than 6 hours starting when the authority is given to the health service employee under section 157D(4).

(2) A doctor or health practitioner must explain the effect of the authority to the person.

(3) The doctor or health practitioner must take reasonable steps to ensure the person understands the information given under subsection (2), including by telling the person or explaining the information to the person—

(a) in an appropriate way having regard to the person's age, culture, mental impairment or illness, communication ability and any disability; and

(b) in a way, including, for example, in a language, the person is most likely to understand.

(4) Also, a doctor or health practitioner may extend or further extend the examination period to not more than 12 hours after it starts if the doctor or health practitioner believes the extension is necessary to carry out or finish an examination of the person under section 157F.

157F Examination

(1) A doctor or health practitioner may examine a person subject to an emergency examination authority to decide the person's treatment and care needs.

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(2) Also, a doctor or authorised mental health practitioner may examine the person to decide whether to make a recommendation for assessment for the person under the *Mental Health Act 2016*.

(3) An examination may be carried out using an audiovisual link if the doctor or health practitioner examining the person believes it is clinically appropriate.

(4) In this section—

audiovisual link means facilities that enable reasonably contemporaneous and continuous audio and visual communication between persons at different places.

authorised mental health practitioner see the *Mental Health Act 2016*, schedule 3.

Part 3 Return of persons who abscond

157G Application of pt 3

This part applies if a person absconds from a public sector health service facility while being detained under this chapter.

157H Person in charge of facility may require return of absent person

(1) A person in charge of a public sector health service facility may—

(a) authorise an authorised person, other than a police officer, to transport the person to a public sector health service facility; or

(b) ask a police officer to transport the person to a public sector health service facility.

(2) The authorisation or request must—

(a) be in the approved form; and

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(b) state the name of the person to be transported; and

(c) state the name of the public sector health service facility to which the person is to be transported; and

(d) identify the risk the person presents to himself or herself, the authorised person or police officer, and others; and

(e) for a request to a police officer—state the reasons why the person in charge considers it necessary for a police officer to transport the person.

(3) Before giving the authorisation or making the request, the person in charge must make reasonable efforts to contact the person and encourage the person to come or return to the public sector health service facility.

(4) Subsection (3) does not apply if the person in charge considers there is a risk that the person may harm himself or herself or others if the person in charge complies with the subsection.

(5) The person in charge of a public sector health service facility may delegate a function or power of the person in charge under this section to an appropriately qualified health service employee.

(6) For performing a function or exercising a power under this section in relation to a person, an authorised person, other than a police officer, is a public official for the *Police Powers and Responsibilities Act 2000*.

Note—

See also part 5 for applying for a warrant for the apprehension of a person.

157I Duration of authorisation or request

An authorisation or request under section 157H to transport the person is in force for 3 days after the day the person absconds.

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157J Authorised person may transport absent person

(1) This section applies if an authorised person is authorised to transport a person under section 157H(1)(a).

(2) The authorised person may transport the person named in the authorisation to the public sector health service facility stated in the authorisation.

(3) Subsection (4) applies if an authorised person mentioned in section 157H(1)(a) asks a police officer, under the *Police Powers and Responsibilities Act 2000*, section 16, to help transport the named person.

Note—

Under section 157H(6), an authorised person, other than a police officer, is a public official for the *Police Powers and Responsibilities Act 2000*. Under section 16 of that Act, a public official may ask a police officer to help the public official perform the public official's functions.

(4) The request must—

(a) be in the approved form; and

(b) state the name of the person to be transported; and

(c) state the name of the public sector health service facility to which the person is to be transported; and

(d) identify the risk the person presents to himself or herself, the authorised person or police officer, and others; and

(e) state the reasons why the authorised person considers it necessary to ask the police officer to help transport the person.

(5) Before transporting the person, the authorised person must—

(a) tell the person the authorised person is detaining the person and transporting the person to the public sector health service facility stated in the authorisation; and

(b) explain to the person how taking action under paragraph (a) may affect the person.

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157K Effect on examination period

For a person transported under an authorisation or request under section 157H—

(a) despite section 157E(1), the examination period for the person starts when the person is admitted to the service or facility to which the person is transported under section 157E; and

(b) a health service employee must note on the person's emergency examination authority when the examination period starts under paragraph (a).

Part 4 Powers

157L Use of force to detain and transport

An ambulance officer or police officer may exercise the power to detain and transport a person under this chapter with the help, and using the force, that is necessary and reasonable in the circumstances.

157M Transfer to another treatment or care place

(1) This section applies if—

(a) a person subject to an emergency examination authority is transported to a treatment or care place that is a public sector health service facility; and

(b) a doctor or health practitioner believes it is necessary for the person to be transported to another treatment or care place that is a public sector health service facility.

(2) An authorised person may transport the person under the emergency examination authority to the other treatment or care place.

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Note—

A person subject to an emergency examination authority may only be detained in a treatment or care place for the examination period, or the examination period as extended under section 157E(4).

157N Use of reasonable force to detain person

(1) This section applies if, under an emergency examination authority, a person may be detained in a public sector health service facility.

(2) The person in charge of the public sector health service facility, and anyone lawfully helping the person in charge, may exercise the power to detain the person in the facility with the help, and using the force, that is necessary and reasonable in the circumstances.

157O Examination of person without consent and with use of reasonable force

(1) An examination of a person subject to an emergency examination authority may be made under this chapter without the consent of the person or anyone else.

(2) A person lawfully examining the person, or lawfully helping to examine the person, may use the force that is necessary and reasonable in the circumstances to examine, or help examine, the person.

157P Return after examination or treatment and care to person's requested place

(1) This section applies if—

(a) a person is transported from the community to a treatment or care place that is a public sector health service facility; and

(b) at the end of the examination period, or the examination period as extended under section 157E(4), for the person, a recommendation for assessment under the *Mental Health Act 2016* is not made for the person.

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(2) The person in charge of the public sector health service facility must take reasonable steps to ensure the person is returned to a place reasonably requested by the person.

Part 5 Warrant for apprehension of person to transport person

157Q Application for warrant for apprehension of person

(1) This section applies if an authorised person considers a warrant for apprehension of a person is necessary to enable an authorised person to transport the person under this chapter to a public sector health service facility for an examination.

(2) The authorised person may apply to a magistrate for a warrant for apprehension of the person.

(3) The authorised person must prepare a written application that states the grounds on which the warrant is sought.

(4) The written application must be sworn.

(5) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

157R Issue of warrant

(1) A magistrate may issue the warrant for apprehension of the person if the magistrate is satisfied the warrant is necessary to enable an authorised person to transport the person to a public sector health service facility for an examination.

(2) The warrant authorises an authorised person—

(a) to enter any 1 or more places the authorised person reasonably believes the person is; and

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(b) to search the places to find the person; and

(c) to remain in the places for as long as the authorised person considers it reasonably necessary to find the person; and

(d) to transport the person to a stated public sector health service facility.

Note—

For a police officer's entry and search powers, see the *Police Powers and Responsibilities Act 2000*, section 21. Also, for the use of force by a police officer, see the *Police Powers and Responsibilities Act 2000*, section 615.

(3) The warrant must state—

(a) the person to whom the warrant applies; and

(b) that an authorised person may, with necessary and reasonable help and force, exercise—

(i) the powers under the warrant mentioned in subsection (2); and

(ii) the powers mentioned in part 4; and

(c) the hours of the day or night when a place mentioned in subsection (2)(a) may be entered; and

(d) the magistrate's name; and

(e) the day and time of the warrant's issue; and

(f) the day, within 7 days after the warrant's issue, the warrant ends.

(4) An authorised person may exercise powers under the warrant with the help, and using the force, that is reasonable in the circumstances.

157S Electronic application

(1) An application under section 157Q may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised person reasonably considers it necessary because of—

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(a) urgent circumstances; or

(b) other special circumstances, including, for example, the authorised person's remote location.

(2) The application—

(a) may not be made before the authorised person prepares the written application under section 157Q(3); but

(b) may be made before the written application is sworn.

157T Additional procedure if electronic application

(1) For an application made under section 157S, the magistrate may issue the warrant for apprehension of the person (the ***original warrant***) only if the magistrate is satisfied—

(a) it was necessary to make the application under section 157S; and

(b) the way the application was made under section 157S was appropriate.

(2) After the magistrate issues the original warrant—

(a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised person, including, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the authorised person; or

(b) otherwise—

(i) the magistrate must tell the authorised person the information mentioned in section 157R(3); and

(ii) the authorised person must complete a form of warrant, including by writing on it the information mentioned in section 157R(3) told to the person by the magistrate.

(3) The copy of the warrant mentioned in subsection (2)(a), or the form of warrant completed under subsection (2)(b) (in either case the ***duplicate warrant***), is a duplicate of, and as effectual as, the original warrant.

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(4) The authorised person must, at the first reasonable opportunity, send to the magistrate—

(a) the written application complying with section 157Q(3) and (4); and

(b) if the authorised person completed a form of warrant under subsection (2)(b), the completed form of warrant.

(5) The magistrate must keep the original warrant and, on receiving the documents under subsection (4)—

(a) attach the documents to the original warrant; and

(b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.

(6) Despite subsection (3), if—

(a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and

(b) the original warrant is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.

(7) In this section—

relevant magistrates court, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.

157U Defect in relation to a warrant

(1) A warrant for apprehension of a person is not invalidated by a defect in—

(a) the warrant; or

(b) compliance with this part;

unless the defect affects the substance of the warrant in a material particular.

(2) In this section—

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warrant for apprehension includes a duplicate warrant under section 157T(3).

157V Warrants—entry procedure

(1) This section applies if an authorised person is intending to enter a place under a warrant for apprehension of a person.

(2) Before entering the place, the authorised person must do or make a reasonable attempt to do the following things—

(a) identify himself or herself to a person present at the place who is an occupier of the place;

Note—

See also the *Police Powers and Responsibilities Act 2000*, section 637.

(b) give the person a copy of the warrant or, if the entry is authorised by a duplicate warrant under section 157T(3), a copy of the duplicate warrant;

(c) tell the person the authorised person is permitted by the warrant to enter and search the place to find the person named in the warrant;

(d) give the person an opportunity to allow the authorised person immediate entry to the place without using force.

(3) However, the authorised person need not comply with subsection (2) if the authorised person reasonably believes immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

Part 6 Searches of persons in treatment or care place

157W Application of pt 6

This part applies to a person who is being detained in a public sector health service facility for an examination under this chapter.

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157X Definitions for pt 6

In this part—

general search, of a person, means a search—

(a) to reveal the contents of the person's outer garments, general clothes or hand luggage without touching the person or the luggage; or

(b) in which the person may be required to—

(i) open his or her hands or mouth for visual inspection; or

(ii) shake his or her hair vigorously.

harmful thing means anything—

(a) that may be used to—

(i) threaten the security or good order of a public sector health service facility; or

(ii) threaten a person's health or safety; or

(b) that, if used by a patient in a public sector health service facility, is likely to adversely affect the patient's treatment or care.

Examples of harmful things—

- a dangerous drug
- alcohol
- medication
- provocative or offensive documents

personal search, of a person, means a search in which light pressure is momentarily applied to the person over his or her general clothes without direct contact being made with—

(a) the person's genital or anal areas; or

(b) for a female—the person's breasts.

scanning search, of a person, means a search of the person by electronic or other means that does not require the person to remove his or her general clothes or to be touched by another person.

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Examples of a scanning search—

- using a portable electronic apparatus or another portable apparatus that can be passed over the person
- using an electronic apparatus through which the person is required to pass

search requiring the removal of clothing, of a person, means a search in which the person removes all garments during the course of the search, but in which direct contact is not made with the person.

157Y Power to search on belief of possession of harmful thing

(1) This section applies if a doctor or health practitioner believes the person may have possession of a harmful thing.

(2) The doctor or health practitioner may—

(a) carry out a general search, scanning search or personal search of the person; and

(b) if the person in charge of the public sector health service facility gives approval for a search requiring the removal of clothing—carry out a search requiring the removal of clothing; and

(c) carry out a search of the person's possessions.

(3) The person in charge of the public sector health service facility may give approval under subsection (2)(b) if the person in charge believes that a search requiring the removal of clothing is necessary in the circumstances.

(4) A search under this section may be carried out without the person's consent.

(5) However, before carrying out a search under this section, the doctor or health practitioner must tell the person the reasons for the search and how it is to be carried out.

(6) A doctor or health practitioner may carry out a search under this section with the help, and using the force, that is necessary and reasonable in the circumstances.

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157Z Requirements for personal search

(1) A person authorised under section 157Y to carry out a personal search (the ***searcher***) may do any 1 or more of the following in relation to the person being searched—

(a) remove and inspect an outer garment or footwear of the person;

(b) remove and inspect all things from the pockets of the person's clothing;

(c) touch the clothing worn by the person to the extent necessary to detect things in the person's possession;

(d) remove and inspect any detected thing.

(2) The searcher may exercise a power under subsection (1)(c) only if—

(a) to the extent reasonably practicable—

(i) the person has been given an opportunity to express, and has expressed, their preference about the gender of someone carrying out the search (the ***gender preferred*** by the person); and

(ii) the gender of the searcher is the gender preferred by, or otherwise the same gender as, the person; and

(b) the search is carried out in a part of a building that ensures the person's privacy.

(3) The searcher must—

(a) carry out the search in a way that respects the person's dignity to the greatest possible extent; and

(b) cause as little inconvenience to the person as is practicable in the circumstances.

157ZA Requirements for search requiring the removal of clothing

(1) A search under section 157Y requiring the removal of clothing of a person must be carried out by at least 2 persons

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authorised to carry out the search, but by no more persons than are reasonably necessary to carry out the search.

(2) To the extent reasonably practicable, the gender of each person carrying out the search (each a ***searcher***) must be the gender preferred by, or otherwise the same gender as, the person being searched.

(3) Before carrying out the search, 1 of the searchers must tell the person—

(a) that the person will be required to remove the person's clothing during the search; and

(b) why it is necessary to remove the clothing.

(4) The searcher must—

(a) ensure the search is carried out in a part of a building that ensures the person's privacy; and

(b) ensure, to the extent practicable, that the way in which the person is searched causes minimal embarrassment to the person; and

(c) take reasonable care to protect the person's dignity; and

(d) carry out the search as quickly as reasonably practicable; and

(e) allow the person to dress as soon as the search is finished.

(5) The searcher must, if reasonably practicable, give the person the opportunity to remain partly clothed during the search, including, for example, by allowing the person to dress his or her upper body before being required to remove clothing from the lower part of the body.

(6) If the searcher seizes clothing because of the search, the searcher must ensure the person is left with, or given, reasonably appropriate clothing.

(7) In this section—

gender preferred, by the person being searched, see section 157Z(2)(a)(i).

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157ZB Requirements for search of possessions

(1) A person authorised under section 157Y to carry out a search of a person's possessions (the ***searcher***) may—

(a) open or inspect a thing in the person's possession; and

(b) remove and inspect any detected thing.

(2) However, the searcher may exercise a power to inspect a thing under subsection (1) only if the person is present or has been given the opportunity to be present.

(3) Subsection (2) does not apply if the person obstructs the searcher in the exercise of the searcher's powers.

157ZC Record of search must be made

(1) This section applies if—

(a) a search requiring the removal of clothing is carried out under section 157Y; or

(b) a person seizes anything found during a search under section 157Y.

(2) As soon as practicable after carrying out the search, the person who carried out the search must make a written record of the following details of the search—

(a) the reasons for the search;

(b) the names of the persons present during the search;

(c) how the search was carried out;

(d) details of anything seized, including the reasons for seizing.

157ZD Seizure of harmful thing

(1) A person authorised under section 157Y to carry out a search (the ***searcher***) may seize anything found during the search that the searcher reasonably suspects is—

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(a) connected with, or is evidence of, the commission or intended commission of an offence against an Act; or

(b) a harmful thing.

(2) If the searcher believes a seized thing is connected with, or is evidence of, the commission or intended commission of an offence against an Act, the searcher must give it to an authorised inspector for the Act.

(3) The seizure provisions of the Act mentioned in subsection (2) apply to the thing as if the searcher had seized it under the provisions of the Act that relate to the offence.

(4) If the authorised inspector is not reasonably satisfied the thing is evidence of the commission or intended commission of an offence against the Act, the authorised inspector must return it to the searcher who must deal with it under this section.

(5) If the searcher believes a thing seized from a person, or a thing returned under subsection (4), is a harmful thing, the searcher must—

(a) keep it for the person and give it to the person on the person's discharge from the public sector health service facility; or

(b) give it to someone else if the person is able to give, and has given, agreement to do so; or

(c) if the searcher is satisfied someone else is entitled to possession of the thing—give or send it to the person; or

(d) if the searcher is satisfied it is of negligible value—dispose of it in the way the person in charge of the public sector health service facility believes appropriate.

(6) Regard must be had to a thing's nature, condition and value in deciding—

(a) whether it is reasonable to make inquiries or efforts; and

(b) if making inquiries or efforts—what inquiries or efforts, including the period over which they are made, are reasonable.

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(7) In this section—

authorised inspector, for an Act, means a person who is authorised under the Act to perform inspection and enforcement functions.

seizure provisions, of an Act, means the provisions of the Act relating to the access to, and retention, disposal and forfeiture of, a thing after its seizure under the Act.

157ZE Receipt for seized thing

(1) A person authorised under section 157Y to carry out a search must give a receipt for a thing seized to the person from whom it was seized.

(2) The receipt must describe generally the thing seized and its condition.

157ZF Access to seized thing

(1) This section applies to a thing seized on a search under section 157Y.

(2) Until the thing is forfeited or returned under this part, the searcher must allow its owner to inspect it and, if it is a document, to copy it.

(3) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

Part 7 Miscellaneous

157ZG Relationship with Guardianship and Administration Act 2000

This chapter does not affect the operation of the *Guardianship and Administration Act 2000*, section 63 in relation to providing urgent health care under that Act to a person.

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Chapter 5 Child health

Part 1 Definitions

158 Definitions for ch 5

In this chapter—

approved provider means—

(a) for education and care provided under the Education and Care Service National Law (Queensland)—see the Education and Care Services National Law (Queensland), section 5(1); or

(b) for regulated education and care provided under the *Education and Care Services Act 2013*—see the *Education and Care Services Act 2013*, schedule 1.

Australian Immunisation Handbook, for part 2, division 1AA, see section 160A

care and treatment order means an order by a designated medical officer under section 197.

chief executive (child safety) means the chief executive of the department in which the *Child Protection Act 1999* is administered.

contagious condition means a contagious medical condition prescribed under a regulation as a contagious condition.

designated medical officer means a doctor appointed as, or who is, a designated medical officer under section 188.

education and care service means an approved education and care service under the Education and Care Services National Law (Queensland).

educator—

(a) for education and care provided under the Education and Care Services National Law (Queensland)—means an educator under that Law; or

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(b) for regulated education and care provided under the *Education and Care Services Act 2013*—means an educator under that Act.

family day care co-ordinator see the Education and Care Services National Law (Queensland), section 5(1).

family day care service means an approved family day care service under the Education and Care Services National Law (Queensland).

harm, to a child, means any detrimental effect on the child's physical, psychological or emotional wellbeing—

(a) that is of a significant nature; and

(b) that has been caused by—

(i) physical, psychological or emotional abuse or neglect; or

(ii) sexual abuse or exploitation.

health service facility means—

(a) a public sector health service facility within the meaning of the *Hospital and Health Boards Act 2011*; or

(b) a private health facility; or

(c) Mater Misericordiae Public Hospitals.

immunisation history statement, for part 2, division 1AA, see section 160A.

immunisation status "up to date", for part 2, division 1AA, see section 160A.

parent, of a child, see section 159.

person in charge—

(a) for a school, means the principal of the school; or

(b) for an education and care service, means—

(i) for an education and care service other than a family day care service—an individual mentioned in the Education and Care Services National Law

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(Queensland), section 162(1)(a) to (c) who, in accordance with that section, is present at the service; or

(ii) for a family day care service—the family day care co-ordinator for the service; or

(c) for a QEC approved service, means—

(i) the approved provider; or

(ii) a supervisor who is present at the service.

prescribed period, for a contagious condition, see section 160.

professional, for part 3, means a doctor or registered nurse.

QEC approved service see the *Education and Care Services Act 2013*, schedule 1.

recognised vaccination provider, for part 2, division 1AA, see section 160A.

school means a State school or non-State school within the meaning of the *Education (General Provisions) Act 2006*.

teacher means an approved teacher under the *Education (Queensland College of Teachers) Act 2005*, but does not include the principal of a school.

vaccinated, in relation to a vaccine preventable condition, means vaccinated in the way prescribed under a regulation.

vaccine preventable condition means a contagious condition, or another medical condition, that is prescribed under a regulation as a vaccine preventable condition.

159 Who is a *parent*

(1) For part 2, a ***parent*** of a child is—

(a) the child's mother, father or someone else having or exercising parental responsibility for the child; or

(b) for a child who is in the custody or guardianship of the chief executive (child safety) under the *Child Protection Act 1999*, the chief executive (child safety).

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(2) For part 3, a ***parent*** of a child is the child's mother, father or someone else, other than the chief executive (child safety), having or exercising parental responsibility for the child.

(3) In this chapter generally, the following apply—

(a) a parent of an Aboriginal child includes a person who, under Aboriginal tradition, is regarded as a parent of the child;

(b) a parent of a Torres Strait Islander child includes a person who, under Island custom, is regarded as a parent of the child;

(c) a reference in this part to the parents of a child or to 1 of the parents of a child is, if the child has only 1 parent, a reference to the parent.

160 What is a *prescribed period* for a contagious condition

(1) A ***prescribed period***, for a contagious condition, means the period prescribed under subsection (2) or (3) as the prescribed period relating to the condition.

(2) For a contagious condition that is not a vaccine preventable condition, a single prescribed period may be prescribed under a regulation for a child suspected under this chapter of having the condition.

(3) For a vaccine preventable condition, different prescribed periods may be prescribed under a regulation for the following—

(a) a child suspected under this chapter of having the condition;

(b) a child who does not have the condition but who is suspected under this chapter of—

(i) not having been vaccinated for the condition; and

(ii) being at risk of contracting the condition if the child continues to attend a school, education and care service or QEC approved service.

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Part 2 Contagious conditions

Division 1AA Exclusion of unvaccinated children from particular services

160A Definitions for div 1AA

In this division—

Australian Immunisation Handbook means the Australian Immunisation Handbook approved as guidelines under the *National Health and Medical Research Council Act 1992* (Cwlth), section 14A.

immunisation history statement means—

(a) an immunisation history statement as recorded on the ACI register as defined under the *Australian Immunisation Register Act 2015* (Cwlth), section 4; or

(b) a statement about a child's immunisation history given by a recognised vaccination provider.

immunisation status "up to date", for a child, means the child, for each vaccine preventable condition—

(a) is age appropriately immunised for the condition in accordance with the recommendations stated in the Australian Immunisation Handbook; or

(b) is following an approved immunisation catch-up schedule for the condition developed by a recognised vaccination provider in accordance with the Australian Immunisation Handbook; or

(c) has an exemption for a vaccine for the condition given by a recognised vaccination provider because of a medical contraindication to vaccination.

recognised vaccination provider, see the *Australian Immunisation Register Act 2015* (Cwlth), section 4.

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160B When person in charge may exclude child not yet enrolled

(1) A person in charge of an education and care service or QEC approved service may in the circumstances mentioned in subsection (2) do any of the following—

(a) refuse to enrol a child at the service;

(b) refuse to allow a child to attend the service until an immunisation history statement stating that the child has the immunisation status "up to date" is given to a person in charge of the service;

(c) impose a condition on a child's enrolment or attendance at the service until an immunisation history statement stating that the child has the immunisation status "up to date" is given to a person in charge of the service.

(2) The circumstances are—

(a) a person in charge of the service requests a parent intending to enrol the child at the service to give to the person in charge, within a reasonable period after the request is made, an immunisation history statement stating that the child has the immunisation status "up to date"; and

(b) on making the request, the person in charge advises the parent that the person in charge may take any of the actions mentioned in subsection (1) if the parent does not comply with the request; and

(c) a parent of the child either—

(i) refuses to comply with the request; or

(ii) does not comply with the request within a reasonable period after the request is made.

(3) A request under subsection (2)(a) may be made in a form given to the parent for the purpose of applying to enrol the child at the service.

(4) A condition imposed under subsection (1)(c)—

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(a) must be relevant to the immunisation status of the child; and

(b) may be a condition that the child's enrolment at the service will be cancelled if a parent of the child does not give a person in charge of the service an immunisation history statement stating that the child has the immunisation status "up to date".

160C When person in charge may exclude enrolled child

(1) A person in charge of an education and care service or QEC approved service may in the circumstances mentioned in subsection (2) do any of the following—

(a) cancel a child's enrolment at the service;

(b) refuse to allow a child enrolled at the service to attend the service until an immunisation history statement stating that the child has the immunisation status "up to date" is given to a person in charge of the service;

(c) impose a condition on a child's enrolment or attendance at the service until an immunisation history statement stating that the child has the immunisation status "up to date" is given to a person in charge of the service.

(2) The circumstances are—

(a) a person in charge of the service requests a parent of the child to give to the person in charge, within a stated period of at least 4 weeks after the request is made, an immunisation history statement stating that the child has the immunisation status "up to date"; and

(b) the request is made after the child has reached the age stated in the National Immunisation Program Schedule Queensland, for a vaccine preventable condition, at which it is recommended the child be immunised or further immunised against the condition; and

(c) on making the request, the person in charge advises the parent that the person in charge may take any of the

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actions mentioned in subsection (1) if the parent does not comply with the request; and

(d) a parent of the child does not comply with the request within the stated period for the request.

(3) A condition imposed under subsection (1)(c) must be relevant to the immunisation status of the child.

(4) In this section—

National Immunisation Program Schedule Queensland means the schedule for age appropriate immunisation for vaccine preventable conditions recommended by the department and published on the department's website.

160D Immunisation status of children allowed to attend without statement

(1) This section applies if a person in charge of an education and care service or QEC approved service decides—

(a) to enrol a child despite not being given, under section 160B, an immunisation history statement stating that the child has the immunisation status "up to date"; or

(b) to allow a child to attend the service despite not being given, under section 160B or 160C, an immunisation history statement stating that the child has the immunisation status "up to date".

(2) For each provision of this part, until the day on which an immunisation history statement stating that the child has the immunisation status "up to date" is given to a person in charge of the service, the child is taken not to be vaccinated.

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Division 1 Directions about attendance of children at a school, education and care service or QEC approved service

161 When parent must not send a child to school, education and care service or QEC approved service

(1) This section applies if—

(a) a parent knows or ought reasonably to know that the parent's child has, or may have, a contagious condition; or

(b) a person in charge of a school, education and care service or QEC approved service has directed the parent to remove the child from, and not to send the child to, the school or service during the prescribed period for the condition, under section 164, 166 or 169.

(2) The parent must not send the child to any school, education and care service or QEC approved service during the prescribed period for the condition.

162 When teacher or educator must advise person in charge

(1) This section applies if a person who is a teacher or educator reasonably suspects a child attending the person's school, education and care service or QEC approved service has, or may have, a contagious condition.

(2) The person must advise the person in charge about the person's suspicion.

163 Person in charge may advise parent about suspicion of contagious condition

(1) This section applies if a person in charge of a school, education and care service or QEC approved service reasonably suspects—

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(a) that a child attending the school or service has, or may have, a contagious condition; and

(b) that other children attending the school or service may be at risk of contracting the contagious condition.

(2) The person in charge may advise at least 1 of the child's parents—

(a) of the suspicion of the person in charge; and

(b) of the parent's obligation under section 161(1)(a) and (2) not to send the child to the school, education and care service or QEC approved service.

164 Person in charge may direct parent not to send child to school, education and care service or QEC approved service

(1) This section applies if—

(a) a person in charge of a school, education and care service or QEC approved service has advised a parent under section 163(2) about the parent's child; and

(b) the child continues to attend the school or service or the parent tells the person in charge that the parent's child will continue to attend the school or service; and

(c) the person in charge reasonably suspects that the child still has, or may have, the contagious condition and that other children attending the school or service may be at risk of contracting the condition if the child continues to attend the school or service.

(2) The person in charge may direct the parent—

(a) to remove the child from the school, education and care service or QEC approved service as soon as reasonably practicable; and

(b) not to send the child to the school or service during the prescribed period for the condition applying to the child.

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(3) However, the person in charge must consult a doctor or another person authorised by the chief executive for advice before taking action under subsection (2).

165 Person in charge may advise parent of child not vaccinated about suspicion of vaccine preventable condition

(1) This section applies if the person in charge of a school, education and care service or QEC approved service reasonably suspects that a child attending the school or service—

(a) has not been vaccinated for a vaccine preventable condition; and

(b) may be at risk of contracting the condition if the child continues to attend the school or service.

(2) The person in charge may advise at least 1 of the child's parents of the suspicion.

166 Person in charge may direct parent not to send child to school, education and care service or QEC approved service

(1) This section applies if—

(a) a person in charge of a school, education and care service or QEC approved service has advised a parent under section 165(2) about the parent's child; and

(b) the child continues to attend the school or service or the parent tells the person in charge that the parent's child will continue to attend the school or service; and

(c) the person in charge reasonably suspects that the child will be at risk of contracting the contagious condition if the child continues to attend the school or service.

(2) The person in charge may direct the parent—

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(a) to remove the child from the school, education and care service or QEC approved service as soon as reasonably practicable; and

(b) not to send the child to the school or service during the prescribed period for the condition applying to the child.

(3) However, the person in charge must consult a doctor or another person authorised by the chief executive for advice before taking action under subsection (2).

167 Chief executive may authorise examination of children at school, education and care service or QEC approved service

(1) This section applies if the chief executive—

(a) reasonably suspects that some or all of the children attending a school, education and care service or QEC approved service should be examined by a doctor because a child attending the school or service has, or may have, a contagious condition; and

(b) has consulted the person in charge of the school or service about the examinations.

(2) The chief executive may arrange for a doctor to examine some or all of the children attending the school or service to decide whether the children have, or may have, the condition.

(3) Before the examinations take place the chief executive must give the person in charge of the school or service notice of the following—

(a) the date and time of the examinations;

(b) the contagious condition for which examinations are to be conducted;

(c) the children, or class of children, to be examined;

(d) the name and contact details of the doctor who is to conduct the examinations.

(4) However, a child must not be examined without the consent of a parent of the child.

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168 Chief executive must advise parent about examination

If a child is to be examined under section 167, the chief executive must advise at least 1 of the child's parents of the following—

(a) the date and time of the examination;

(b) the contagious condition for which the examination is to be conducted;

(c) the name and contact details of the doctor who is to conduct the examination;

(d) that the child's parents may be present when the child is examined;

(e) that the examination may not be conducted without the consent of the parent;

(f) that the parent may, on or before the date of the examination—

(i) have the child examined by another doctor to decide whether the child has, or may have, the condition; and

(ii) give the person in charge a certificate by the other doctor stating whether or not the child has or may have the condition and, if the child has or may have the condition, whether the prescribed period for the condition has ended;

(g) that the parent may be directed to remove the child from, and not to send the child to, the school or service if—

(i) the child has not been examined—

(A) by the doctor arranged by the chief executive; or

(B) by another doctor chosen by the parent and a certificate provided under paragraph (f); or

(ii) an examination reveals the child has, or may have, the condition.

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169 Chief executive may direct person in charge in relation to child

(1) This section applies if—

(a) a doctor who examines a child under section 167 attending a school, education and care service or QEC approved service advises the chief executive that—

(i) the child has, or may have, a contagious condition; and

(ii) the prescribed period for the condition has not ended; or

(b) a parent of a child has been advised under section 168 but the child has not been examined—

(i) by the doctor arranged by the chief executive; or

(ii) by another doctor chosen by the parent and a certificate provided by that doctor stating that the child does not have the contagious condition or the prescribed period for the condition has ended; or

(c) the chief executive reasonably suspects that a child attending a school, education and care service or QEC approved service has, or may have, a contagious condition and the prescribed period for the condition has not ended; or

(d) the chief executive reasonably suspects that a child attending a school, education and care service or QEC approved service—

(i) has not been vaccinated for a vaccine preventable condition; and

(ii) will be at risk of contracting the condition if the child continues to attend the school or service.

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

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(3) If directed by the chief executive under subsection (2), the person in charge of the school, education and care service or QEC approved service must comply with the direction, unless the person in charge has a reasonable excuse.

Maximum penalty—50 penalty units.

(4) A direction by the chief executive under subsection (2)—

(a) must be given in writing, if practicable; and

(b) must include the information mentioned in section 170(2).

(5) If it is not practicable to give the direction in writing, the chief executive may give the direction orally but must confirm it in writing as soon as practicable thereafter.

170 Person in charge must include information in direction

(1) This section applies if a person in charge of a school, education and care service or QEC approved service—

(a) decides to direct a parent under section 164 or 166; or

(b) must direct a parent because of a direction by the chief executive under section 169.

(2) The person in charge must include the following information in the direction—

(a) the suspected contagious condition that led to the direction;

(b) the prescribed period for the condition;

(c) the circumstances in which the child concerned may be readmitted to the school or service.

171 When person in charge may readmit child before prescribed period ends

(1) Subsection (2) applies if a child is not attending a school, education and care service or QEC approved service because

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of a direction by the person in charge under section 164 or 166.

(2) The person in charge of the school, education and care service or QEC approved service may readmit the child to the school or service if—

(a) for a child mentioned in section 164, a certificate signed by a doctor is produced to the person in charge stating—

(i) that the child does not have the condition; or

(ii) that the prescribed period for the condition has ended; or

(b) for a child mentioned in section 166, the person in charge is satisfied on reasonable grounds that the child no longer continues to be at risk of contracting the contagious condition.

(3) Subsection (4) applies if a child is not attending a school, education and care service or QEC approved service because of a direction by the person in charge after a direction of the chief executive under section 169.

(4) The person in charge of the school or service may readmit the child only if directed to do so by the chief executive.

(5) The chief executive may give the direction if—

(a) for a child suspected of having a contagious condition, the chief executive is satisfied a certificate signed by a doctor has been given to the person in charge stating—

(i) that the child does not have the condition; or

(ii) that the prescribed period for the condition has ended; or

(b) for a child mentioned in section 169(2)(b), the chief executive is satisfied on reasonable grounds that the child no longer continues to be at risk of contracting the contagious condition.

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Division 2 Information sharing

172 Chief executive may require details if child suspected of having a contagious condition

(1) This section applies if the chief executive reasonably suspects—

(a) that a child (the ***first child***) attending a school, education and care service or QEC approved service has, or may have, a contagious condition; and

(b) that other children attending the school or service may be at risk of contracting the contagious condition.

(2) The chief executive may require a person in charge of the school, education and care service or QEC approved service to give the chief executive, to the extent it is available to the person in charge—

(a) information about the contact the first child has had with other children attending the school or service; and

(b) the following information for the first child and each other child with whom the first child has had contact—

(i) the child's full name;

(ii) the child's place and date of birth;

(iii) the child's residential address;

(iv) contact details for at least 1 of the child's parents;

(v) if the contagious condition is a vaccine preventable condition, whether the child has been vaccinated for the condition.

(3) The person in charge of a school, education and care service or QEC approved service must comply with a requirement of the chief executive under subsection (2).

Maximum penalty—50 penalty units.

(4) This section applies despite any other provision of this Act or any provision of another law that deals with confidentiality,

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including, for example, the *Education and Care Services Act 2013*, section 130 and the *Education (General Provisions) Act 2006*, section 426.

173 Giving health information held by a health agency

(1) Subsection (2) applies if the chief executive, a person in charge of a school, education and care service or QEC approved service, or another person involved in the administration of this part asks for health information held by a health agency to be provided to the chief executive, person in charge or other person.

(2) A person asked to provide health information held by a health agency under subsection (1) may give the information if the giving of the information is necessary for the administration of this part.

(3) Subsection (4) applies if a person in charge of a school, education and care service or QEC approved service asks for information held by a health agency about whether a child attending a school, education and care service or QEC approved service has been vaccinated for a vaccine preventable condition.

(4) The chief executive must provide the information to the person in charge if the chief executive is satisfied that—

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

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

(5) This section applies despite any other provision of this Act or any provision of another law that deals with confidentiality, including, for example, the *Hospital and Health Boards Act 2011*, section 142.

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Division 3 Confidentiality of information and protection for persons

174 Definitions for div 3

In this division—

confidential information means information that has become known to a relevant person in the course of performing the relevant person's functions under this part.

information includes a document.

relevant person means the following—

(a) a person who is, or was, the chief executive;

(b) a person who is, or was, involved in the administration or enforcement of this part, including, for example, a health service employee or a public service employee.

175 Confidentiality of information

(1) A relevant person must not, whether directly or indirectly, disclose confidential information.

Maximum penalty—50 penalty units.

(2) The *Hospital and Health Boards Act 2011*, section 142, does not apply to a relevant person in relation to confidential information.

176 Disclosure under an Act or another law

Section 175(1) does not apply if the disclosure of the confidential information by a relevant person is authorised under an Act or another law.

177 Disclosure under Act or with written consent etc.

Section 175(1) does not apply if the confidential information is disclosed by a relevant person—

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(a) in the performance of functions under this Act; or

(b) if the information relates to a person who is an adult, with the written consent of the person; or

(c) if the information relates to a person who is a child, with the written consent of a parent of the child; or

(d) to the person to whom the information relates, if the person is an adult; or

(e) to a parent of a child to whom the information relates; or

(f) in a form that could not identify any person.

178 Disclosure to a person to help prevent or minimise transmission of a contagious condition

Section 175(1) does not apply if the disclosure of the confidential information by a relevant person is to a person to enable the person to help prevent or minimise the transmission of a contagious condition.

179 Protection for persons acting under pt 2

(1) This section applies if a person, acting honestly, gives information or does something else under this part including, for example, directing a parent to remove a child from a school, education and care service or QEC approved service.

(1A) This section also applies if a person in charge of an education and care service or QEC approved service, acting honestly, does either of the following things—

(a) exercises a power under section 160B or 160C;

(b) decides to enrol a child at, or allow a child to attend, the service in the circumstances mentioned in section 160D(1).

(2) The person is not liable, civilly, criminally or under an administrative process, for doing the thing.

(3) Without limiting subsection (2), if the thing involves giving information—

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(a) in a proceeding for defamation the person has a defence of absolute privilege for publishing the information; and

(b) if the person would otherwise be required to maintain confidentiality about the information given under an Act, oath, rule of law or practice, the person—

(i) does not contravene the Act, oath, rule of law or practice by giving the information; and

(ii) is not liable to disciplinary action for giving the information.

(4) Also, merely because the person gives the information, the person can not be held to have—

(a) breached any code of professional etiquette or ethics; or

(b) departed from accepted standards of professional conduct.

(5) This section does not limit sections 175 to 178.

Division 4 Other action to control contagious conditions

180 Directions to person in charge of school, education and care service or QEC approved service

(1) The chief executive may give a direction under subsection (3) to the person in charge of a school, education and care service or QEC approved service if the chief executive is satisfied there is an outbreak of a contagious condition—

(a) at the school or service; or

(b) in the community and there is a risk of children and staff at the school or service contracting the condition.

(2) However, the chief executive must not give a direction without first consulting with the person in charge of the school or service and with—

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(a) for a direction to be given to the person in charge of a school—the chief executive of the department that administers the *Education (General Provisions) Act 2006* and the *Education (Accreditation of Non-State Schools) Act 2017*; or

(b) for a direction to be given to the person in charge of an education and care service—the chief executive of the department that administers the Education and Care Services National Law (Queensland); or

(c) for a direction to be given to the person in charge of a QEC approved service—the chief executive of the department that administers the *Education and Care Services Act 2013*.

(3) A direction must be in writing and state ways of minimising the risk of contracting the contagious condition by children and staff at the school or service including, for example, by—

(a) preventing the sharing of eating utensils, drinking cups, bed linen and clothing; or

(b) requiring that eating utensils, drinking cups, bed linen, toys or other equipment be disinfected; or

(c) requiring that stated procedures for cleaning and disinfecting be followed; or

(d) requiring the person in charge to give information to staff, children or parents about the contagious condition including about the way it may be treated and measures to prevent its spread.

(4) The person in charge of the school or service must comply with a direction by the chief executive.

Maximum penalty for subsection (4)—50 penalty units.

181 Temporary closure of school, education and care service or QEC approved service

(1) The Minister may, by notice given to the person in charge of a school, education and care service or QEC approved service,

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order the closure of the school or service for a period of not more than 1 month if the Minister is satisfied—

(a) there is an outbreak of a contagious condition—

(i) at the school or service; or

(ii) in the community and there is a significant risk of children and staff at the school or service contracting the condition; and

(b) methods of controlling the outbreak will not be effective without the temporary closure of the school or service.

(2) However, the Minister must not close a school or service without first consulting—

(a) if the closure relates to a school—the Minister who administers the *Education (General Provisions) Act 2006* and the *Education (Accreditation of Non-State Schools) Act 2017*; or

(b) if the closure relates to an education and care service—the Minister who administers the Education and Care Services National Law (Queensland); or

(c) if the closure relates to a QEC approved service—the Minister who administers the *Education and Care Services Act 2013*.

(3) The person in charge of the school or service must comply with the Minister's order.

Maximum penalty for subsection (3)—100 penalty units.

Division 5 Review of order to close school, education and care service or QEC approved service

182 Review of Minister's order to close school, education and care service or QEC approved service

A person ordered by the Minister to close a school, education and care service or QEC approved service may apply, as

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provided under the QCAT Act, to QCAT for a review of the order.

Division 6 Approved provider must ensure person complies with this part

184A Approved provider must ensure person in charge complies with pt 2

(1) An approved provider of an education and care service or QEC approved service must ensure that the person in charge of the service complies with this part.

(2) If a person in charge of the education and care service or QEC approved service commits an offence against a provision of this part, the approved provider also commits an offence, namely, the offence of failing to ensure that the person in charge complies with the provision.

Maximum penalty—

(a) if the approved provider is an individual—the penalty for the contravention of the provision by the person in charge; or

(b) if the approved provider is a corporation—a penalty equal to 5 times the amount of the penalty under paragraph (a).

(3) Evidence that the person in charge has been convicted of an offence against a provision of this part is evidence that the approved provider committed the offence of failing to ensure that the person in charge complies with the provision.

(4) However, it is a defence for a approved provider to prove the approved provider exercised reasonable diligence to ensure the person in charge complied with the provision.

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Part 3 Child abuse and neglect

Division 1 Principles under which part 3 to be administered

185 Guiding principles for pt 3

(1) This part is to be administered under the principle that the welfare and best interests of a child are paramount.

(2) Subject to subsection (1), this part is to be administered under the following principles—

(a) every child has a right to protection from harm;

(b) families have the primary responsibility for the physical, psychological and emotional wellbeing of their children;

(c) the preferred way of ensuring a child's wellbeing is through the support of the child's family;

(d) powers conferred under this part should be exercised in a way that is open, fair and respects the rights of people affected by their exercise, and, in particular, in a way that ensures—

(i) the views of a child and the child's family are considered; and

(ii) a child and the child's parents have the opportunity to take part in making decisions affecting the wellbeing of the child;

(e) a child should be kept informed of matters affecting him or her in a way and to an extent that is appropriate, having regard to the child's age and ability to understand.

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Division 2 Relationship with Child Protection Act 1999

186 Relationship with Child Protection Act 1999

(1) If there is in force, for a child, both an order under the *Child Protection Act 1999* and a care and treatment order or an extension of the care and treatment order, the order under the *Child Protection Act 1999* prevails to the extent of any inconsistency.

(2) The *Child Protection Act 1999* imposes an obligation on professionals about reporting suspected child harm caused by physical or sexual abuse and includes related provisions about protection from liability for giving information and protecting the identity of persons notifying harm.

Note—

See the *Child Protection Act 1999*, chapter 2, part 1AA, division 2 and sections 186 and 197A.

Division 3 Custody of child held at health service facility

187 Person in charge of facility has custody of child held at facility

(1) This section applies if a child—

(a) is held at a health service facility under this part; or

(b) is being transferred from one health service facility to another under this part.

(2) The person in charge of the health service facility at which the child is held has custody of the child and has—

(a) the right to have the child's daily care; and

(b) the right and responsibility to make decisions about the child's daily care.

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(3) Subsection (4) applies to a child being transferred from one health service facility (the ***first facility***) to another health service facility (the ***second facility***) under this part.

(4) The child is taken to be held at the first facility until the child is accepted by the second facility after which the child is taken to be held at the second facility.

Division 4 Designated medical officers

188 Appointment

(1) The person in charge of a health service facility may, by written instrument, appoint a doctor to be a designated medical officer.

(2) However, a doctor may be appointed as a designated medical officer only if, in the opinion of the person in charge of the health service facility, the doctor has the necessary expertise or experience to be a designated medical officer.

189 When person in charge taken to be a designated medical officer

If the person in charge of a health service facility is a doctor, the person is taken to be a designated medical officer while the person is in charge of the facility.

190 Powers

(1) A designated medical officer has the powers given under this part.

(2) Subsection (1) has effect subject to any limitation stated in the designated medical officer's instrument of appointment.

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Division 6 Care and treatment order for child

197 Designated medical officer may make care and treatment order for child

(1) This section applies if a designated medical officer becomes aware, or reasonably suspects, that a child at a health service facility—

(a) has been harmed or is at risk of harm; and

(b) is likely to leave or be taken from the facility and suffer harm if the designated medical officer does not take immediate action.

(2) The designated medical officer may order that the child be held at the facility (a ***care and treatment order***).

(3) The designated medical officer must immediately make a written record of the care and treatment order that includes the following—

(a) details of the child's condition;

(b) the reasons for the order;

(c) the name of the facility where the child is held;

(d) the time that is 48 hours from the time the order is made.

(4) The designated medical officer must explain to the child in general terms the purpose and effect of the order.

Note—

See also section 460(5) (Compliance with provisions about explaining and giving documents).

198 Designated medical officer must notify person in charge of facility where child held

(1) This section applies if a designated medical officer has ordered that a child be held at a health service facility.

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(2) The designated medical officer must give the person in charge of the facility notice of the order as soon as practicable after the child is held.

(3) Subsection (2) does not apply if the designated medical officer and the person in charge are the same person.

(4) The notice must include the following—

(a) details of the harm or risk of harm of which the designated medical officer is aware or suspected by the designated medical officer;

(b) the time that is 48 hours from the time the order is made when the order ends;

(c) the name, address and telephone number of the designated medical officer; and

(ca) if a professional has given a report under the *Child Protection Act 1999*, chapter 2, part 1AA, division 2—the name, address and telephone number of the professional, to the extent the designated medical officer has those details; and

(d) to the extent it can reasonably be obtained—

(i) the child's name, date of birth and residential address or another address at which the child may live; and

(ii) the name and residential address of the parents of the child or another address at which the parents may be contacted.

199 Designated medical officer must advise chief executive (child safety)

(1) This section applies if a designated medical officer has ordered that a child be held at a health service facility.

(2) The designated medical officer must give the chief executive (child safety) notice of the order as soon as practicable after the order is made.

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(3) The notice must include the same information as that required for the notice under section 198(4).

200 Designated medical officer must advise parents of child held

(1) As soon as practicable after making a care and treatment order for a child, the designated medical officer must—

(a) tell at least 1 of the child's parents about the order including the matters contained in the written record of the order; and

(b) tell the parent that it is an offence to remove the child from the health service facility while the order is in force; and

(c) if asked by the parent, give the parent a copy of the written record of the order; and

(d) tell the parent that the parent may choose to have the child examined by a doctor chosen by the parent.

(2) However, the designated medical officer need not comply with subsection (1) if the officer reasonably believes—

(a) someone may be charged with a criminal offence for harm to the child and the officer's compliance with the subsection may jeopardise an investigation into the offence; or

(b) compliance with the subsection may expose the child to harm.

Division 7 Extension of care and treatment order

201 Designated medical officer may extend care and treatment order

(1) This section applies if a designated medical officer considers that a care and treatment order for a child should be extended.

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(2) The designated medical officer may extend the order within 48 hours after the order was first made to a time that is not more than 96 hours after the order was first made.

(3) The designated medical officer may not extend the order unless the designated medical officer consults with another designated medical officer and the other designated medical officer agrees that the order should be extended.

(4) The designated medical officer extending the order must make a written record of the extension of the care and treatment order that includes the following—

(a) the designated medical officer's name, address and telephone number;

(b) the reasons for the extension of the order;

(c) the name, address and telephone number of the designated medical officer consulted by the designated medical officer extending the order;

(d) a statement that the designated medical officer consulted agreed that the order should be extended;

(e) the time to which the order is extended.

(5) To remove any doubt, it is declared that the designated medical officer who extends the order need not be the designated medical officer who gave the order.

202 Designated medical officer must notify person in charge of facility about extension of order

(1) This section applies if a care and treatment order for a child has been extended.

(2) The designated medical officer extending the order must advise the person in charge of the health service facility at which the child is held about the extension of the order and must include the information mentioned in section 201(4).

(3) Subsection (2) does not apply if the designated medical officer and the person in charge are the same person.

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203 Designated medical officer must advise chief executive (child safety) about extension of order

(1) This section applies if a care and treatment order for a child has been extended.

(2) The designated medical officer extending the order must advise the chief executive (child safety) about the extension of the order and must include the information mentioned in section 201(4).

204 Designated medical officer must advise child's parents about extension of order

(1) This section applies if a care and treatment order for a child has been extended by a designated medical officer.

(2) The designated medical officer extending the order must—

(a) advise the child's parents about the extension of the order including the following—

(i) the reasons for the extension;

(ii) the time when the order ends; and

(b) if asked by the parent, give the parent a copy of the reasons for the extension of the order.

(3) However, the designated medical officer need not comply with subsection (2) if the officer reasonably believes—

(a) someone may be charged with a criminal offence for harm to the child and the officer's compliance with the subsection may jeopardise an investigation into the offence; or

(b) compliance with the subsection may expose the child to harm.

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Division 8 Enforcement and duration of care and treatment order

205 Enforcement of care and treatment order

(1) A designated medical officer may use the help and force that is reasonable in the circumstances to hold a child at a health service facility, or transfer a child to another health service facility under section 211.

(2) A person authorised by a designated medical officer may help the designated medical officer to hold or transfer the child.

206 Duration of order

(1) A care and treatment order starts when the order is made and ends 48 hours after it is made or, if the order is extended under section 201, the time to which it is extended.

(2) However, a designated medical officer may release a child before an order ends if the designated medical officer is satisfied the reason for the order no longer exists.

(3) If a designated medical officer releases a child, the officer must make a written record of the release that includes the following—

(a) the reasons for the release;

(b) the time of the release;

(c) the person into whose care the child is released.

207 Limit on the number of care and treatment orders

(1) This section applies if a care and treatment order has been made for a child because of harm, or a risk of harm, to the child.

(2) A further care and treatment order may not be made for the child in relation to harm, or a risk of harm, arising from the same event or circumstances that gave rise to the care and treatment order mentioned in subsection (1).

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(3) Nothing in this section prevents a subsequent care and treatment order being made for a child for harm, or a risk of harm, that arises from an event or circumstances that happens after the end of an earlier care and treatment order.

Division 9 Chief executive (child safety) may require information about child held under care and treatment order

208 Chief executive (child safety) may require information from designated medical officer

(1) This section applies if the chief executive (child safety) considers information is required about a child held under a care and treatment order.

(2) The chief executive (child safety) may ask a designated medical officer, orally or in writing, for stated information about the child, within a reasonable stated time.

(3) The designated medical officer must comply with the request to the extent the designated medical officer is able to do so, unless the designated medical officer has a reasonable excuse.

Maximum penalty—50 penalty units.

(4) The designated medical officer is not liable to be prosecuted for an offence against subsection (3) unless the chief executive (child safety), when making the request, warns the designated medical officer it is an offence to fail to comply with the request to the extent the designated medical officer is able to do so, unless the designated medical officer has a reasonable excuse.

(5) A person who gives information requested under this section who would otherwise be required to maintain confidentiality about the information given under an Act, oath, rule of law or practice—

(a) does not contravene the Act, oath, rule of law or practice by giving the information; and

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(b) is not liable to disciplinary action for giving the information.

Note—

See for example the *Hospital and Health Boards Act 2011*, section 142.

(6) Also, merely because the person gives the information, the person can not be held to have—

(a) breached any code of professional etiquette or ethics; or

(b) departed from accepted standards of professional conduct.

Division 10 Measures that may be taken in relation to a child held under a care and treatment order

209 Medical examination or treatment of child held under order

(1) This section applies if a designated medical officer orders that a child be held at a health service facility.

(2) The child may be medically examined or treated at the facility or another facility to which the child is transferred.

(3) Subsection (2) applies even though the child's parents have not consented to the examination or treatment.

(4) However, subsection (2) is subject to the rights the child has in relation to the examination or treatment, in particular, the charter of rights for a child in care contained in the *Child Protection Act 1999*, schedule 1.

(5) Also, only the examination or treatment reasonable in the circumstances may be carried out.

(6) For the purpose of deciding any liability in relation to the carrying out of the examination or treatment, the consent of the child's parents to the examination or treatment is taken to have been given.

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210 Designated medical officer may request information from doctors

(1) This section applies if a designated medical officer considers a doctor may hold information relevant to the health of a child the subject of a care and treatment order.

(2) The designated medical officer may ask the doctor for the information.

(3) A doctor who gives information requested under this section who would otherwise be required to maintain confidentiality about the information given under an Act, oath, rule of law or practice—

(a) does not contravene the Act, oath, rule of law or practice by giving the information; and

(b) is not liable to disciplinary action for giving the information.

(4) Also, merely because the person gives the information, the person can not be held to have—

(a) breached any code of professional etiquette or ethics; or

(b) departed from accepted standards of professional conduct.

211 Transfer of child from one facility to another

(1) This section applies if—

(a) a child is held at a health service facility under a care and treatment order; and

(b) a designated medical officer considers it is necessary to transfer the child to, and hold the child at, another health service facility to appropriately medically examine or treat the child.

(2) The child may be transferred to, and held at, the other facility.

(3) The care and treatment order continues to apply to the child while the child is at the other facility.

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(4) The designated medical officer must advise the person in charge of the other facility of the proposed transfer.

(5) Also, the designated medical officer must give the child's parents and the chief executive (child safety) notice of the transfer as soon as practicable after the designated medical officer decides to transfer the child.

(6) However, the designated medical officer need not notify the child's parents under subsection (5) if the officer reasonably believes—

(a) someone may be charged with a criminal offence for harm to the child and the officer's compliance with the subsection may jeopardise an investigation into the offence; or

(b) compliance with the subsection may expose the child to harm.

212 Parent may choose doctor to examine child

A designated medical officer, if asked by a parent of the child held at a health care facility under a care and treatment order, must—

(a) advise a doctor chosen by the parent of the examination or treatment undertaken for the child; and

(b) allow the child to be examined by the doctor at the facility.

Division 11 Offences relating to child held at health service facility

213 Offence to remove child

(1) This section applies if a child is held at a health service facility under this part.

(2) A person must not—

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(a) obstruct a designated medical officer or another person involved in holding a child under a care and treatment order; or

(b) remove the child—

(i) from the facility; or

(ii) during transfer from one facility to another; or

(c) if the child has been removed from the facility or during the transfer, keep the child.

Maximum penalty—200 penalty units or 18 months imprisonment.

(3) Subsection (2) applies whether the child is kept within or outside Queensland.

Part 4 Disclosure of information for school health programs

213AA Definitions for part

In this part—

health service see the *Hospital and Health Boards Act 2011*, section 15.

school health program, in relation to students of a school, means a program carried out to provide the students with any of the following types of health services—

(a) a dental health service;

(b) an immunisation health service;

(c) a vision screening health service.

school health program provider, in relation to a school health program, means a Service, or an entity engaged by a Service, that carries out the school health program.

school principal includes a delegate of the principal.

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Service means a Hospital and Health Service established under the *Hospital and Health Boards Act 2011*, section 17.

student, of a school, means a child who is enrolled in the school.

213AB Application of part

This part applies in relation to a school health program provider carrying out, or preparing to carry out, a school health program for students.

213AC Identifying school health program providers

(1) If the school health program provider is a Service, the health service chief executive of the Service must give the school principal notice stating that the Service is the school health program provider.

(2) If the school health program provider is an entity engaged by a Service, the health service chief executive of the Service must give the school principal notice stating that the entity is the school health program provider.

213AD Disclosure of information about students

(1) For carrying out a function under the school health program, the school health program provider may ask the school principal to provide the following information—

(a) the name and date of birth of a student;

(b) the name, telephone number, email address and postal address of a parent or guardian of a student;

(c) any other information prescribed by regulation about a student.

(2) The school principal must, within a reasonable period, disclose the information requested if the school principal receives, or has received, a notice under section 213AC stating

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that the Service or entity that requested the information is the school health program provider.

(3) However, the school principal may refuse to disclose any information about the student if the school principal considers the disclosure is not in the best interests of the student.

(4) If, under subsection (3), the school principal refuses to disclose information about 1 or more students, the school principal must give the school health program provider notice stating how many students have had information withheld for the school health program.

213AE Application of Information Privacy Act 2009 to contracted service providers

(1) This section applies to a school health program provider that is not—

(a) an agency under the *Information Privacy Act 2009*, section 18; or

(b) a health agency under the *Information Privacy Act 2009*, schedule 5.

(2) For the purposes of the *Information Privacy Act 2009*, chapter 2, part 3—

(a) the school health program provider is taken to be a bound contracted service provider; and

(b) the agreement to provide a school health program between the Service and the school health program provider is taken to be a service arrangement; and

(c) the Service is the contracting agency.

213AF Delegation by health service chief executive for this part

A health service chief executive may delegate the health service chief executive's functions under this part to an appropriately qualified—

(a) employee of the Service; or

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(b) health service employee employed in the department and working for the Service.

Chapter 5A Performance of cosmetic procedures on children

213A Definition for ch 5A

(1) In this chapter—

cosmetic procedure means any of the following—

(a) a procedure involving the removal of excess skin or fat from, or the reshaping of, a part of the human body, including the following—

- abdominoplasty, also known as a tummy tuck;
- blepharoplasty, also known as eyelid surgery;
- brachioplasty, also known as an arm lift;
- foreheadplasty, also known as a brow lift;
- liposuction or liposculpture;
- rhytidectomy, also known as a face lift;
- thighplasty, also known as a thigh lift;
- torsoplasty, also known as a body lift;

(b) a procedure involving resurfacing of the skin by removing the epidermis and penetrating the papillary dermis;

(c) a surgical procedure involving the insertion of facial contour implants;

(d) a surgical procedure involving the alteration of the breast to improve its shape, size or position, known as mammaplasty;

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(e) a surgical procedure involving the alteration of the chin to improve its shape or size, known as genioplasty;

(f) a procedure involving the injection of a non-biodegradable substance under the skin to improve its volume, known as permanent injectable fillers;

(g) a surgical procedure involving the alteration of the nose to improve its shape or size, known as rhinoplasty;

(h) a procedure involving the attachment of a layer of porcelain to the front surface of a tooth, known as a porcelain veneer;

(i) another procedure prescribed under a regulation to be a cosmetic procedure for this chapter.

(2) However, a reference to a cosmetic procedure does not include a procedure prescribed under a regulation not to be a cosmetic procedure for this chapter.

(3) The Minister must not recommend to the Governor in Council the making of a regulation under subsection (2) unless the Minister is satisfied that—

(a) performance of the procedure on a child is unlikely to compromise the health or safety of the child; and

(b) the procedure is routinely performed with minimal adverse outcomes.

(4) A regulation under subsection (1), definition *cosmetic procedure*, paragraph (i) or under subsection (2) may prescribe a procedure subject to stated conditions or in stated circumstances.

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

(1) A person must not perform, or offer to perform, a cosmetic procedure on a child.

Maximum penalty—2,000 penalty units or 2 years imprisonment.

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(2) A person does not commit an offence against subsection (1) if the person believes, on grounds that are reasonable in the circumstances, that performance of the procedure is in the best interests of the child.

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

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

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

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

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

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

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

(5) In this section—

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

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

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

Maximum penalty—2,000 penalty units or 2 years imprisonment.

Example—

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

213D Chief executive may report contravention

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

(2) In this section—

relevant entity means—

(a) the health ombudsman; or

(b) a board established under the Health Practitioner Regulation National Law; or

(c) another entity that has the power under an Act of the State, the Commonwealth or another State to deal with the matter.

Chapter 5B Conversion therapies

213E Definitions for chapter

In this chapter—

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conversion therapy see section 213F.

gender identity, of a person, see section 213G.

health service provider see the *Health Ombudsman Act 2013*, section 8.

sexual orientation, of a person, means the person's capacity for emotional, affectional and sexual attraction to, and intimate and sexual relations with, persons of a different gender, the same gender or more than 1 gender.

213F Meaning of *conversion therapy*

(1) ***Conversion therapy*** is a practice that attempts to change or suppress a person's sexual orientation or gender identity.

Examples—

a practice attempting to change or suppress a person's sexual orientation or gender identity by—

- inducing nausea, vomiting or paralysis while showing the person same-sex images
- using shame or coercion to give the person an aversion to same-sex attractions or to encourage gender-conforming behaviour
- using other techniques on the person encouraging the person to believe being lesbian, gay, bisexual, transgender or intersex is a defect or disorder

(2) ***Conversion therapy*** does not include a practice by a health service provider that, in the provider's reasonable professional judgement—

(a) is part of the clinically appropriate assessment, diagnosis or treatment of a person, or clinically appropriate support for a person; or

(b) enables or facilitates the provision of a health service for a person in a manner that is safe and appropriate; or

(c) is necessary to comply with the provider's legal or professional obligations.

(3) Without limiting subsection (2), the following are examples of the types of practices to which that subsection may apply—

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(a) assisting a person who is undergoing a gender transition;

(b) assisting a person who is considering undergoing a gender transition;

(c) assisting a person to express the person's gender identity;

(d) providing acceptance, support or understanding of a person;

(e) facilitating a person's coping skills, development or identity exploration, or facilitating social support for the person.

Examples of the types of practices—

- exploring psychosocial factors with a person or probing a person's experience of sexual orientation or gender identity
- providing a speech pathology or gender transition service for a trans-gender or gender-diverse person wishing to alter the person's voice and communication to better align with the person's gender identity
- advising a person about the potential side effects of sex-hormonal drugs or the risks of having, or not having, surgical procedures

213G Meaning of *gender identity*

(1) ***Gender identity***, of a person, is the person's internal and individual experience of gender, whether or not it corresponds with the sex assigned to the person at birth.

(2) Without limiting subsection (1), the ***gender identity***, of a person, includes—

(a) the person's personal sense of the body; and

(b) if freely chosen—modification of the person's bodily appearance or functions by medical, surgical or other means; and

(c) other expressions of the person's gender, including name, dress, speech and behaviour.

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213H Prohibition of conversion therapy

(1) A person who is a health service provider must not perform conversion therapy on another person.

Maximum penalty—

(a) if the other person is a vulnerable person—150 penalty units or 18 months imprisonment; or

(b) otherwise—100 penalty units or 12 months imprisonment.

(2) An offence against subsection (1) is a misdemeanour.

(3) In this section—

vulnerable person means—

(a) a child; or

(b) a person who has impaired capacity within the meaning of the *Guardianship and Administration Act 2000* for making decisions about a particular service offered by a health service provider; or

(c) a person with an impairment that is likely to significantly limit the person's ability to understand a particular service offered by a health service provider.

213I Proceedings for indictable offence

(1) A proceeding for an offence against section 213H(1) may, at the prosecution's election, be taken summarily or on indictment.

(2) A magistrate must not hear a proceeding for an offence against section 213H(1) summarily if, at any stage of the hearing, the magistrate is satisfied on the application of the defendant, the offence should not be heard summarily because of exceptional circumstances.

Examples of exceptional circumstances—

1 There is sufficient connection between the offence the subject of the charge, and other offences allegedly committed by the defendant and to be tried on indictment, to allow all the offences to be tried together.

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2 There is an important issue of law involved.

3 An issue of general community importance or public interest is involved, or the holding of a trial by jury is justified in order to establish contemporary community standards.

(3) If subsection (2) applies—

(a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and

(b) a plea of the person charged at the start of the proceeding must be disregarded; and

(c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and

(d) before committing the person for trial or sentence, the magistrate must make a statement to the person under the *Justices Act 1886*, section 104(2)(b).

Chapter 6 Health information management

Part 1 Perinatal statistics

Division 1 Definitions

214 Definitions for pt 1

In this part—

baby means a baby born alive or a baby not born alive.

baby born alive means a baby whose heart has beaten after delivery of the baby is completed.

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baby not born alive means a baby—

(a) who has shown no sign of respiration or heartbeat, or other sign of life, after completely leaving the child's mother; and

(b) who—

(i) has been gestated for 20 weeks or more; or

(ii) weighs 400 grams or more.

collection means the Perinatal Statistics Collection.

delivery means the expulsion or extraction of a baby from its mother.

designated person, in relation to a delivery, means—

(a) if the delivery happens in a hospital, the person in charge of the hospital; or

(b) if the delivery happens elsewhere than in a hospital—

(i) if the delivery is attended by a doctor—the doctor; or

(ii) if the delivery is not attended by a doctor, but is attended by a midwife—the midwife; or

(iii) if the delivery is not attended by a doctor or midwife but a doctor undertakes the care and treatment of the mother or baby, because of the delivery of the baby, within 3 months of the delivery—the doctor; or

(iv) in any other case—the mother.

Perinatal Statistics Collection see section 215(3).

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Division 2 Establishment and purposes of collection

215 Collection

(1) The chief executive must keep a collection of perinatal statistics.

(2) The chief executive may keep the collection in a form the chief executive considers appropriate, including an electronic form.

(3) The collection is to be known as the Perinatal Statistics Collection.

216 Purposes of collection

The purposes for establishing the collection are as follows—

(a) to collect data to help in—

(i) monitoring and analysing obstetric and perinatal patterns and outcomes; and

(ii) monitoring perinatal mortality rates; and

(iii) researching perinatal care; and

(iv) monitoring congenital abnormalities;

(b) to help in the planning of obstetric and perinatal health services.

Division 3 Notifications about perinatal statistics

217 Giving notifications to chief executive

After a delivery, the designated person must, within the time prescribed under a regulation, notify the chief executive in the approved form.

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Maximum penalty—20 penalty units.

218 Further information may be required

(1) This section applies if the chief executive considers further information is required in relation to the notification to ensure the accuracy, completeness or integrity of the collection.

(2) The chief executive may give the designated person a notice requiring the designated person to give the further information stated in the notice to the chief executive within the reasonable time stated in the notice.

(3) The notice must warn the person that failure to comply with the notice is an offence under this Act.

(4) A person given a notice under subsection (2) must comply with the notice.

Maximum penalty—20 penalty units.

(5) A person who gives information requested under this section who would otherwise be required to maintain confidentiality about the information given under an Act, oath, rule of law or practice—

(a) does not contravene the Act, oath, rule of law or practice by giving the information; and

(b) is not liable to disciplinary action for giving the information.

Note—

See for example the *Hospital and Health Boards Act 2011*, section 142.

(6) Also, merely because the person gives the information, the person can not be held to have—

(a) breached any code of professional etiquette or ethics; or

(b) departed from accepted standards of professional conduct.

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Division 4 Confidentiality

219 Definitions for div 4

In this division—

confidential information means information that has become known to a relevant person in the course of performing the relevant person's functions under this part or the repealed provisions.

information includes a document.

relevant person means the following—

(a) a person who is, or was, the chief executive;

(b) a person who is, or was, involved in the administration or enforcement of this part, including, for example, a health service employee or a public service employee;

(c) a person who was involved in the administration or enforcement of the repealed provisions.

repealed provisions means—

(a) the *Health Act 1937*, part 3, division 12; and

(b) the *Health Regulation 1996*, part 9.

220 Confidentiality of information

(1) A relevant person must not, whether directly or indirectly, disclose confidential information.

Maximum penalty—50 penalty units.

(2) The *Hospital and Health Boards Act 2011*, section 142, does not apply to a relevant person in relation to confidential information.

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221 Disclosure under an Act or another law

Section 220(1) does not apply if the disclosure of the confidential information by a relevant person is authorised under an Act or another law.

222 Disclosure under Act or with written consent etc.

Section 220(1) does not apply if the confidential information is disclosed by a relevant person—

(a) in the performance of functions under this Act; or

(b) with the written consent of the person to whom the information relates; or

(c) to the person to whom the information relates; or

(d) in a form that could not identify any person.

223 Disclosure of confidential information in the public interest

(1) Section 220(1) does not apply to the disclosure of confidential information by a relevant person if—

(a) the chief executive believes, on reasonable grounds, the disclosure is in the public interest; and

(b) the chief executive has, in writing, authorised the disclosure.

(2) The department's annual report for a financial year under the *Financial Accountability Act 2009* must include details of—

(a) the nature of any confidential information disclosed under subsection (1) during the financial year; and

(b) the purpose for which the confidential information was disclosed.

(3) However, the details mentioned in subsection (2)(a) must not identify, directly or indirectly, the person to whom the confidential information relates.

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(4) Despite the *Public Sector Act 2022*, section 282, the chief executive may not delegate the chief executive's power under subsection (1).

224 Disclosure for data collection and public health monitoring

Section 220(1) does not apply to the disclosure of confidential information by a relevant person if—

(a) the disclosure is to an employee of the department or a person approved by the chief executive who is contracted by the department to analyse, monitor or evaluate public health; and

(b) the disclosure and receipt of the confidential information is for analysing, monitoring or evaluating public health; and

(c) the employee of the department or other person is authorised in writing by the chief executive to receive the confidential information.

225 Disclosure for purposes relating to health services

Section 220(1) does not apply to the disclosure of confidential information by a relevant person if—

(a) the disclosure is to an employee of the department or a person approved by the chief executive who is contracted by the department to evaluate, manage, monitor or plan health services; or

(b) the disclosure is to an entity prescribed under a regulation for this paragraph for evaluating, managing, monitoring or planning health services as stated in the regulation.

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226 Disclosure to Commonwealth, another State or Commonwealth or State entity

(1) Section 220(1) does not apply to the disclosure of confidential information by the chief executive if—

(a) the disclosure is to the Commonwealth or another State, or an entity of the Commonwealth or another State and the disclosure—

(i) is required or allowed under an agreement—

(A) between Queensland and the Commonwealth, State or entity; and

(B) prescribed under a regulation for this paragraph; and

(ii) is considered by the chief executive to be in the public interest; or

(b) the disclosure is to an entity of the State and the disclosure—

(i) is required or allowed under an agreement—

(A) between the chief executive and the entity; and

(B) prescribed under a regulation for this paragraph; and

(ii) is considered by the chief executive to be in the public interest.

(2) The Commonwealth, a State or entity that receives confidential information under an agreement under subsection (1)—

(a) must not give it to anyone else unless allowed to do so by the agreement or in writing by the chief executive; and

(b) must ensure the confidential information is used only for the purpose for which it was given under the agreement.

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227 Disclosure to quality assurance committee

Section 220(1) does not apply to the disclosure of confidential information by a relevant person if the disclosure is to a quality assurance committee, or to a person authorised by the committee to receive the confidential information, to allow the committee to perform its functions.

228 Disclosure to allow chief executive to act

Section 220(1) does not apply if the disclosure of the confidential information by a relevant person is to the chief executive to allow the chief executive to act under this division.

228A Disclosure of information for an investigation under the Coroners Act

(1) This section applies if a coroner is investigating the death of a person.

(2) The chief executive may give to the coroner, or to a police officer helping the coroner to investigate the death, information from the collection that is relevant to the person's death.

(3) The coroner or police officer to whom the information is given and anyone else to whom the information is subsequently given under this subsection must not use or disclose the information other than—

(a) for a purpose of the investigation; or

(b) as otherwise required or permitted under this or another Act.

228B Arrangements about transfer of information

(1) The chief executive may arrange for the transfer of information in the collection for inclusion in the Maternal Death Statistics Collection.

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(2) A person does not commit an offence against section 220(1) merely because the person does something under the arrangement.

228BA Disclosure for purpose of Health Transparency Act 2019

Section 220(1) does not apply if the disclosure of the confidential information by a relevant person is to any of the following persons who is performing a function under, or relating to the administration of, the *Health Transparency Act 2019*—

(a) the chief executive;

(b) an employee of the department;

(c) a contractor who is contracted to provide information and communication technology or information management services to the department.

Part 1A Maternal death statistics

Division 1 Definitions

228C Definitions for pt 1A

In this part—

collection means the Maternal Death Statistics Collection.

health professional means—

(a) a registered health practitioner; or

(b) another person who provides a health service.

health service see the *Hospital and Health Boards Act 2011*, section 15.

maternal death, of a woman, means the death of the woman, from any cause, while she is pregnant or within 365 days after the end of her pregnancy.

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Maternal Death Statistics Collection see section 228D(3).

notification means a notification under section 228F(2).

registered health practitioner means—

(a) a person registered under the Health Practitioner Regulation National Law to practice a health profession, other than a student; or

(b) a person who holds non-practising registration under the Health Practitioner Regulation National Law in a health profession.

Division 2 Establishment and purposes of collection

228D Collection

(1) The chief executive must keep a collection of maternal death statistics.

(2) The chief executive may keep the collection in a form the chief executive considers appropriate, including an electronic form.

(3) The collection is to be known as the Maternal Death Statistics Collection.

228E Purposes of collection

The purposes for establishing the collection are as follows—

(a) to collect data to help in—

(i) monitoring maternal mortality rates; and

(ii) increasing awareness of the incidence and causes of maternal death; and

(iii) monitoring and analysing maternity patterns and outcomes; and

(iv) researching obstetric care;

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(b) to help in the planning of maternal health services and strategies to minimise maternal mortality.

Division 3 Notifications about maternal death statistics

228F Giving information to chief executive

(1) This section applies if a health professional—

(a) had primary responsibility for the care or treatment of a woman while she was pregnant or within 365 days after the end of her pregnancy; and

(b) is aware of the maternal death of the woman.

(2) The health professional must, within the time prescribed under a regulation, give the chief executive a notification about the death.

Maximum penalty—20 penalty units.

(3) The notification must—

(a) be in the approved form; and

(b) contain the information prescribed under a regulation.

228G Further information may be required

(1) This section applies if the chief executive considers further information is required in relation to the notification to ensure the accuracy, completeness or integrity of the collection.

(2) The chief executive may give any of the following persons a notice requiring the person to give the further information stated in the notice to the chief executive within the reasonable time stated in the notice—

(a) the person who gave the notification;

(b) a health professional involved in the care or treatment of the deceased woman;

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(c) another health professional who has information that may ensure the accuracy, completeness or integrity of the register.

(3) The notice must warn the person that failure to comply with the notice is an offence under this Act.

(4) A person given a notice under subsection (2) must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(5) A person who gives information requested under this section who would otherwise be required to maintain confidentiality about the information given under an Act, oath, rule of law or practice—

(a) does not contravene the Act, oath, rule of law or practice by giving the information; and

(b) is not liable to disciplinary action for giving the information.

Note—

See, for example, the *Hospital and Health Boards Act 2011*, section 142

(6) Also, merely because the person gives the information, the person can not be held to have—

(a) breached any code of professional etiquette or ethics; or

(b) departed from accepted standards of professional conduct.

Division 4 Confidentiality

228H Definitions for div 4

In this division—

confidential information means information that has become known to a relevant person in the course of performing the relevant person's functions under this part.

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information includes a document.

relevant person means the following—

(a) a person who is, or was, the chief executive;

(b) a person who is, or was, involved in the administration or enforcement of this part, including, for example, a health service employee or a public service employee.

228I Confidentiality of information

(1) A relevant person must not, whether directly or indirectly, disclose confidential information.

Maximum penalty—50 penalty units.

(2) The *Hospital and Health Boards Act 2011*, section 142 does not apply to a relevant person in relation to confidential information.

228J Disclosure under an Act or another law

Section 228I(1) does not apply if the disclosure of the confidential information by a relevant person is authorised under an Act or another law.

228K Disclosure under Act or with written consent etc.

Section 228I(1) does not apply if the confidential information is disclosed by a relevant person—

(a) in the performance of functions under this Act; or

(b) with the written consent of the person to whom the information relates; or

(c) to the person to whom the information relates; or

(d) in a form that could not identify any person.

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228L Disclosure of confidential information in the public interest

(1) Section 228I(1) does not apply to the disclosure of confidential information by a relevant person if—

(a) the chief executive believes, on reasonable grounds, the disclosure is in the public interest; and

(b) the chief executive has, in writing, authorised the disclosure.

(2) The department's annual report for a financial year under the *Financial Accountability Act 2009* must include details of—

(a) the nature of any confidential information disclosed under subsection (1) during the financial year; and

(b) the purpose for which the confidential information was disclosed.

(3) However, the details mentioned in subsection (2)(a) must not identify, directly or indirectly, the person to whom the confidential information relates.

(4) Despite the *Public Sector Act 2022*, section 282 the chief executive may not delegate the chief executive's power under subsection (1).

228M Disclosure for data collection and public health monitoring

Section 228I(1) does not apply to the disclosure of confidential information by a relevant person if—

(a) the disclosure is to an employee of the department or a person approved by the chief executive who is contracted by the department to analyse, monitor or evaluate public health; and

(b) the disclosure and receipt of the confidential information is for analysing, monitoring or evaluating public health; and

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(c) the employee of the department or other person is authorised in writing by the chief executive to receive the confidential information.

228N Disclosure for purposes relating to health services

Section 228I(1) does not apply to the disclosure of confidential information by a relevant person if—

(a) the disclosure is to an employee of the department or a person approved by the chief executive who is contracted by the department to evaluate, manage, monitor or plan health services; or

(b) the disclosure is to an entity prescribed under a regulation for this paragraph for evaluating, managing, monitoring or planning health services as stated in the regulation.

228O Disclosure to Commonwealth, another State or Commonwealth or State entity

(1) Section 228I(1) does not apply to the disclosure of confidential information by the chief executive if—

(a) the disclosure is to the Commonwealth or another State, or an entity of the Commonwealth or another State and the disclosure—

(i) is required or allowed under an agreement—

(A) between Queensland and the Commonwealth, State or entity; and

(B) prescribed under a regulation for this paragraph; and

(ii) is considered by the chief executive to be in the public interest; or

(b) the disclosure is to an entity of the State and the disclosure—

(i) is required or allowed under an agreement—

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(A) between the chief executive and the entity; and

(B) prescribed under a regulation for this paragraph; and

(ii) is considered by the chief executive to be in the public interest.

(2) The Commonwealth, a State or entity that receives confidential information under an agreement under subsection (1)—

(a) must not give it to anyone else unless allowed to do so by the agreement or in writing by the chief executive; and

(b) must ensure the confidential information is used only for the purpose for which it was given under the agreement.

228P Disclosure to quality assurance committee

Section 228I(1) does not apply to the disclosure of confidential information by a relevant person if the disclosure is to a quality assurance committee, or to a person authorised by the committee to receive the confidential information, to allow the committee to perform its functions.

228Q Disclosure to allow chief executive to act

Section 228I(1) does not apply if the disclosure of the confidential information by a relevant person is to the chief executive to allow the chief executive to act under this division.

228R Disclosure of information for an investigation under the Coroners Act

(1) This section applies if a coroner is investigating the death of a person.

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(2) The chief executive may give to the coroner, or to a police officer helping the coroner to investigate the death, information from the collection that is relevant to the person's death.

(3) The coroner or police officer to whom the information is given and anyone else to whom the information is subsequently given under this subsection must not use or disclose the information other than—

(a) for a purpose of the investigation; or

(b) as otherwise required or permitted under this or another Act.

228S Arrangements about transfer of information

(1) The chief executive may arrange for the transfer of information in the collection for inclusion in the Perinatal Statistics Collection.

(2) A person does not commit an offence against section 228I(1) merely because the person does something under the arrangement.

Part 2 Cancer notifications

Division 1 Definitions

229 Definitions for pt 2

In this part—

cancer means either of the following—

(a) a neoplasm of human tissue—

(i) in which cell multiplication is uncontrolled and progressive; and

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(ii) that, if unchecked, may invade adjacent tissues or extend beyond its site of origin; and

(iii) that has the propensity to recur, either locally or remotely in the body;

(b) skin cancer and non-invasive carcinoma, other than skin cancer and non-invasive carcinoma of a type prescribed under a regulation.

contractor see section 232(1).

director, of premises, means the person responsible for the day-to-day administration of the premises, whether or not the person has the title of director or has a financial interest in the premises.

notification about cancer means a notification under section 234, 234A, 234B, 234C, 234D or 235.

Queensland Cancer Register see section 230(4).

register means the Queensland Cancer Register.

Division 2 Establishment and purposes of register

230 Register

(1) The chief executive must keep a register of the persons for whom notifications about cancer have been given to the chief executive or the contractor.

(2) The register must include deceased persons for whom notifications about cancer have been given.

(3) The chief executive may keep the register in a form the chief executive considers appropriate, including an electronic form.

(4) The register is to be known as the Queensland Cancer Register.

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231 Purposes of register

The purposes for establishing the register are as follows—

(a) to collect data to help in—

(i) monitoring and analysing the outcomes and patterns of cancer; and

(ii) monitoring cancer mortality; and

(iii) increasing public awareness of cancer;

(b) to help in the planning of services and strategies for the prevention and management of cancer.

232 Responsibility for keeping of register

(1) The chief executive may enter into a written agreement with a person prescribed under a regulation (the ***contractor***) for the contractor to keep the register for the chief executive.

(2) The chief executive must take reasonable steps to ensure the contractor complies with the agreement.

Division 3 Notifications about cancer

233 Application of div 3

An obligation to notify or give information under this division for a person includes an obligation to notify or give information for a deceased person.

234 Notification about pathological examination

(1) This section applies to the director of a pathology laboratory if—

(a) a pathological examination of a specimen of human origin is carried out at the laboratory; and

(b) either—

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(i) the examination indicates the person from whom the specimen was taken has, or has had, cancer; or

(ii) the director reasonably suspects the examination is a cancer-related follow-up examination.

(2) The director must, within the period prescribed by regulation, give the chief executive a notification in the approved form about the pathological examination.

Maximum penalty—20 penalty units.

(3) In this section—

cancer-related follow-up examination means a pathological examination of a specimen of human origin that is—

(a) carried out after the person from whom the specimen was taken has been diagnosed with cancer; and

(b) carried out—

(i) to determine the characteristics or status of the cancer; or

(ii) to support or inform the treatment of the cancer.

234A Notification about diagnostic imaging procedure

(1) This section applies to the director of a diagnostic imaging practice if—

(a) a diagnostic imaging procedure is carried out on a person at the practice; and

(b) either—

(i) the procedure indicates the person has, or has had, or may have, or may have had, cancer; or

(ii) the director reasonably suspects the procedure is a cancer-related follow-up procedure.

(2) The director must, within the period prescribed by regulation, give the chief executive a notification in the approved form about the diagnostic imaging procedure.

Maximum penalty—20 penalty units.

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(3) In this section—

cancer-related follow-up procedure means a diagnostic imaging procedure that is—

(a) carried out on a person after the person has been diagnosed with cancer; and

(b) carried out—

(i) to identify the presence or absence of cancer; or

(ii) to support or inform the treatment of the cancer.

diagnostic imaging practice means a premises used for carrying out diagnostic imaging procedures.

diagnostic imaging procedure means a procedure for producing an image of an internal part of the human body for a diagnostic purpose.

Examples—

computerised tomography scan, magnetic resonance imaging scan, nuclear scan, positron emission tomography (PET), ultrasound scan, X-ray

234B Notification about cancer diagnosis at hospital

(1) This section applies to the director of a hospital if—

(a) a person attends the hospital for treatment or care; and

(b) the person is diagnosed with cancer by a doctor at the hospital.

(2) The director of the hospital must, within the period prescribed by regulation, give the chief executive a notification in the approved form about the diagnosis.

Maximum penalty—20 penalty units.

234C Notification about cancer-related treatment of hospital patient

(1) This section applies to the director of a hospital if—

(a) a person attends the hospital for treatment or care; and

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(b) the person is provided cancer-related treatment as a patient of the hospital, even if the treatment is not at the hospital.

(2) The director of the hospital must, within the period prescribed by regulation, give the chief executive a notification in the approved form about each cancer-related treatment provided to the person.

Maximum penalty—20 penalty units.

(3) For this section, ***cancer-related treatment***—

(a) is an investigation, procedure or treatment that—

(i) is provided to a person who has, or has had, cancer; and

(ii) is related to treating the cancer; and

(b) includes an investigation, procedure or treatment related to previous treatment for cancer.

Example for paragraph (b)—

treatment of an adverse reaction to a medicine administered to treat cancer

(4) However, ***cancer-related treatment*** does not include—

(a) a pathological examination in relation to which section 234 applies; or

(b) a diagnostic imaging procedure in relation to which section 234A applies.

234D Notification about death at hospital

(1) This section applies to the director of a hospital if—

(a) a person attends the hospital for treatment or care; and

(b) the director reasonably suspects the person has, or has had, cancer; and

(c) the person dies while at the hospital.

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(2) The director of the hospital must, within the period prescribed by regulation, give the chief executive a notification in the approved form about the death of the person.

Maximum penalty—20 penalty units.

235 Directions to give notifications about cancer to contractor

(1) If a person must, under a relevant provision, give a notification about cancer to the chief executive, the chief executive may give a written direction to the person to give the notification to the contractor in place of the chief executive.

(2) A direction must state—

(a) the name and address of the contractor; and

(b) the day the direction is to take effect.

(3) A person to whom a direction is given under subsection (1) must comply with the direction.

Maximum penalty—20 penalty units.

(4) If, under a direction, a person gives a notification about cancer to the contractor and does not give it to the chief executive, the person does not contravene the relevant provision in relation to the notification.

(5) The chief executive must monitor compliance with this section.

(6) In this section—

relevant provision means section 234(2), 234A(2), 234B(2), 234C(2) or 234D(2).

236 Further information may be required

(1) This section applies if the chief executive or contractor considers further information is required in relation to a notification about cancer to ensure the accuracy, completeness or integrity of the register.

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(2) The chief executive or contractor may give any of the following persons a notice requiring the person to give the further information stated in the notice to the chief executive or contractor within the reasonable time stated in the notice—

(a) the person who gave the notification;

(b) a doctor mentioned in the notification;

(c) another doctor who has information that may ensure the accuracy, completeness or integrity of the register.

(3) The notice must warn the person that failure to comply with the notice is an offence under this Act.

(4) A person given a notice under subsection (2) must comply with the notice.

Maximum penalty—20 penalty units.

(5) A person who gives information requested under this section who would otherwise be required to maintain confidentiality about the information given under an Act, oath, rule of law or practice—

(a) does not contravene the Act, oath, rule of law or practice by giving the information; and

(b) is not liable to disciplinary action for giving the information.

Note—

See for example the *Hospital and Health Boards Act 2011*, section 142.

(6) Also, merely because the person gives the information, the person can not be held to have—

(a) breached any code of professional etiquette or ethics; or

(b) departed from accepted standards of professional conduct.

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Division 4 Confidentiality

237 Definitions for div 4

In this division—

confidential information means information that has become known to a relevant person in the course of performing the relevant person's functions under this part or the repealed provisions.

information includes a document.

relevant person means the following—

(a) a person who is, or was, the chief executive;

(b) a person who is, or was, involved in the administration of this part, including, for example, a health service employee or a public service employee, but not including a contractor or an employee of a contractor;

(c) a person who was involved in the administration or enforcement of the repealed provisions.

repealed provisions means—

(a) the *Health Act 1937*, part 3, division 10; or

(b) the *Health Regulation 1996*, part 3.

238 Confidentiality of information

(1) A relevant person must not, whether directly or indirectly, disclose confidential information.

Maximum penalty—50 penalty units.

(2) The *Hospital and Health Boards Act 2011*, section 142, does not apply to a relevant person in relation to confidential information.

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239 Disclosure under an Act or another law

Section 238(1) does not apply if the disclosure of the confidential information by a relevant person is authorised under an Act or another law.

240 Disclosure under Act or with written consent etc.

Section 238(1) does not apply if the confidential information is disclosed by a relevant person—

(a) in the performance of functions under this Act; or

(b) with the written consent of the person to whom the information relates; or

(c) to the person to whom the information relates; or

(d) in a form that could not identify any person.

241 Disclosure of confidential information in the public interest

(1) Section 238(1) does not apply to the disclosure of confidential information by a relevant person if—

(a) the chief executive believes, on reasonable grounds, the disclosure is in the public interest; and

(b) the chief executive has, in writing, authorised the disclosure.

(2) The department's annual report for a financial year under the *Financial Accountability Act 2009* must include details of—

(a) the nature of any confidential information disclosed under subsection (1) during the financial year; and

(b) the purpose for which the confidential information was disclosed.

(3) However, the details mentioned in subsection (2)(a) must not identify, directly or indirectly, the person to whom the confidential information relates.

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(4) Despite the *Public Sector Act 2022*, section 282, the chief executive may not delegate the chief executive's power under subsection (1).

242 Disclosure for data collection and public health monitoring

Section 238(1) does not apply to the disclosure of confidential information by a relevant person if—

(a) the disclosure is to an employee of the department or a person approved by the chief executive who is contracted by the department to analyse, monitor or evaluate public health; and

(b) the disclosure and receipt of the confidential information is for analysing, monitoring or evaluating public health; and

(c) the employee of the department or other person is authorised in writing by the chief executive to receive the confidential information.

243 Disclosure for purposes relating to health services

Section 238(1) does not apply to the disclosure of confidential information by a relevant person if—

(a) the disclosure is to an employee of the department or a person approved by the chief executive who is contracted by the department to evaluate, manage, monitor or plan health services; or

(b) the disclosure is to an entity prescribed under a regulation for this paragraph for evaluating, managing, monitoring or planning health services as stated in the regulation.

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244 Disclosure to Commonwealth, another State or Commonwealth or State entity

(1) Section 238(1) does not apply to the disclosure of confidential information by the chief executive if—

(a) the disclosure is to the Commonwealth or another State, or an entity of the Commonwealth or another State and the disclosure—

(i) is required or allowed under an agreement—

(A) between Queensland and the Commonwealth, State or entity; and

(B) prescribed under a regulation for this paragraph; and

(ii) is considered by the chief executive to be in the public interest; or

(b) the disclosure is to an entity of the State and the disclosure—

(i) is required or allowed under an agreement—

(A) between the chief executive and the entity; and

(B) prescribed under a regulation for this paragraph; and

(ii) is considered by the chief executive to be in the public interest.

(2) The Commonwealth, a State or entity that receives confidential information under an agreement under subsection (1)—

(a) must not give it to anyone else unless allowed to do so by the agreement or in writing by the chief executive; and

(b) must ensure the confidential information is used only for the purpose for which it was given under the agreement.

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245 Disclosure to quality assurance committee

Section 238(1) does not apply to the disclosure of confidential information by a relevant person if the disclosure is to a quality assurance committee, or to a person authorised by the committee to receive the confidential information, to allow the committee to perform its functions.

246 Disclosure to contractor or employee of contractor for maintaining the register

Section 238(1) does not apply if the disclosure of the confidential information is by the chief executive to the contractor, or an employee of the contractor, for maintaining the register.

247 Disclosure to allow chief executive to act

Section 238(1) does not apply if the disclosure of the confidential information by a relevant person is to the chief executive to allow the chief executive to act under this division.

248 Confidentiality of information for contractors

A contractor or employee of a contractor must not, whether directly or indirectly, disclose confidential information.

Maximum penalty—50 penalty units.

249 Disclosure by contractor

Section 248 does not apply to the disclosure of confidential information by the contractor or an employee of the contractor if the disclosure—

(a) is made in the performance of functions under this part; or

(b) is made in a form that does not identify any person; or

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(c) is made to the chief executive, at the written request of the chief executive stating the chief executive considers the disclosure is necessary for ensuring the proper administration of this part; or

(d) is made to a person or entity to which the chief executive may make the disclosure under section 242, 243 or 244, if the chief executive authorises the contractor, in writing, to disclose the information; or

(e) is for the purpose of giving information under chapter 6, part 4, division 2 for research, if the chief executive authorises the contractor, in writing, to disclose the information; or

(f) is authorised under an Act or another law.

Part 3A Notifiable occupational respiratory diseases

Division 1 Notifying information for national registry

279AA Definitions for division

In this division—

Commonwealth Act means the *National Occupational Respiratory Disease Registry Act 2023* (Cwlth).

Commonwealth chief medical officer means the Commonwealth chief medical officer within the meaning of the Commonwealth Act.

national registry see the Commonwealth Act, section 8.

prescribed medical practitioner means a medical practitioner who is a member of a class of persons prescribed by regulation.

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279AB Obligation to notify Commonwealth chief medical officer

(1) This section applies if a prescribed medical practitioner diagnoses a person with a notifiable occupational respiratory disease.

(2) The prescribed medical practitioner must, unless the practitioner has a reasonable excuse, give the Commonwealth chief medical officer a notification, within the period prescribed by regulation, that—

(a) is in the approved form under the Commonwealth Act; and

(b) states the minimum notification information in relation to the person.

Maximum penalty—20 penalty units.

(3) Subsection (2) applies whether or not the person consents to the notification.

(4) In this section—

minimum notification information see the Commonwealth Act, section 12(2).

notifiable occupational respiratory disease—

(a) means a medical condition, prescribed by regulation, that is—

(i) associated with a person's respiratory system; and

(ii) likely to have been caused or exacerbated, in whole or in part, by the person's work or workplace; but

(b) does not include a medical condition that is a prescribed occupational respiratory disease under the Commonwealth Act.

Note—

See the Commonwealth Act, section 14 in relation to notifying information about prescribed occupational respiratory diseases under that Act.

person includes a person who is deceased.

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279AC Authorisation relating to information in national registry

(1) This section applies if—

(a) a prescribed medical practitioner—

(i) gives the Commonwealth chief medical officer information for inclusion in the national registry; or

(ii) corrects or updates information in the national registry; and

(b) the giving, correcting or updating of the information is—

(i) required or permitted under this Act or the Commonwealth Act; or

(ii) in compliance with a request for information made under the Commonwealth Act; and

(c) the prescribed medical practitioner would otherwise be required to maintain confidentiality about the information under an Act, oath, rule of law or practice.

(2) The prescribed medical practitioner—

(a) does not contravene the Act, oath, rule of law or practice by giving, correcting or updating the information; and

(b) is not liable to disciplinary action for giving, correcting or updating the information.

(3) Also, merely because the prescribed medical practitioner gives, corrects or updates the information, the practitioner can not be held to have—

(a) breached any code of professional etiquette or ethics; or

(b) departed from accepted standards of professional conduct.

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Division 2 Historical dust lung disease register

279AD Definitions for division

In this division—

confidential information—

(a) means information about a person's personal affairs or health that is, or has been, recorded in the historical dust lung disease register; but

(b) does not include information that is publicly available.

disclose includes give access to.

historical dust lung disease register means the register kept under section 279AE.

information includes a document.

relevant person means—

(a) a person who is, or has been, the chief executive; or

(b) a person who—

(i) is, or has been, a public sector employee performing functions under, or relating to the administration of, this Act; and

(ii) in that capacity, has acquired or has access to confidential information; or

(c) a person who, in compliance with this Act, gave confidential information to a person mentioned in paragraph (a) or (b); or

(d) a person who, whether directly or indirectly, has acquired or has access to confidential information from, or through involvement with, a person mentioned in paragraph (a), (b) or (c).

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279AE Chief executive to keep information in historical dust lung disease register

(1) The chief executive must keep a register of historical dust lung disease information in a form the chief executive considers appropriate, including, for example, an electronic form.

(2) In this section—

former section 279AB means section 279AB as in force from time to time before the commencement.

historical dust lung disease information means the information that was kept, immediately before the commencement, in the Notifiable Dust Lung Disease Register under former 279AB.

279AF Restriction on disclosure of confidential information

(1) A relevant person must not disclose, directly or indirectly, confidential information to another person other than under this division.

Maximum penalty—50 penalty units

(2) The *Hospital and Health Boards Act 2011*, section 142 or 142A does not apply to a relevant person in relation to disclosing confidential information.

279AG Disclosure generally

A relevant person may disclose confidential information to another person—

(a) to the extent the disclosure is required or permitted under this Act or another Act, or to perform the relevant person's functions under this Act or another Act; or

(b) with the consent of the person to whom the information relates; or

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(c) in compliance with a lawful process requiring the production of documents or giving of evidence before a court or tribunal; or

(d) if the information is in a form that does not identify the person to whom the information relates; or

(e) if the disclosure is otherwise required or permitted under another law.

279AH Disclosure for data collection and public health monitoring

The chief executive may disclose confidential information to a person who is contracted by the department to analyse, monitor or evaluate public health if—

(a) the person is authorised in writing by the chief executive to receive the information; and

(b) the chief executive is satisfied the person will use the information only for analysing, monitoring or evaluating public health.

279AI Disclosure to entity of the State or corresponding entity

(1) This section applies if the disclosure of confidential information is required or permitted under an agreement that—

(a) is between—

(i) the chief executive or the State; and

(ii) an entity of the State or a corresponding entity; and

(b) is prescribed by regulation.

(2) The chief executive may disclose confidential information to the entity of the State, or the corresponding entity, as required or permitted under the agreement.

(3) A person or entity that receives the confidential information may disclose the information if the disclosure is—

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(a) required or permitted under the agreement; or

(b) permitted, in writing, by the chief executive.

(4) In this section—

agreement includes arrangement.

corresponding entity means—

(a) a department of the Commonwealth or another State; or

(b) an entity established, under a law of the Commonwealth or another State, for a public purpose.

279AJ Disclosure of information for investigation under Coroners Act 2003

(1) This section applies if a coroner is investigating the death of a person.

(2) The chief executive may disclose confidential information that is relevant to the person's death to—

(a) the coroner; or

(b) a police officer helping the coroner to investigate the person's death.

(3) The coroner or police officer may disclose the confidential information to another person for the purpose of the investigation.

Part 4 Research

Division 1 Preliminary

279A Application of pt 4

This part applies to health information held by a health agency if—

(a) the information relates to an individual; and

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(b) the individual could be identified from the information.

280 Definitions for pt 4

In this part—

biomedical study means a study of the biological determinants of health and disease that establishes the biological basis for preventing, treating and curing disease.

clinical and applied study means a study of the effectiveness of strategies to diagnose and treat disease or illness.

epidemiological study means a study of the distribution and determinants of health-related states or events in particular populations.

evaluation and planning study means a study for—

(a) appraising or measuring the value of a health intervention; or

(b) designing and projecting current and future health services.

monitoring and surveillance study means a study for keeping watch over the health of the population or individuals to control the spread of disease and maintain health and well-being.

register means the Research Register.

research means systematic investigation for the purpose of adding to knowledge about human health and well-being and includes the following—

(a) a biomedical study;

(b) a clinical and applied study;

(c) an epidemiological study;

(d) an evaluation and planning study;

(e) a monitoring and surveillance study.

Research Register see section 288(3).

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280A Part does not prevent disclosure under other Act

This part does not prevent health information held by a health agency being disclosed under this or another Act.

Division 2 Health information held by a health agency for research

281 Chief executive may give information

(1) The chief executive may give information under this part.

(2) To enable the chief executive to give information under this part, a relevant person may give information under this part to the chief executive.

(3) The chief executive or a relevant person may give the information despite any other provision of this Act or any provision of another law that deals with confidentiality, including, for example, the *Hospital and Health Boards Act 2011*, section 142.

(4) In this section—

relevant person means a person who has access to health information held by a health agency, including, for example, a health service employee or a public service employee.

282 Application to chief executive for information

(1) A person may apply in writing to the chief executive to be given health information held by a health agency for research being conducted by the person or by an entity of which the person is a member.

(2) The application must state the following—

(a) a description of the research that includes—

(i) the purpose of the research; and

(ii) the methodology of the research;

(b) the type of information required;

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(c) the reasons the information is required;

(d) how the privacy of any individual identified will be protected;

(e) if the information will be needed at intervals during the research, details of the intervals;

(f) the name of the person or entity proposing to conduct the research;

(g) the names of all persons who will be given the information for the research;

(h) the duration of the research;

(i) the views of a human research ethics committee about the research including contact details for the committee.

283 Further information or documents to support application

(1) This section applies if the chief executive considers further information is required to help the chief executive decide an application for health information held by a health agency.

(2) The chief executive may, by notice given to the applicant, require the applicant to give the chief executive, within the reasonable time stated in the notice, further information or a document about the application.

(3) The requirement may only relate to information or a document that is necessary and reasonable to help the chief executive decide the application.

(4) If the applicant fails to comply with the requirement within the stated time, the applicant is taken to have withdrawn the application.

284 Decision about application

(1) The chief executive must consider the application for health information held by a health agency as soon as practicable and either grant or refuse the application.

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(2) The chief executive may grant the application only if the chief executive is satisfied—

(a) the giving of the health information held by a health agency is in the public interest, having regard to—

(i) the opportunities the research will provide for increased knowledge and improved health outcomes; and

(ii) the privacy of individuals to whom the health information relates; and

(b) the identification of any person by the information is necessary for the relevant research.

(3) If the chief executive decides to grant the application, the chief executive must immediately give notice of the decision under section 285 to the applicant.

(4) An application may be granted subject to the conditions the chief executive considers necessary or desirable including, for example, the following—

(a) that the person or entity conducting the research must pay the State's reasonable costs of giving the information;

(b) that information given for research must be handled in a confidential and secure way;

(c) that measures must be put in place to ensure researchers are aware of and comply with ethical requirements relevant to the conduct of the research;

(d) that measures must be put in place to provide feedback to the chief executive on the progress and results of the research.

(5) If the chief executive decides to grant an application subject to conditions, the chief executive must immediately give the applicant notice of, and the reasons for, the conditions.

(6) If the chief executive decides to refuse the application, the chief executive must immediately give the applicant notice of the refusal and the reasons for the refusal.

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(7) The chief executive is not required to consult with an individual to whom the information relates before granting an application.

285 What notice must state

(1) The notice under section 284(3) must state the following—

(a) the name of the person or entity conducting the research;

(b) the names of all persons who may be given the information for the research;

(c) a description of the research, including the purpose and methodology of the research;

(d) the type of information to be given and, if the information is to be given at intervals, details of the intervals;

(e) if the application was granted subject to conditions, the conditions;

(f) the period for which the application has been granted.

(2) If an application is granted subject to a condition, the applicant must comply with the condition, unless the applicant has a reasonable excuse.

Maximum penalty for subsection (2)—50 penalty units.

286 Notification of change of persons being given information

(1) This section applies if the names of persons who will be given the information for the research changes.

(2) The person for the time being in charge of the research must give notice to the chief executive as soon as practicable after the change.

Maximum penalty—20 penalty units.

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287 Chief executive may rescind decision to give information

(1) This section applies if this part is contravened in relation to health information given under this part.

(2) The chief executive may rescind the chief executive's decision to give the information.

Division 3 Establishment of register

288 Register of approved applications for health information held by a health agency

(1) The chief executive must establish and keep a register of granted applications for health information held by a health agency stating—

(a) the type of information to be given for the research; and

(b) a description of the research; and

(c) the name of the person or entity conducting the research; and

(d) the period for which the application has been granted.

(2) The register may be kept in a form the chief executive considers appropriate, including an electronic form.

(3) The register is to be known as the Research Register.

289 Access to register

(1) The chief executive must give a person access to the register and, if requested, a copy of all or part of the register.

(2) The chief executive may charge a reasonable fee for copying the register.

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Division 4 Use and disclosure of information supplied for research

290 Restriction on inconsistent use of information

A person given health information held by a health agency under this part must not use the information for a purpose inconsistent with the research for which the information is provided.

Maximum penalty—50 penalty units.

291 Restriction on disclosure of information

(1) A person given health information held by a health agency under this part must not disclose the information, whether directly or indirectly.

Maximum penalty—50 penalty units.

(2) Subsection (1) does not apply if—

(a) the disclosure is to a person named in a notice under section 284(3) or 286 as a person who will be given the information for the research; or

(b) the disclosure is made with the written consent of the person to whom the information relates; or

(c) the disclosure is made in a form the person reasonably believes could not identify any person; or

(d) the disclosure is authorised under an Act or another law.

(3) The *Hospital and Health Boards Act 2011*, section 142, does not apply to a person in relation to information given to the person under this part for research.

292 Use of health information held by a health agency

(1) The Minister may, by gazette notice, declare information given to a person under division 2 to be protected information.

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(2) The Minister may make a declaration under subsection (1) only if the Minister reasonably believes it is in the public interest to do so.

(3) If the Minister makes a declaration under subsection (1), the protected information—

(a) can not be accessed under any order, whether of a judicial or administrative nature, other than an order for the purpose of this Act; and

(b) is not admissible in any proceeding, other than a proceeding under this Act.

(4) A person can not be compelled to produce the protected information, or to give evidence relating to the protected information, in any proceeding, other than a proceeding under this Act.

(5) Subsections (3)(b) and (4) do not apply if the protected information is admitted or produced, or evidence relating to the information is given, with the consent of the person to whom the information relates.

(6) Nothing in this section limits access to protected information by the chief executive or a person authorised by the chief executive.

(7) In this section—

order includes a direction or other process.

Chapter 7 Public health inquiries

293 Definitions for ch 7

In this chapter—

chairperson, of a panel, means the person comprising the panel under this chapter or, if the panel consists of more than

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1 member, the person named as chairperson by the Minister, by gazette notice.

panel means the panel of inquiry established under section 294.

witness requirement notice see section 305(1).

294 Minister may establish or re-establish panels of inquiry

(1) The Minister may, by gazette notice, establish a panel of inquiry to inquire into a matter the Minister considers to be a serious public health matter.

(2) The notice, or a later gazette notice, may state matters relevant to the inquiry including, for example—

(a) the membership of the panel; and

(b) if the panel consists of more than 1 member, the chairperson of the panel; and

(c) the panel's terms of reference.

(3) The Minister may take action under this section for a serious public health matter whether or not a panel of inquiry has previously inquired into the matter.

295 Role of panel of inquiry

(1) The panel of inquiry must—

(a) inquire into the circumstances and probable causes of the serious public health matter; and

(b) give the Minister a written report of the panel's findings.

(2) The report may contain the recommendations the panel considers appropriate and other relevant matters.

(3) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving the report.

(4) However, if the panel gives the Minister a separate report of issues the panel considers should not be made public, the

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Minister need not table the separate report in the Legislative Assembly.

296 Conditions of appointment

(1) A member of the panel of inquiry is entitled to be paid the remuneration and allowances decided by the Governor in Council.

(2) A member holds office on conditions not provided by this Act that are decided by the Minister.

297 Chief executive to arrange for services of staff and financial matters for panel of inquiry

As soon as practicable after the panel of inquiry is established, the chief executive must consult with the chairperson of the panel about and arrange for—

(a) the services of public service employees, health service employees and other persons to be made available to the panel for the conduct of the inquiry; and

(b) financial matters relevant to the panel.

298 Procedure

(1) When conducting its inquiry, the panel of inquiry must—

(a) observe natural justice; and

(b) act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues.

(2) In conducting the inquiry, the panel—

(a) is not bound by the rules of evidence; and

(b) may inform itself in any way it considers appropriate, including by holding hearings; and

(c) may decide the procedures to be followed for the inquiry.

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(3) However, the panel must comply with this chapter and any procedural rules prescribed under a regulation.

(4) The panel may allow or refuse to allow a person, including a lawyer, to represent someone else at the inquiry.

(5) The chairperson of the panel of inquiry presides at the inquiry.

299 Notice of inquiry

The chairperson of the panel of inquiry must give at least 14 days notice of the time and place of the inquiry to any person the chairperson reasonably believes should be given the opportunity to appear at the inquiry.

300 Inquiry to be held in public other than in special circumstances

(1) An inquiry must be held in public.

(2) However, the panel of inquiry may, of its own initiative or on the application of a person appearing before or represented at the inquiry, direct that the inquiry, or a part of the inquiry, be held in private, and give directions about the persons who may be present.

(3) The panel may give a direction under subsection (2) only if it is satisfied that it is proper to do so in the special circumstances of the case.

301 Protection of members, legal representatives and witnesses

(1) A member of the panel of inquiry has, in the performance of the member's duties, the same protection and immunity as a Supreme Court judge performing the functions of a judge.

(2) A lawyer or other person appearing before the panel for someone else has the same protection and immunity as a barrister appearing for a party in a proceeding in the Supreme Court.

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(3) A person given a witness requirement notice to attend or appearing before the panel as a witness has the same protection as a witness in a proceeding in the Supreme Court.

302 Record of proceedings to be kept

The panel of inquiry must keep a record of its proceedings.

303 Procedural fairness and representation

In the conduct of the inquiry, the panel of inquiry must give anyone directly concerned in the matter the subject of the inquiry the opportunity of making a defence to all claims made against the person, either in person or by the person's lawyer or representative.

304 Panel's powers on inquiry

(1) In conducting the inquiry, the panel of inquiry may—

(a) act in the absence of any person who has been given reasonable notice of the inquiry under section 299 or some other reasonable notice; and

(b) receive evidence on oath or by statutory declaration; and

(c) adjourn the inquiry; and

(d) disregard any defect, error, omission or insufficiency in a document.

(2) A member of the panel may administer an oath to a person appearing as a witness before the inquiry.

305 Notice to witness

(1) The chairperson of the panel of inquiry may, by notice given to a person (a ***witness requirement notice***), require the person to attend the inquiry at a stated time and place to give evidence or produce stated documents or things.

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(2) A person required to appear as a witness before the panel is entitled to the witness fees prescribed under a regulation or, if no witness fees are prescribed, the reasonable witness fees decided by the chairperson.

306 Inspection of documents or other things

(1) If a document or other thing is produced to the panel of inquiry at the inquiry, the panel may—

(a) inspect the document or other thing; and

(b) make copies of, photograph, or take extracts from, the document or other thing if it is relevant to the inquiry.

(2) The panel may also take possession of the document or other thing, and keep it while it is necessary for the inquiry.

(3) While it keeps a document or other thing, the panel must permit a person otherwise entitled to possession of the document or thing to inspect, make copies of, photograph, or take extracts from, the document or thing, at a reasonable place and time the panel decides.

307 Inquiry may continue despite court proceeding unless otherwise ordered

The panel of inquiry may conduct the inquiry, and a report may be prepared or given, despite a proceeding before any court or tribunal, unless a court or tribunal with the necessary jurisdiction orders otherwise.

308 Offences by witnesses

(1) A person given a witness requirement notice—

(a) must not fail, without reasonable excuse, to attend as required by the notice; and

(b) must not fail, without reasonable excuse, to continue to attend as required by the chairperson of the panel of inquiry until excused from further attendance.

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Maximum penalty—100 penalty units.

(2) A person appearing as a witness at the inquiry must not fail—

(a) to take an oath when required by the chairperson of the panel; or

(b) without reasonable excuse, to answer a question the person is required to answer by a member of the panel; or

(c) without reasonable excuse, to produce a document or other thing the person is required to produce under a witness requirement notice.

Maximum penalty—100 penalty units.

(3) It is not a reasonable excuse for subsection (2)(b) or (c) that answering the question or producing the document or other thing might tend to incriminate the person.

(4) The following is not admissible in evidence against an individual in any civil or criminal proceeding—

(a) any answer given at the inquiry by the individual, and any document or other thing produced at the inquiry by the individual and the fact of that production, in response to a requirement under this chapter (***primary evidence***);

(b) any information, or document or other thing, obtained as a direct or indirect result of primary evidence (***derived evidence***).

(5) Subsection (4) does not prevent primary evidence or derived evidence being admitted in evidence in criminal proceedings about the falsity or misleading nature of the primary evidence.

309 False or misleading statements

A person must not state anything to the panel of inquiry that the person knows is false or misleading in a material particular.

Maximum penalty—200 penalty units.

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310 False or misleading documents

(1) A person must not give to the panel of inquiry a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—200 penalty units.

(2) Subsection (1) does not apply to a person who, when giving the document—

(a) informs the panel, to the best of the person's ability, how it is false or misleading; and

(b) if the person has, or can reasonably get, the correct information—gives the correct information to the panel.

311 Contempt of panel

A person must not—

(a) insult the panel of inquiry; or

(b) deliberately interrupt the inquiry; or

(c) create or continue, or join in creating or continuing, a disturbance in or near a place where the panel is conducting its inquiry; or

(d) do anything that would be contempt of court if the panel were a judge acting judicially.

Maximum penalty—100 penalty units.

312 Report of offences

(1) If the panel of inquiry considers material before it discloses an offence, it may report the offence to 1 or more of the following and may make available to them all relevant material in the panel's possession—

(a) the commissioner of the police service;

(b) the Crime and Corruption Commission;

(c) the director of public prosecutions;

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(d) the chief executive of the department in which the Act creating the offence is administered.

(2) Subsection (1) does not apply to material to which section 308(4) applies.

313 Change of membership of panel

The conduct of the inquiry, other than a panel consisting of 1 member, is not affected by a change in its membership.

Chapter 7A Pollution events

Part 1 Preliminary

313A Purpose of chapter

The purpose of this chapter is to enable the chief executive to take action to respond to a pollution event in a way that informs the public of—

(a) the potential risk to public health; and

(b) if appropriate, any actions necessary to avoid or reduce the effect of the pollution event on public health.

313B Definitions for chapter

In this chapter—

pollution event see section 313C.

pollution notice, in relation to a pollution event, see section 313D.

publish includes—

(a) publish in writing or in any other form of media; and

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(b) cause to be published.

313C Meaning of *pollution event*

A ***pollution event*** is the release or dispersal of a contaminant or pollutant that may adversely affect public health.

313D Meaning of *pollution notice*

A ***pollution notice***, in relation to a pollution event, is a notice given by, or at the direction of, the chief executive that states the following—

(a) to the extent it can be reasonably identified by the chief executive—the nature of the pollution event;

(b) the area that is, or may be, affected by the pollution event;

(c) the nature, type and duration of any action that may be required to avoid or reduce the effect of the pollution event on public health;

(d) any other matter the chief executive considers appropriate for the pollution event.

Part 2 Pollution notices

313E Chief executive may give direction to publish pollution notice

(1) This section applies if the chief executive is satisfied—

(a) a pollution event has occurred; and

(b) a person is responsible for the pollution event; and

(c) it is necessary to inform the public about the pollution event and actions to avoid or reduce the effect of the pollution event on public health.

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(2) The chief executive may, by notice given to the person, direct the person to publish a pollution notice in relation to the pollution event—

(a) by a stated date; and

(b) in a stated way; and

(c) in a stated area that is, or may be, affected by the pollution event.

(3) A person to whom a direction is given under subsection (2) must publish a pollution notice in compliance with the direction unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

313F Chief executive may publish pollution notice

(1) This section applies if the chief executive is satisfied—

(a) the person responsible for a pollution event—

(i) can not be identified; or

(ii) would not be able to comply with a direction given under section 313E; or

(b) a person has been given a direction under section 313E to publish a pollution notice in relation to a pollution event but the person—

(i) has not published a pollution notice by the date stated in the direction; or

(ii) has otherwise not complied with the direction; or

(c) the pollution event is, or is caused by, a naturally–occurring event.

(2) The chief executive may, in relation to the pollution event, publish a pollution notice—

(a) on the department's website; and

(b) in any other way the chief executive considers appropriate.

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313G Steps required before giving direction or publishing pollution notice

(1) This section applies if the chief executive is considering—

(a) giving a direction in relation to a pollution event under section 313E; or

(b) publishing a pollution notice in relation to a pollution event under 313F.

(2) Before giving the direction or publishing the pollution notice, the chief executive must consult with, and consider advice given by, a relevant public service officer about—

(a) the contaminant or pollutant that has caused, or may have caused, the pollution event; and

(b) any other matter the chief executive considers relevant.

(3) In this section—

relevant public service officer means a public service officer who the chief executive considers has, or is likely to have, the necessary expertise and experience to advise the chief executive about the pollution event.

Part 3 Compensation

313H Compensation

(1) A person may claim compensation from the State if the person incurs loss because of the exercise, or purported exercise, of a power by or for the chief executive under this chapter, including a loss arising from compliance with a requirement made of the person under this chapter.

(2) However, subsection (1) applies only in relation to loss arising from an accidental, negligent or unlawful act or omission.

(3) The compensation may be claimed and ordered in a proceeding brought in a court with jurisdiction for the recovery of the amount of compensation claimed.

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(4) A court may order the payment of the compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

(5) In considering whether it is just to order compensation, the court must have regard to—

(a) the nature of the pollution event and the risk to public health; and

(b) whether the loss arose from the publication of a pollution notice in relation to the pollution event.

(6) A regulation may prescribe other matters that may, or must, be taken into account by the court when considering whether it is just to order compensation.

(7) In this section—

loss includes costs and damage.

Chapter 8 Public health emergencies

Part 1 Preliminary

314 Purpose of ch 8

The purpose of this chapter is to declare and respond to—

(a) public health emergencies; and

(b) emergency notifiable conditions happening during a declared public health emergency.

315 Definitions for ch 8

In this chapter—

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controlled notifiable conditions declaration see section 327(2).

COVID-19 emergency means the public health emergency declared by the Minister on 29 January 2020 under section 319(2), as extended and further extended under section 323.

Editor's note—

The public health emergency order that declared the COVID-19 emergency was published in the gazette on 31 January 2020 under section 321(1)(a).

declared public health emergency means a public health emergency declared by the Minister by public health emergency order.

detention order means an order by an emergency officer (medical) under section 349 for the detention of a person.

emergency notifiable condition means a medical condition that is not prescribed under a regulation as a controlled notifiable condition and includes the following—

(a) a previously unknown infectious medical condition;

(b) a previously unknown strain or variant of a known infectious medical condition;

(c) a previously known infectious medical condition or a previously known strain or variant of an infectious medical condition.

emergency officer means a person appointed under this chapter as—

(a) an emergency officer (general); or

(b) an emergency officer (medical).

emergency officer (general) means a person appointed under this chapter as an emergency officer (general).

emergency officer (medical) means a doctor appointed under this chapter as an emergency officer (medical).

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public health emergency means an event or a series of events that has contributed to, or may contribute to, serious adverse effects on the health of persons in Queensland.

public health emergency area see section 320(b).

public health emergency order see section 319(2).

316 Relationship to other Acts

(1) Nothing in this chapter prevents a person from declaring a disaster situation or another emergency under another Act (***another declaration***).

(2) However, the existence of another declaration does not prevent the declaration of a public health emergency under this chapter.

Examples of other Acts—

- *Fire Services Act 1990*
- *Public Safety Preservation Act 1986*

317 Other Acts not affected

This chapter is in addition to, and does not limit—

(a) the *Fire Services Act 1990*; or

(b) the *Public Safety Preservation Act 1986*, part 3.

318 Powers under this chapter and powers under other Acts

The powers under this chapter are in addition to and do not limit the powers a person has under another part of this Act or another Act.

Examples of powers a person may have under another part or another Act—

- the chief executive's power to issue a chief executive's order under chapter 3, part 4, division 2
- a police officer's general power of entry under the *Police Powers and Responsibilities Act 2000*, section 19

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Part 2 Declaring a public health emergency

319 Declaration of public health emergency

(1) This section applies if the Minister is satisfied—

(a) there is a public health emergency; and

(b) it is necessary to exercise powers under this chapter to prevent or minimise serious adverse effects on human health.

(2) The Minister may declare a public health emergency by a signed written order (a ***public health emergency order***).

(3) However, before declaring a public health emergency the Minister must, if practicable, consult with the chief executive and the chief health officer.

(4) If it has not been practicable to consult with the chief executive or the chief health officer under subsection (3), the Minister must consult as soon as practicable after the declaration of the public health emergency.

(5) A public health emergency order takes effect from its declaration by the Minister by signed written order.

320 What public health emergency order must state

A public health emergency order must state—

(a) the nature of the public health emergency; and

(b) the area to which the order relates (a ***public health emergency area***); and

(c) the duration of the order; and

(d) any conditions relating to the conduct of the response to the declared public health emergency.

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321 Publication of declaration

(1) The Minister must publish a public health emergency order as soon as practicable after it is declared—

(a) by gazette notice; and

(b) by newspaper, radio or television in the public health emergency area.

(2) To ensure public knowledge of a public health emergency order, the Minister must give widespread publicity to the order but failure to do so does not affect the order.

322 Duration of declared public health emergency

A declared public health emergency—

(a) starts when it is declared under section 319(2); and

(b) unless either of the following happens, ends 7 days after the day it is declared—

(i) the Minister sooner ends the declared public health emergency under section 324(1);

(ii) a regulation extends, under section 323, the period of the declared public health emergency beyond the end of the 7 days.

323 Extending or further extending declared public health emergency

(1) A regulation may extend, or from time to time further extend, the period of a declared public health emergency.

(2) A regulation made under this section commences on the day it is made whether or not it is notified on that day.

(3) A regulation extending the period of a declared public health emergency expires 14 days after the public health emergency is declared unless it is sooner repealed or it expires under section 324(3).

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(4) A regulation further extending the period of a declared public health emergency—

(a) must state the period, of not more than 7 days, by which the declared public health emergency is further extended; and

(b) expires at the end of the stated period unless the regulation is sooner repealed or it expires under section 324(3).

(5) Subsection (2) applies despite the *Statutory Instruments Act 1992*, section 32.

324 Ending declared public health emergency

(1) As soon as the Minister is satisfied it is no longer necessary to exercise powers under this chapter to prevent or minimise serious adverse effects on human health, the Minister must end the declared public health emergency.

(2) If the Minister ends the declared public health emergency under subsection (1), the Minister must make a written record of the time and date the declared public health emergency ended.

(3) A regulation extending or further extending a declared public health emergency expires when the declared public health emergency ends under this section.

325 Publication of ending of declared public health emergency

(1) The Minister must publish the ending of a public health emergency as soon as practicable after it is made—

(a) by gazette notice; and

(b) by newspaper, radio or television in the public health emergency area.

(2) To ensure public knowledge of the ending of a public health emergency, the Minister must give widespread publicity to the ending.

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326 Public health emergency order may be amended

(1) A public health emergency order may be amended by the Minister by signed written order.

(2) The provisions of this part about when an order takes effect and about the publication, publicity and consultation for the order apply to the amendment of an order as if it were the order being amended.

Part 3 Emergency notifiable conditions

327 Declaration of emergency notifiable condition as controlled notifiable condition

(1) This section applies if the Minister is satisfied—

(a) an emergency notifiable condition exists; and

(b) it is appropriate, having regard to the nature of the declared public health emergency, to declare the emergency notifiable condition to be a controlled notifiable condition.

(2) The Minister may declare the emergency notifiable condition to be a controlled notifiable condition by a signed written declaration (a ***controlled notifiable conditions declaration***).

(3) However, before declaring an emergency notifiable condition to be a controlled notifiable condition the Minister must, if practicable, consult the chief executive and the chief health officer.

(4) If it has not been practicable to consult with the chief executive or the chief health officer under subsection (3), the Minister must consult as soon as practicable after the declaration.

(5) To remove any doubt, it is declared that an emergency notifiable condition declared to be a controlled notifiable condition under subsection (2) is a controlled notifiable condition for chapter 3.

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328 What controlled notifiable conditions declaration must state

(1) A controlled notifiable conditions declaration must state—

(a) the general nature of the emergency notifiable condition including, for example, signs and symptoms that may be associated with the condition; and

(b) the period for which the emergency notifiable condition is declared to be a controlled notifiable condition.

(2) The declaration may continue after the declared public health emergency ends.

329 Publication of declaration

The Minister must publish a controlled notifiable conditions declaration by gazette notice as soon as practicable after it is declared.

330 Duration of controlled notifiable conditions declaration

The controlled notifiable conditions declaration—

(a) starts when it is declared under section 327(2); and

(b) ends 28 days after the day it is declared.

331 Controlled notifiable conditions declaration may be amended

(1) A controlled notifiable conditions declaration may be amended by the Minister by signed written declaration.

(2) The provisions of this part about when a declaration takes effect and about publication and consultation for the declaration apply to the amendment of a declaration as if it were the declaration being amended.

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Part 4 Role of chief executive

332 Coordination responsibility

(1) On the declaration of a public health emergency, the chief executive is responsible for the overall management and control of the response to the emergency.

(2) The chief executive is taken to be—

(a) if the chief executive is a doctor—an emergency officer (medical) and has and may exercise all the powers an emergency officer (medical) may exercise under this chapter; or

(b) if the chief executive is not a doctor—an emergency officer (general) and has and may exercise all the powers an emergency officer (general) may exercise under this chapter.

(3) For coordinating the response by emergency officers to the declared public health emergency, the chief executive may give directions about the circumstances in which powers available to emergency officers under this chapter may be exercised.

(4) A direction given under subsection (3)—

(a) may be general or limited to a particular class of emergency officers; and

(b) may be given on conditions.

Part 5 Appointment of emergency officers

333 Appointment of emergency officers (general)

(1) The chief executive may by instrument appoint the following persons as emergency officers (general) for declared public health emergencies—

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(a) public service officers or public service employees;

(b) health service employees;

(c) persons employed by a local government;

(d) SES members under the *State Emergency Service Act 2024*;

(e) other persons prescribed under a regulation.

(2) An appointment under subsection (1)(c) is for the local government's area and any other local government area stated in the appointment.

(3) For an appointment under subsection (1)(c), the chief executive must, before appointing a person, obtain agreement to the appointment from the chief executive officer of the local government that employs the person.

(4) An appointment under subsection (1) may be made before or after the declaration of a public health emergency.

334 Qualifications for appointment as emergency officer (general)

The chief executive may appoint a person as an emergency officer (general) only if the chief executive considers the person has the necessary expertise and experience to be an emergency officer (general).

335 Appointment of emergency officers (medical)

(1) The chief executive may by instrument appoint doctors as emergency officers (medical) for declared public health emergencies if they are—

(a) public service officers or public service employees; or

(b) health service employees; or

(c) other persons prescribed under a regulation.

(2) An appointment under subsection (1) may be made before or after the declaration of a public health emergency.

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336 Qualifications for appointment as emergency officer (medical)

The chief executive may appoint a doctor as an emergency officer (medical) only if the chief executive considers the doctor has the necessary expertise and experience to be an emergency officer (medical).

337 Appointment conditions

(1) An emergency officer holds office on the conditions stated in the instrument of appointment.

(2) An emergency officer may resign by signed notice of resignation given to the chief executive.

338 Chief executive to give copy of appointment to emergency officer

The chief executive must, as soon as practicable after appointing a person as an emergency officer, give to the person appointed a copy of the person's appointment.

339 Powers

(1) For a declared public health emergency—

(a) an emergency officer has the powers stated in part 6; and

(b) an emergency officer (medical) also has the powers stated in part 7.

(2) An emergency officer is subject to the directions of the chief executive in exercising the powers.

(3) An emergency officer's powers may be limited—

(a) under a condition of appointment; or

(b) by notice given by the chief executive to the emergency officer.

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340 Identity cards

(1) The chief executive must give each emergency officer an identity card as soon as practicable after the officer's appointment.

(2) The identity card must—

(a) contain a copy of the signature, and, if practicable, a recent photograph, of the emergency officer; and

(b) identify the person as an emergency officer (general) or an emergency officer (medical) under this Act; and

(c) include an expiry date for the card.

341 Failure to return identity card

A person who ceases to be an emergency officer must return the person's identity card to the chief executive as soon as practicable, but within 21 days, after ceasing to be an emergency officer, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

342 Production or display of identity card by emergency officer

(1) An emergency officer may exercise a power in relation to another person only if—

(a) if the emergency officer has been issued with an identity card with a photograph, the emergency officer—

(i) first produces the emergency officer's identity card for the other person's inspection; or

(ii) has the identity card displayed so it is clearly visible to the other person; or

(b) if the emergency officer has been issued with an identity card without a photograph, the emergency officer—

(i) first produces the emergency officer's identity card for the other person's inspection together with a

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form of photo identification that identifies the officer; or

(ii) has the identity card displayed so it is clearly visible to the other person and produces a form of photo identification that identifies the officer; or

(c) if the emergency officer has not been issued with an identity card, the emergency officer first produces—

(i) a form of photo identification that identifies the officer; and

(ii) a copy of the officer's appointment as an emergency officer.

(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the emergency officer must produce for the other person's inspection at the first reasonable opportunity—

(a) if the emergency officer has been issued with an identity card with a photograph—the emergency officer's identity card; or

(b) if the emergency officer has been issued with an identity card without a photograph—the emergency officer's identity card together with a form of photo identification that identifies the officer; or

(c) if the emergency officer has not been issued with an identity card—a form of photo identification that identifies the officer and a copy of the officer's appointment as an emergency officer.

(3) Subsection (2) applies only if the production is practicable in all the circumstances.

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Part 6 Powers of emergency officers

Division 1 Entry of places

343 Power to enter places

(1) An emergency officer may enter a place, in the public health emergency area, if the emergency officer is responding to a declared public health emergency and reasonably believes it is urgent that the emergency officer enter the place to—

(a) save human life; or

(b) prevent or minimise serious adverse effects on human health; or

(c) do anything else to relieve suffering or distress.

(2) The emergency officer may enter the place with the help, and using the force, that is reasonable in the circumstances.

344 Procedure before entry

(1) This section applies to an emergency officer intending to enter a place to respond to a declared public health emergency.

(2) Before entering the place, the emergency officer must do or make a reasonable attempt to do the following things—

(a) seek an occupier's consent to the entry;

(b) tell the occupier the emergency officer is permitted to enter the place to respond to a declared public health emergency;

(c) give the occupier an opportunity to allow the emergency officer immediate entry to the place without using force.

(3) However, the emergency officer need not comply with subsection (2) if the emergency officer believes on reasonable grounds that immediate entry to the place is required to effectively respond to the declared public health emergency.

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Division 2 Emergency powers

345 Emergency powers

(1) An emergency officer responding to a declared public health emergency may do any of the following the emergency officer reasonably believes is necessary to respond to the declared public health emergency—

(a) require a person not to enter or not to remain within a place;

(b) require a person to stop using a place for a stated purpose;

(c) require a person to go to a stated place;

(d) require a person to stay at or in a stated place;

(e) require a person to take measures to remove from the person a substance that is a hazard to human health, for example, by showering;

(f) direct the movement of a person, animal or a vehicle into, out of, or around the public health emergency area;

(g) require a person to state the person's name and residential address;

(h) require a person to answer questions by the emergency officer;

(i) clean or disinfect a place, structure or thing;

(j) carry out insect or pest control;

(k) demolish stated structures or other property;

(l) contain an animal, substance or thing within the public health emergency area;

(m) remove an animal, substance or thing from a place;

(n) destroy animals at a place or remove animals from a place for destruction at another place;

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(o) dispose of an animal, substance or thing at a place, for example, by burying the animal, substance or thing;

(p) take action in relation to property including, for example, to allow the officer to take control of a building for the purposes of the emergency;

(q) require a person to give the emergency officer reasonable help to exercise the emergency officer's powers under paragraphs (i) to (p).

(2) However, an emergency officer may exercise a power under subsection (1)(k) or (n) only with the written approval of the chief executive.

(3) If a person fails to comply with a requirement or direction under subsection (1)(a) to (f), an emergency officer may, with necessary and reasonable help and force, take action to enforce the requirement or direction.

(4) For subsection (1)(g), the emergency officer may require the person to give the officer evidence of the correctness of the stated name or residential address if the officer reasonably suspects the stated name or address to be false.

(5) When making a requirement or direction mentioned in subsection (1) or (4), the emergency officer must—

(a) warn the person it is an offence to fail to comply with the requirement or direction, unless the person has a reasonable excuse; and

(b) tell the person of the effect of section 346(2).

346 Failure to comply with requirement

(1) A person of whom a requirement or direction is made under section 345(1)(a) to (h) or (4) must comply with the requirement or direction, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

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(2) It is not a reasonable excuse to fail to comply with the requirement that complying with the requirement might tend to incriminate the person.

(3) However, the following is not admissible in evidence against an individual in any civil or criminal proceeding—

(a) any answer given by the individual in complying with the requirement (***primary evidence***);

(b) any information, or document or other thing, obtained as a direct or indirect result of primary evidence (***derived evidence***).

(4) Subsection (3) does not prevent primary evidence or derived evidence being admitted in evidence in criminal proceedings about the falsity or misleading nature of the primary evidence.

347 General powers after entering places

(1) This section applies to an emergency officer who enters a place to respond to a declared public health emergency.

(2) The emergency officer may—

(a) search any part of the place; or

(b) inspect, measure, test, photograph or film any part of the place or anything at the place; or

(c) take a thing, or a sample of or from a thing, at the place for analysis or testing; or

(d) copy a document at the place or take the document to another place to copy it; or

(e) take into or onto the place any persons, equipment and materials the emergency officer reasonably requires for exercising a power under this chapter; or

(f) require a person at the place to give the emergency officer reasonable help to exercise the emergency officer's powers under paragraphs (a) to (e).

(3) When making a requirement mentioned in subsection (2)(f) the emergency officer must warn the person it is an offence to

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fail to comply with the requirement, unless the person has a reasonable excuse.

(4) If an emergency officer takes a document from a place to copy it, the document must be copied as soon as practicable and returned to the place.

348 Failure to help emergency officer

A person required to give reasonable help under section 345(1)(q) or 347(2)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

Part 7 Extra powers of emergency officers (medical)

Division 1 Detention powers

349 Emergency officer (medical) may order detention

(1) This section applies if an emergency officer (medical) reasonably suspects that—

(a) a person in a public health emergency area has or may have a serious disease or illness; and

(b) the serious disease or illness, or the serious disease or illness and the person's likely behaviour, constitutes an immediate risk to public health; and

(c) it is necessary to detain the person to effectively respond to the declared public health emergency.

(2) The emergency officer (medical) may order the detention of the person at a place decided by the officer within or outside the public health emergency area.

(3) The order must be in writing and state the following—

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(a) a description of the serious disease or illness the person has or may have;

(b) the place where the person is to be detained;

(c) that the person must—

(i) if the person is at the place where the person is to be detained—remain at the place; or

(ii) if the person is not at the place where the person is to be detained—go to the place with the emergency officer (medical) or with a person nominated by the officer;

(d) the time when the detention order ends.

350 Duration of order

A detention order by an emergency officer (medical) ends—

(a) 96 hours from the time it is given to the person the subject of the order; or

(b) if a lesser period is stated in the order, at the end of the lesser period.

351 Enforcement of order

(1) A detention order may be enforced by the emergency officer (medical) or a person nominated by the officer.

(2) The officer or person nominated must—

(a) give the person to be detained a copy of the detention order and explain to the person, in general terms, the purpose and effect of the order; or

(b) if it is not reasonably practicable to give a written detention order to the person before detaining the person—explain the purpose and effect of the order to the person in detail.

(3) A detention order explained under subsection (2)(b) has the same effect as a written order but the officer or person

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nominated by the officer must give the written order to the person detained as soon as reasonably practicable after the person is detained.

(4) A person to whom a detention order applies must comply with the order.

Maximum penalty—200 penalty units.

(5) The officer or person may enforce the detention order with the help, and using the force, that is reasonable in the circumstances.

352 Establishing isolation areas

(1) An emergency officer (medical) may establish an area (an ***isolation area***) to accommodate persons detained under this division.

(2) An emergency officer may take the action the emergency officer reasonably believes is necessary to establish an isolation area.

(3) Without limiting subsection (2), an emergency officer may use a building or any other thing within the isolation area.

353 Person to be given opportunity of voluntarily complying with order

Before enforcing a detention order against a person, the emergency officer (medical) or a person nominated by the officer must give the person the opportunity of voluntarily complying with the order.

354 Medical examination and treatment

(1) As soon as practicable after a person is detained, an emergency officer (medical) must request that the person be medically examined—

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(a) to help decide whether the person has or may have a serious disease or illness so that the person may be treated for the disease or illness; and

(b) to decide whether the person is an immediate risk to public health.

(2) When requesting that the person be examined, the emergency officer (medical) must—

(a) give an explanation to the person about the examination to be undertaken in a way likely to be readily understood by the person; and

(b) tell the person that the person may refuse the examination.

(3) Any examination of the person may be conducted by an emergency officer (medical) or a doctor chosen by the person.

(4) The person must be given the opportunity of receiving medical treatment including by a doctor chosen by the person.

(5) Subsection (1) does not apply if—

(a) the serious disease or illness is an emergency notifiable condition and there is no recognised procedure for deciding whether the person has been exposed to the condition; or

(b) there is no way of deciding within 96 hours whether the person has been exposed to the serious disease or illness.

Note—

The chief executive may apply for an initial examination order under section 116.

355 When detained person must be released before the end of the order

A person detained under this part must be released before the detention order ends if—

(a) an emergency officer (medical) is satisfied the person is no longer an immediate risk to public health; or

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(b) if the person has been examined by a doctor chosen by the person—both the doctor and the emergency officer (medical) are satisfied the person is no longer an immediate risk to public health.

Division 2 Extension of detention order

356 Application to extend order

(1) This section applies if an emergency officer (medical) is satisfied that, having regard to the matters stated in section 349(1)(a) and (b), it is necessary to continue to detain a person after a detention order ends.

(2) The emergency officer (medical) or the chief executive may apply to a magistrate to extend the detention order.

(3) The application must be made before the detention order ends.

(4) The emergency officer (medical) or the chief executive must immediately give the person detained a copy of the application.

(5) The person detained must not attend the hearing of the application but may nominate a person to represent the person detained at the hearing.

(6) The magistrate may refuse to consider the application until the applicant gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application be given by statutory declaration.

357 Consideration of application

(1) The magistrate—

(a) must decide the application as quickly as possible; and

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(b) must consider any representations made by the person representing the person detained; and

(c) may make the orders the magistrate considers appropriate for deciding the application; and

Example of order—

an order adjourning the application until the emergency officer (medical) gives the magistrate additional information

(d) may extend, or refuse to extend, the detention order.

(2) However, the magistrate may extend the detention order only if satisfied it is reasonably necessary to effectively respond to the declared public health emergency.

(3) If the magistrate does not decide the application before the end of the detention order, the detention order continues until the application is finally decided.

358 Appeal

(1) An emergency officer (medical) or the chief executive may appeal to the District Court against the refusal of a magistrate to extend the detention order.

(2) On the filing of an appeal, the decision of the magistrate is stayed and the detention order continues.

(3) The District Court—

(a) must hear and decide the appeal without delay; and

(b) may either—

(i) extend the detention order; or

(ii) confirm the decision appealed against and dismiss the appeal; and

(c) may make the other orders the court considers appropriate.

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Division 3 Other provisions about detention

359 Application of div 3

This division applies only in relation to a person who is detained under this part.

360 Obligations of emergency officer (medical) in relation to person detained

The emergency officer (medical) must—

(a) as soon as possible having regard to all the circumstances, inform the person detained—

(i) that the person may apply to a magistrate for an order ending the person's detention and how the person may apply; and

(ii) of the person's right to consult a lawyer or other person of the person's choice; and

(iii) that, for the person to be detained beyond 96 hours, the emergency officer (medical) must apply to a magistrate to extend the detention order; and

(b) as soon as reasonably practicable inform the next of kin of the detained person or someone else nominated by the person—

(i) that the person is detained under this part and where the person is detained; and

(ii) of the things mentioned in paragraph (a); and

(iii) of how to obtain information about the person detained, including who to contact to obtain the information; and

(c) as soon as reasonably practicable give the detained person a reasonable opportunity to contact persons with whom the detained person wants to communicate.

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Example for paragraph (c)—

It may be reasonably practicable for a person with a highly contagious condition to contact a person by telephone but not to have personal contact.

361 Application to magistrate for order ending person's detention

(1) This section applies if a person has been detained under a detention order.

(2) The person's lawyer or a person nominated by the person (the ***applicant***) may apply to a magistrate for an order ending the detention.

(3) The application may be made orally or in writing but if made orally can not be made in the absence of the emergency officer (medical) or a representative of the emergency officer (medical).

(4) The applicant must immediately give the emergency officer (medical) notice of when and where the application will be made.

(5) The notice may be given orally or in writing, but if given orally must be put in writing as soon as practicable.

(6) The magistrate—

(a) must decide the application as quickly as possible; and

(b) must have regard to any submissions made by the parties to the application; and

(c) may make an order ending the person's detention only if satisfied the person's continued detention is not reasonably necessary to effectively respond to the declared public health emergency; and

(d) may not order the applicant to pay the respondent's costs of the application; and

(e) may refuse to consider the application until the applicant gives the magistrate all the information the

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magistrate requires about the application in the way the magistrate requires.

Example for paragraph (e)—

The magistrate may require additional information supporting the application be given by statutory declaration.

(7) The person detained is not entitled to be present when the application is being heard.

362 Appeal

(1) The emergency officer (medical) or the chief executive or the person detained may appeal to the District Court against a decision of the magistrate on an application for an order ending a person's detention.

(2) If the emergency officer (medical) or the chief executive is the appellant, the decision appealed against is stayed on the filing of the notice of appeal and the detention order continues.

(3) The District Court must hear and decide the appeal without delay.

(4) If the emergency officer (medical) or the chief executive is the appellant, the District Court may make an order—

(a) allowing the appeal; or

(b) confirming the decision appealed against and dismissing the appeal.

(5) If the person detained is the appellant, the District Court may make an order—

(a) ending the detention order; or

(b) confirming the decision appealed against and dismissing the appeal.

(6) The District Court may make the other orders the court considers appropriate.

(7) However, the District Court may not order a party other than the chief executive to pay the costs of the appeal.

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Part 8 General enforcement matters

363 False or misleading statements

A person must not state anything to an emergency officer the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

364 False or misleading documents

(1) A person must not give an emergency officer a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

(2) Subsection (1) does not apply to a person if the person, when giving the document—

(a) tells the emergency officer, to the best of the person's ability, how it is false or misleading; and

(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

365 Obstructing emergency officers

(1) A person must not obstruct an emergency officer in the performance of a power, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

(2) If a person has obstructed an emergency officer and the emergency officer decides to proceed with the exercise of the power, the emergency officer must warn the person that—

(a) it is an offence to obstruct the emergency officer unless the person has a reasonable excuse; and

(b) the emergency officer considers the person's conduct an obstruction.

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Part 9 Compensation

366 Entitlement to compensation

(1) Subject to this part, a person who suffers loss or damage because of the exercise, or purported exercise, of a power under part 6 or 7 is entitled to be paid just and reasonable compensation for the loss or damage.

(2) However, the person is not entitled to be paid any compensation for the loss or damage if the power was exercised, or purportedly exercised, in relation to the COVID-19 emergency.

367 When compensation is not payable

(1) Compensation under this part is not payable to the person for loss or damage to the extent that—

(a) an amount for the loss or damage is recovered or recoverable by the person under a policy of insurance; or

(b) the conduct of the person contributed to the loss or damage.

(2) Also, compensation is not payable to the person for loss or damage if the loss or damage would have happened in any event irrespective of the exercise, or purported exercise, of the power.

368 Applying for compensation

(1) A person who suffers loss or damage because of the exercise, or purported exercise, of a power under part 6 or 7 may apply to the chief executive for compensation for the loss or damage.

(2) The application must be made in writing within 90 days after the person suffers the loss or damage.

(3) The application must state—

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(a) details of the person's loss or damage; and

(b) the amount of compensation claimed and the grounds for the amount claimed.

(4) The applicant also must provide any other relevant information reasonably required by the chief executive to decide the application.

(5) Despite subsection (2), the chief executive may accept a person's application for compensation made more than 90 days after the person suffers the loss or damage if the chief executive is satisfied it would be reasonable in all the circumstances to accept the application.

369 Lapsing of application

(1) If an application for compensation is made under this part, the chief executive may make a requirement under section 368(4) for information to decide the application by giving the applicant a notice stating—

(a) the required information; and

(b) the time by which the information must be given to the chief executive; and

(c) that, if the information is not given to the chief executive by the stated time, the application will lapse.

(2) The stated time must be reasonable and, in any case, at least 21 days after the requirement is made.

(3) The chief executive may give the applicant a further notice extending or further extending the time if the chief executive is satisfied it would be reasonable in all the circumstances to give the extension.

(4) A notice may be given under subsection (3) even if the time to which it relates has lapsed.

(5) If the applicant does not comply with the requirement within the stated time, or any extension, the application lapses.

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370 Deciding application

(1) The chief executive must consider and decide an accepted application within 60 days after the last of the following to happen—

(a) the chief executive receives the application;

(b) the chief executive receives all necessary information to decide the application.

(2) If the chief executive has not decided an accepted application within the period stated in subsection (1) for the application, the chief executive is taken to have refused to pay compensation.

(3) In this section—

accepted application means an application made under section 368(2) or an application the chief executive accepts under section 368(5).

371 Notice about decision

As soon as practicable after deciding the application, the chief executive must give the applicant a notice that—

(a) for a decision by the chief executive to pay the amount of compensation applied for—states the decision and the reasons for it, including details of the amount of compensation to be paid and how the amount was assessed; or

(b) for a decision by the chief executive to pay compensation in an amount less than the amount applied for, or to not pay compensation—complies with the QCAT Act, section 157(2) for the decision.

372 Review of decision

An applicant for the payment of compensation under this part who is dissatisfied with the chief executive's decision to refuse to pay compensation or about the amount of

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compensation to be paid may apply, as provided under the QCAT Act, to QCAT for a review of the decision.

Chapter 9 Monitoring and enforcement

Part 1 Authorised persons

376 Powers generally

(1) An authorised person has the powers given under this Act.

(2) In exercising the powers an authorised person is subject to the directions of the administering executive.

(3) If the authorised person is appointed by 2 or more chief executive officers, the authorised person is subject to the directions of the chief executive officer of the local government for the area in which the authorised person is exercising the powers.

377 Appointment

(1) The chief executive may appoint any of the following persons as an authorised person—

(a) a public service officer or public service employee;

(b) a health service employee;

(c) a person prescribed under a regulation.

(2) The chief executive officer of a local government may appoint any of the following persons as an authorised person for the local government and its area—

(a) an employee of the local government;

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(b) if the chief executive officer of another local government agrees—an employee of the other local government;

(c) another person under contract to the local government.

(3) The chief executive officers of 2 or more local governments may appoint an employee of, or another person under contract to, one of the local governments to be an authorised person for the local governments' areas.

(4) A person may be appointed for the Act generally, for stated provisions of the Act or for stated public health risks.

378 Qualifications for appointment

The administering executive may appoint a person as an authorised person only if—

(a) the administering executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience; and

(b) the person has the competencies, if any, prescribed under a regulation as relevant to the person's appointment.

379 Appointment conditions and limit on powers

(1) An authorised person holds office on the conditions stated in—

(a) the authorised person's instrument of appointment; or

(b) a signed notice given to the authorised person; or

(c) a regulation.

(2) The instrument of appointment, a signed notice given to an authorised person or a regulation may limit the authorised person's powers under this Act.

(3) In this section—

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signed notice means a notice signed by the administering executive.

380 Issue of identity card

(1) The administering executive must issue an identity card to each authorised person.

(2) The identity card must—

(a) contain a recent photo of the authorised person; and

(b) contain a copy of the authorised person's signature; and

(c) identify the person as an authorised person under this Act; and

(d) state an expiry date for the card.

(3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

381 Production or display of identity card

(1) In exercising a power under this Act in relation to another person, an authorised person must—

(a) produce the authorised person's identity card for the other person's inspection before exercising the power; or

(b) have the identity card displayed so it is clearly visible to the other person when exercising the power.

(2) However, if it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the other person's inspection at the first reasonable opportunity.

(3) For subsection (1), an authorised person does not exercise a power in relation to another person only because the authorised person has entered a place as mentioned in section 385(1)(b) or (2).

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382 When authorised person ceases to hold office

(1) An authorised person ceases to hold office if any of the following happens—

(a) the term of office stated in a condition of office ends;

(b) under another condition of office, the authorised person ceases to hold office;

(c) the authorised person's resignation under section 383 takes effect.

(2) Subsection (1) does not limit the ways an authorised person may cease to hold office.

(3) In this section—

condition of office means a condition on which the authorised person holds office.

383 Resignation

An authorised person may resign by signed notice given to the administering executive.

384 Return of identity card

(1) A person who ceases to be an authorised person must return the person's identity card to the administering executive within 21 days after ceasing to be an authorised person unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(2) For subsection (1), for a person appointed under this Act as an authorised person by 2 or more chief executive officers, the identity card must be returned to 1 of the chief executive officers.

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Part 2 Powers of authorised persons

Division 1 Entry of places

385 Power to enter places

(1) An authorised person may enter a place if—

(a) an occupier of the place consents to the entry; or

(b) it is a public place and the entry is made when it is open to the public; or

(c) the entry is authorised by a warrant; or

(d) entry is under section 386, 387, 388, 389, 389A, 389B, 390 or 390A.

(2) For the purpose of asking the occupier of a place for consent to enter, an authorised person may, without the occupier's consent, an enforcement order or a warrant—

(a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

(b) enter part of the place the authorised person reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

(3) Nothing in this part, other than under section 389B, allows entry to a dwelling without the occupier's consent, an enforcement order or a warrant.

386 Power to enter place to ascertain if public health risk

(1) This section applies if an authorised person reasonably believes there may be a public health risk at a place.

(2) The authorised person may, at reasonable times, enter the place to find out whether there is a public health risk at the place.

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(3) Subsection (2) does not allow entry to a building or other structure without the occupier's consent, an enforcement order or a warrant.

(4) The procedure for entry under this section is set out under section 392.

387 Power to enter place to check compliance with public health order

(1) This section applies if a person has been given a public health order for a public health risk at a place.

(2) An authorised person may, at reasonable times, enter the place to check whether the order has been complied with.

(3) Subsection (2) does not allow entry to a building or other structure without the occupier's consent, an enforcement order or a warrant.

(4) The procedure for entry under this section is set out under section 392.

388 Power to enter place to take steps if public health order not complied with

(1) This section applies if—

(a) a person has been given a public health order for a public health risk at a place; and

(b) the public health order requires the person to take steps at the place to remove or reduce the risk to public health from the public health risk, or prevent the risk to public health from recurring; and

(c) the person has failed to take the steps as required by the order.

(2) The issuing authority by its employees or agents may, at reasonable times, enter the place to take the steps stated in the order.

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(3) Subsection (2) does not allow entry to a building or other structure without the occupier's consent, an enforcement order or a warrant.

(4) The procedure for entry under this section is set out under section 393.

388A Power to enter places to check compliance with improvement notice

(1) This section applies if a water service provider has been given an improvement notice under section 57A.

(2) An authorised person appointed by the chief executive may, at reasonable times, enter a place where the authorised person reasonably believes the contravention of the provision of this Act to which the improvement notice relates is happening or has happened.

(3) The authorised person may enter the place under subsection (2) only to check whether the improvement notice has been complied with.

(4) Also, subsection (2) does not allow entry to a building or other structure without the occupier's consent or a warrant.

(5) The procedure for entry under this section is set out under section 392.

389 Power to enter place under approved inspection program

(1) This section applies if there is an approved inspection program for a place.

(2) An authorised person may, at reasonable times, enter the place for the inspection program.

(3) Subsection (2) does not allow entry to a building or other structure without the occupier's consent.

(4) The procedure for entry under this section is set out under section 392.

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389A Power to enter a prescribed facility—general

(1) This section applies if an authorised person intends to enter a prescribed facility, other than a place mentioned in section 389B(2), for monitoring compliance with the facility's water risk management plan.

(2) The authorised person may enter the prescribed facility if the facility is open for carrying on business or otherwise open for entry.

(3) However, an authorised person may not enter a part of the facility—

(a) where a person is undergoing a procedure conducted by a health practitioner; or

(b) where a person is consulting a health practitioner.

(4) In this section—

prescribed facility see section 61A.

water risk management plan see section 61A.

389B Power to enter dwellings in residential aged care facilities

(1) This section applies if—

(a) a person in charge of a residential aged care facility gives the chief executive a notice under section 61H about the residential aged care facility; or

(b) a person gives the chief executive a notice under chapter 3, part 2, division 2 that someone else at the residential aged care facility has or had a notifiable condition resulting from Legionella.

(2) An authorised person may enter a part of the residential aged care facility that is an occupier's dwelling for monitoring compliance with the facility's water risk management plan.

(3) Before entering the occupier's dwelling, the authorised person must do or make a reasonable attempt to do the following things—

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(a) identify himself or herself to a person who is an occupier of the place and is present by producing the authorised person's identity card or another document evidencing the authorised person's appointment;

(b) tell the person the authorised person is permitted under this section to enter the dwelling;

(c) give the person an opportunity to allow the authorised person immediate entry to the place without using force.

(4) The authorised person may enter the occupier's dwelling if the authorised person is accompanied by a person employed at the residential aged care facility to provide residential care to the occupier.

(5) In this section—

Legionella see section 61A.

residential aged care facility see section 61A.

water risk management plan see section 61A.

390 Power to enter health care facility

(1) This section applies if an authorised person intends to enter a health care facility for monitoring compliance with chapter 4.

(2) The authorised person may enter the health care facility if the facility is open for carrying on business or otherwise open for entry.

(3) The authorised person must advise the person in charge of the facility about the intended entry at least 24 hours before the entry.

(4) Subsection (3) does not apply if the authorised person reasonably believes immediate entry is necessary to prevent or minimise an imminent risk of infection to a person at the health care facility.

(5) However, an authorised person may not enter a part of the facility where a person is—

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(a) undergoing a procedure conducted by a health practitioner; or

(b) consulting a health practitioner.

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

(1) This section applies if an authorised person reasonably believes a cosmetic procedure is being, or has been, performed on a child at a place.

(2) The authorised person may enter the place to monitor a person's compliance with chapter 5A if the place is open for carrying on business or otherwise open for entry.

(3) The authorised person—

(a) must advise the person in charge of the place at least 24 hours before the entry; and

(b) must not do anything that adversely affects the privacy of a person undergoing, or waiting to undergo, a cosmetic procedure.

(4) In this section—

cosmetic procedure see section 213A.

Division 2 Procedure for entry

391 Entry with consent

(1) This section applies if an authorised person intends to ask the occupier of a place to consent to the authorised person or another person entering the place.

(2) Before asking for the consent, the authorised person must tell the occupier—

(a) the purpose of the entry; and

(b) that the occupier is not required to consent.

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(3) If the consent is given, the authorised person may ask the occupier to sign an acknowledgment of the consent.

(4) The acknowledgment must state—

(a) that the occupier has been told—

(i) the purpose of the entry; and

(ii) that the occupier is not required to consent; and

(b) the purpose of the entry; and

(c) that the occupier gives the authorised person consent to enter the place and exercise powers under this chapter; and

(d) the time and date the consent was given.

(5) If the occupier signs an acknowledgment, the authorised person must immediately give a copy to the occupier.

(6) If—

(a) an issue arises in a proceeding about whether the occupier consented to the entry; and

(b) an acknowledgment complying with subsection (4) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

392 Entry of place under s 386, 387, 388A or 389

(1) This section applies to an authorised person intending to enter a place under section 386, 387, 388A or 389.

(2) The authorised person must, before entering the place, make a reasonable attempt to locate an occupier and obtain the occupier's consent to the entry.

(3) If the occupier refuses consent to enter, the authorised person must not enter the place unless the entry is under an enforcement order or a warrant.

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(4) If the authorised person is unable to locate an occupier after making a reasonable attempt to do so, the authorised person may enter the place.

(5) If the authorised person enters the place after being unable to locate an occupier, the authorised person must leave a notice in a conspicuous position and in a reasonably secure way stating the date, time and purpose of the entry.

(6) In exercising a power under section 386, 387, 388A or 389, the authorised person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable in the circumstances.

393 Entry of place under s 388

(1) This section applies to an authorised person intending to enter a place under section 388.

(2) The issuing authority must give the occupier and owner of the place reasonable notice that the issuing authority, by its employees or agents, intends to enter the place to take the steps required under the public health order.

(3) The notice must state the steps that are to be taken by the issuing authority.

(4) The authorised person must, before entering the place, make a reasonable attempt to locate an occupier and obtain the occupier's consent to the entry.

(5) If the occupier refuses consent to enter, the authorised person must not enter the place unless the entry is under an enforcement order or a warrant.

(6) If the authorised person is unable to locate an occupier after making a reasonable attempt to do so, the authorised person may enter the place.

(7) If the authorised person enters the place after being unable to locate an occupier, the authorised person must leave a notice in a conspicuous position and in a reasonably secure way stating the date, time and purpose of the entry.

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(8) In exercising a power under this section, the authorised person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable in the circumstances.

394 Application for warrant

(1) An authorised person may apply to a magistrate for a warrant for a place.

(2) The authorised person must prepare a written application that states the grounds on which the warrant is sought.

(3) The written application must be sworn.

(4) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

395 Issue of warrant

(1) The magistrate may issue the warrant for the place only if the magistrate is satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity (the ***evidence***) that may provide evidence of an offence against this Act and the evidence is at the place or, within the next 7 days, will be at the place; or

(b) there is a public health risk at the place.

(2) The warrant must state—

(a) the place to which the warrant applies; and

(b) that a stated authorised person may, with necessary and reasonable help and force—

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(i) enter the place and any other place necessary for entry to the place; and

(ii) exercise the authorised person's powers under this chapter; and

(c) particulars of the offence or public health risk that the magistrate considers appropriate in the circumstances; and

(d) the name of the person suspected of having committed the offence or who caused the public health risk or allowed the public health risk to continue, unless the name is unknown or the magistrate considers it inappropriate to state the name; and

(e) if subsection (1)(a) applies, the evidence that may be seized under the warrant; and

(f) whether the authorised person may exercise powers under part 2, division 6; and

(g) if the authorised person may exercise powers under part 2, division 6, the person, if any, who is to pay the costs incurred by the authorised person in exercising the powers; and

(h) the hours of the day or night when the place may be entered; and

(i) the magistrate's name; and

(j) the date and time of the warrant's issue; and

(k) except for a warrant allowing for re-entry of a place as mentioned in subsection (3), the date, within 14 days after the warrant's issue, the warrant ends.

(3) If the warrant relates to a public health risk, the warrant may also state that an authorised person may enter the place again to check compliance with a public health order issued as a result of the authorised person's entry of the place under the warrant.

(4) To the extent that the warrant allows for the re-entry of a place as mentioned in subsection (3), it expires on—

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(a) the day that is 7 days after the expiration of the period stated in the public health order for completing the steps stated in the order; or

(b) if an earlier day is stipulated in the warrant, that day.

396 Application by electronic communication and duplicate warrant

(1) An application under section 394 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised person reasonably considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances, including, for example, the authorised person's remote location.

(2) The application—

(a) may not be made before the authorised person prepares the written application under section 394(2); but

(b) may be made before the written application is sworn.

(3) The magistrate may issue the warrant (the ***original warrant***) only if the magistrate is satisfied—

(a) it was necessary to make the application under subsection (1); and

(b) the way the application was made under subsection (1) was appropriate.

(4) After the magistrate issues the original warrant—

(a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised person, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the authorised person; or

(b) otherwise—

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(i) the magistrate must tell the authorised person the date and time the warrant is issued and the other terms of the warrant; and

(ii) the authorised person must complete a form of warrant, including by writing on it—

(A) the magistrate's name; and

(B) the date and time the magistrate issued the warrant; and

(C) the other terms of the warrant.

(5) The copy of the warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either case the ***duplicate warrant***), is a duplicate of, and as effectual as, the original warrant.

(6) The authorised person must, at the first reasonable opportunity, send to the magistrate—

(a) the written application complying with section 394(2) and (3); and

(b) if the authorised person completed a form of warrant under subsection (4)(b)—the completed form of warrant.

(7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)—

(a) attach the documents to the original warrant; and

(b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.

(8) Despite subsection (5), if—

(a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and

(b) the original warrant is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.

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(9) This section does not limit section 394.

(10) In this section—

relevant magistrates court, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.

397 Defect in relation to a warrant

(1) A warrant is not invalidated by a defect in the warrant, or in compliance with section 394, 395 or 396, unless the defect affects the substance of the warrant in a material particular.

(2) In this section—

warrant includes a duplicate warrant mentioned in section 396(5).

398 Warrants—procedure before entry

(1) This section applies if an authorised person named in a warrant issued under this chapter for a place is intending to enter the place under the warrant.

(2) Before entering the place, the authorised person must do or make a reasonable attempt to do the following things—

(a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the authorised person's identity card or other document evidencing the appointment;

(b) give the person a copy of the warrant;

(c) tell the person the authorised person is permitted by the warrant to enter the place;

(d) give the person an opportunity to allow the authorised person immediate entry to the place without using force.

(3) However, the authorised person need not comply with subsection (2) if the authorised person believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

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(4) In this section—

warrant includes a duplicate warrant mentioned in section 396(5).

Division 3 General powers

399 General powers after entering places

(1) This section applies to an authorised person who enters a place.

(2) However, if an authorised person enters a place to get the occupier's consent to enter a place, this section applies to the authorised person only if the consent is given or the entry is otherwise authorised.

(3) For monitoring and enforcing compliance with this Act or establishing whether there is a public health risk at the place, the authorised person may—

(a) search any part of the place; or

(b) inspect, measure, test, photograph or film any part of the place or anything at the place; or

(c) take a thing, or a sample of or from a thing, at the place for analysis or testing; or

(d) copy a document at the place or take the document to another place to copy it; or

(e) take into or onto the place any persons, equipment and materials the authorised person reasonably requires for exercising a power under this chapter; or

(f) require a person at the place to give the authorised person reasonable help to exercise the authorised person's powers under paragraphs (a) to (e); or

(g) require a person at the place to answer questions by the authorised person, or to give the authorised person information, to help the authorised person ascertain

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whether this Act is being or has been complied with or there is a public health risk at the place.

(4) When making a requirement mentioned in subsection (3)(f) or (g), the authorised person must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

(5) If an authorised person takes a document from a place to copy it, the document must be copied as soon as practicable and returned to the place.

(6) To remove any doubt, it is declared that the power mentioned in subsection (3)(e) includes the power to leave at the place for a reasonable period the equipment and materials mentioned in that paragraph.

400 Failure to help authorised person

A person required to give reasonable help under section 399(3)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

401 Failure to answer questions or give information

(1) A person of whom a requirement is made under section 399(3)(g) must comply with the requirement, unless the person has a reasonable excuse.

Note—

Also, a person must not state anything the person knows to be false or misleading in a material particular—see section 423 (False or misleading statements).

Maximum penalty—50 penalty units.

(2) It is a reasonable excuse for the person to fail to comply with the requirement that complying with the requirement might tend to incriminate the person.

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Division 4 Vehicles

402 Stopping motor vehicle

(1) This section applies if an authorised person reasonably suspects, or is aware, that—

(a) a thing in or on a motor vehicle may provide evidence of the commission of an offence against this Act; or

(b) there is a public health risk in or on the motor vehicle.

(2) For the purpose of exercising the powers of an authorised person under this part, an authorised person may—

(a) if the motor vehicle is moving—ask or signal the person in control of the motor vehicle to stop the motor vehicle; and

(b) whether or not the motor vehicle is moving—ask or signal the person in control of the motor vehicle to bring the motor vehicle to a convenient place within a reasonable distance to allow the authorised person to exercise the authorised person's powers under this part.

(3) When asking or signalling the person in control of a moving motor vehicle to stop the motor vehicle or bring it to a convenient place, the authorised person must clearly identify himself or herself as an authorised person exercising the authorised person's powers under this Act.

Examples—

1 If the authorised person is in a moving motor vehicle, he or she may use a loud hailer to identify himself or herself as an authorised person exercising powers under this Act.

2 If the authorised person is standing at the side of the road, he or she may use a sign to identify himself or herself as an authorised person exercising powers under this Act.

(4) Despite section 381, for the purpose of exercising a power under subsection (2)(a), the authorised person must—

(a) have with him or her the authorised person's identity card; and

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(b) produce the identity card for the person's inspection immediately after the motor vehicle is stopped.

(5) The person must comply with the authorised person's request or signal, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(6) It is a reasonable excuse for the person not to obey the request or signal if—

(a) the authorised person has not complied with subsection (3); or

(b) to immediately obey the request or signal would have endangered the person or someone else or caused loss or damage to property, and the person obeys the request or signal as soon as it is practicable to obey it.

(7) If the motor vehicle is stopped, the authorised person may direct the person—

(a) not to move the motor vehicle until the authorised person has exercised the authorised person's powers under this part; or

(b) to move the motor vehicle to, and keep it at, a stated reasonable place to allow the authorised person to exercise the authorised person's powers under this part.

(8) When giving the direction, the authorised person must warn the person it is an offence not to comply with the direction, unless the person has a reasonable excuse.

(9) The person must comply with the authorised person's direction, unless the person has a reasonable excuse.

Maximum penalty for subsection (9)—50 penalty units.

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Division 5 Power to seize evidence

403 Seizing evidence at place that may be entered without consent or a warrant

An authorised person who lawfully enters a place under this chapter without the consent of the occupier and without a warrant, may seize a thing at the place only if the authorised person reasonably believes the thing is evidence of an offence against this Act.

404 Seizing evidence at a place that may only be entered with consent or warrant

(1) This section applies if—

(a) an authorised person is authorised to enter a place under this chapter only with the consent of the occupier or a warrant; and

(b) the authorised person enters the place after obtaining the necessary consent or warrant.

(2) Also, if the authorised person enters the place with a warrant, this section applies only if the warrant was issued under section 395(1)(a).

(3) If the authorised person enters the place with the occupier's consent, the authorised person may seize a thing at the place only if—

(a) the authorised person reasonably believes the thing is evidence of an offence against this Act; and

(b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.

(4) If the authorised person enters the place with a warrant, the authorised person may seize the evidence for which the warrant was issued.

(5) The authorised person also may seize anything else at the place if the authorised person reasonably believes—

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(a) the thing is evidence of an offence against this Act; and

(b) the seizure is necessary to prevent the thing being—

(i) hidden, lost or destroyed; or

(ii) used to continue, or repeat, the offence.

(6) Also, the authorised person may seize a thing at the place if the authorised person reasonably believes it has just been used in committing an offence against this Act.

Division 6 Power to remove or reduce public health risk under a warrant

405 Power to remove or reduce public health risk after entering place

(1) This section applies if—

(a) an authorised person enters a place after obtaining a warrant; and

(b) the warrant authorises the authorised person to exercise powers under this division.

(2) The authorised person may take the steps necessary in the circumstances to remove or reduce the risk to public health from the public health risk stated in the warrant, or to prevent the risk to public health from recurring, including seizing a thing.

Note—

See also division 3 which provides for the general powers available to an authorised person after entering a place.

(3) In exercising a power under this section, the authorised person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable in the circumstances.

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Division 7 Recovery of costs and expenses

406 Cost of steps recoverable as a debt

(1) The issuing authority may recover the amount of the reasonable costs and expenses incurred by the issuing authority in exercising powers under section 388 or 405 as a debt payable to the issuing authority by the person named in the public health order or the warrant.

(2) For subsection (1), the amount becomes payable 30 days after the issuing authority gives the person details of the amount of the costs.

(3) If the issuing authority is a local government—

(a) the amount payable to the local government bears interest as if it were an amount of an overdue rate payable to a local government under the *Local Government Act 2009*; and

(b) the amount payable plus interest may be recovered by the local government as if the total amount were an amount of an overdue rate payable to a local government under the *Local Government Act 2009*.

407 Cost of steps by local government a charge over land

(1) This section applies if an amount (including any interest on the amount) (the ***unpaid amount***) is payable by a person for steps taken by an issuing authority that is a local government, on land owned by the person.

(2) The unpaid amount is a charge on the land.

(3) The local government may lodge a request to register the charge in the appropriate form over the land with the registrar of titles.

(4) The request must be accompanied by a certificate signed by the local government's chief executive officer stating there is a charge over the land under this section.

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(5) A registered charge has priority over all encumbrances over the land other than—

(a) encumbrances in favour of the State or a government entity; and

(b) rates payable to the local government.

(6) The charge is in addition to any other remedy the local government has for recovery of the unpaid amount.

Division 8 Dealing with seized things

408 Securing seized things

(1) This section applies if an authorised person seizes a thing under section 403, 404 or 405.

(2) Having seized the thing, the authorised person may—

(a) move the thing from the place where it was seized (the ***place of seizure***); or

(b) leave the thing at the place of seizure, but take reasonable action to restrict access to it.

Examples of restricting access to a thing—

1 sealing a thing and marking it to show access to it is restricted

2 sealing the entrance to a room where the thing is situated and marking it to show access to it is restricted

409 Tampering with seized things

(1) If an authorised person restricts access to a seized thing under section 408, a person must not tamper with the thing, or something restricting access to the thing, without an authorised person's approval.

Maximum penalty—100 penalty units.

(2) In this section—

tamper includes attempt to tamper.

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410 Powers to support seizure

(1) To enable a thing to be seized, an authorised person may require the person in control of it—

(a) to take it to a stated reasonable place by a stated reasonable time; and

(b) if necessary, to remain in control of it at the stated place for a reasonable time.

(2) The requirement—

(a) must be made by notice; or

(b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by notice as soon as practicable.

(3) A further requirement may be made under this section about the same thing if it is necessary and reasonable to make the further requirement.

(4) A person of whom the requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(5) Subject to section 422, the cost of complying with subsection (4) must be borne by the person.

411 Authorised person may require thing's return

(1) If an authorised person has required a person to take a thing to a stated place by a stated reasonable time under section 410 the authorised person may require the person to return the thing to the place from which it was taken.

(2) A person of whom the requirement is made under subsection (1) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(3) Subject to section 422, the cost of complying with subsection (1) must be borne by the person.

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412 Receipts for seized things

(1) As soon as practicable after an authorised person seizes a thing, the authorised person must give a receipt for it to the person from whom it was seized.

(2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.

(3) The receipt must describe generally each thing seized and its condition.

(4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt, given the thing's nature, condition and value.

413 Forfeiture of seized things

(1) A seized thing is forfeited to the relevant entity if—

(a) an authorised person can not find its owner, after making reasonable inquiries; or

(b) an authorised person can not return it to its owner, after making reasonable efforts; or

(c) for a thing seized under section 405—

(i) an authorised person reasonably considers that, because of the thing's inherent nature or condition, the return of the thing is likely to result in a recurrence of the public health risk in relation to which the thing was seized; or

(ii) at the end of 6 months, the return of the thing is, in an authorised person's reasonable opinion, likely to result in a recurrence of the public health risk in relation to which the thing was seized.

(2) In applying subsection (1)—

(a) subsection (1)(a) does not require the authorised person to make inquiries if it would be unreasonable to make inquiries to find the owner; and

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(b) subsection (1)(b) does not require the authorised person to make efforts if it would be unreasonable to make efforts to return the thing to its owner.

(3) Regard must be had to a thing's nature, condition and value in deciding—

(a) whether it is reasonable to make inquiries or efforts; and

(b) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable.

(4) In this section—

relevant entity, for a seized thing, means—

(a) if the thing was seized by an authorised person appointed by the chief executive—the State; or

(b) if the thing was seized by an authorised person appointed by a chief executive officer—the local government; or

(c) if the thing was seized by an authorised person appointed by 2 or more chief executive officers—the local government for whom the authorised person was performing his or her functions at the time the thing was seized.

414 Return of seized things

If a thing has been seized but not forfeited, the authorised person must return it to its owner—

(a) for a thing seized under section 404—

(i) at the end of 6 months; or

(ii) if a proceeding for an offence involving the thing is started within 6 months, at the end of the proceeding and any appeal from the proceeding; or

(iii) if the authorised person stops being satisfied its continued retention as evidence is necessary—immediately; or

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(b) for a thing seized under section 405 if—

(i) the thing ceases to be a public health risk; or

(ii) the authorised person is satisfied the return of the thing is unlikely to result in the recurrence of the public health risk in relation to which it was seized.

415 Access to seized things

(1) Until a thing that has been seized is forfeited or returned, an authorised person must allow its owner to inspect it and, if it is a document, to copy it.

(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

Division 9 Power to obtain information

416 Power to require name and address

(1) This section applies if—

(a) an authorised person finds a person committing an offence against this Act; or

(b) an authorised person finds a person in circumstances that lead, or has information that leads, the authorised person reasonably to suspect the person—

(i) has just committed an offence against this Act; or

(ii) is responsible for a public health risk.

(2) The authorised person may require the person to state the person's name and residential address.

(3) When making the requirement, the authorised person must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.

(4) The authorised person may require the person to give the authorised person evidence of the correctness of the stated

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name or residential address if the authorised person reasonably suspects the stated name or address to be false.

(5) A requirement under subsection (2) or (4) is a ***personal details requirement***.

417 Failure to give name or address

(1) A person of whom a personal details requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) A person does not commit an offence against subsection (1) if—

(a) the person was required to state the person's name and residential address by an authorised person who suspected the person had committed an offence against this Act; and

(b) the person is not proved to have committed the offence.

(3) Also, a person does not commit an offence against subsection (1) if—

(a) the person was required to state the person's name and residential address by an authorised person who suspected the person was responsible for a public health risk; and

(b) a court decides the person is not responsible for the public health risk.

418 Power to require production of documents

(1) An authorised person may require a person to make available for inspection by the authorised person, or produce to the authorised person for inspection, at a reasonable time and place nominated by the authorised person—

(a) a document issued to the person under this Act; or

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(b) a document required to be kept by the person under this Act.

(2) The authorised person may keep the document to copy it.

(3) If the authorised person copies the document, or an entry in the document, the authorised person may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.

(4) The authorised person must return the document to the person as soon as practicable after copying it.

(5) However, if a requirement (a ***document certification requirement***) is made of a person under subsection (3), the authorised person may keep the document until the person complies with the requirement.

(6) A requirement under subsection (1) is a ***document production requirement***.

419 Failure to produce document

(1) A person of whom a document production requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is not a reasonable excuse for a person not to comply with a document production requirement that complying with the requirement might tend to incriminate the person.

420 Failure to certify copy of document

A person of whom a document certification requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

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Part 3 General enforcement matters

421 Notice of damage

(1) This section applies if—

(a) an authorised person damages property when exercising or purporting to exercise a power; or

(b) a person (the ***other person***) acting under the direction or authority of an authorised person damages property.

(2) The authorised person must immediately give notice of particulars of the damage to the person who appears to the authorised person to be the owner of the property.

(3) If the authorised person believes the damage was caused by a latent defect in the property or circumstances beyond the authorised person's or other person's control, the authorised person may state the belief in the notice.

(4) If, for any reason, it is impracticable to comply with subsection (2), the authorised person must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.

(5) This section does not apply to damage the authorised person reasonably believes is trivial.

(6) In this section—

owner, of property, includes the person in possession or control of it.

422 Compensation

(1) If a person incurs loss or expense because of the exercise or purported exercise of a power under part 2 or chapter 2, part 4 the person may claim compensation—

(a) for the exercise or purported exercise of a power by or for the State—from the State; or

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(b) for the exercise or purported exercise of a power by or for a local government—from the local government.

(2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under part 2 or chapter 2, part 4.

(3) Compensation may be claimed and ordered to be paid in a proceeding—

(a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or

(b) for an offence against this Act brought against the person claiming compensation.

(4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

423 False or misleading statements

A person must not state anything to an authorised person the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

424 False or misleading documents

(1) A person must not give an authorised person a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

(2) Subsection (1) does not apply to a person if the person, when giving the document—

(a) tells the authorised person, to the best of the person's ability, how it is false or misleading; and

(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

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425 Obstructing authorised persons

(1) A person must not obstruct an authorised person in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(2) If a person has obstructed an authorised person and the authorised person decides to proceed with the exercise of the power, the authorised person must warn the person that—

(a) it is an offence to obstruct the authorised person, unless the person has a reasonable excuse; and

(b) the authorised person considers the person's conduct is an obstruction.

426 Impersonation of authorised persons

A person must not pretend to be an authorised person.

Maximum penalty—100 penalty units.

Part 4 Approved inspection programs

427 Approved inspection program

(1) The chief executive or a chief executive officer may approve a program (an ***approved inspection program***) under which authorised persons may enter places to monitor compliance with a regulation made under section 61.

(2) The chief executive may approve a program only if—

(a) the regulation under section 61 is to be administered and enforced by the State only; or

(b) the regulation under section 61 is to be administered and enforced by local governments only and the chief executive—

(i) has agreed to do the thing in the administration or enforcement of this Act under section 14; or

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(ii) is acting under section 15 in relation to the regulation.

(3) A chief executive officer of a local government may approve a program for the local government's area only if—

(a) the regulation under section 61 is to be administered and enforced by local governments only; or

(b) if the regulation under section 61 is to be administered and enforced by the State only, the local government has agreed to do a thing in the administration or enforcement of this Act under section 14.

(4) An approved inspection program must be a selective inspection program or systematic inspection program.

(5) A selective inspection program provides for the selection, in accordance with the chief executive's or chief executive officer's approval, of places in an area to be entered and inspected under the approval.

(6) A systematic inspection program provides for all places, or all places of a particular type, in an area, to be entered and inspected under the approval.

(7) An approved inspection program must state the following—

(a) the purpose of the program;

(b) when the program starts;

(c) for a selective inspection program, objective criteria for selecting places to be entered and inspected;

(d) for a systematic inspection program, if a type of place is to be entered and inspected, a description of the type;

(e) the period of not more than 3 months, or another period of not more than 6 months prescribed under a regulation, over which the program is to be carried out.

(8) The only entry that may be made under an approved inspection program is by an authorised person under section 389.

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428 Notice of proposed inspection program

(1) At least 14 days, but not more than 28 days, before an approved inspection program starts, the chief executive or chief executive officer must publish the program by newspaper, radio or television in the area to which the approved inspection program relates.

(2) The publication must state the following—

(a) the area to which the approved inspection program relates;

(b) in general terms, the purpose and scope of the program;

(c) when the program starts;

(d) the period over which the program is to be carried out;

(e) who is to undertake the program.

429 Access to program

From the publication of the notice about an approved inspection program until the end of the program, a copy of the program must, if asked for by a person, be provided to the person by the chief executive or chief executive officer on payment of a fee that is not more than the cost of providing the copy to the person.

Part 5 Analysis of things

430 Appointment and qualifications

(1) The chief executive may appoint any of the following persons as a State analyst—

(a) a public service officer or an employee of the department;

(b) a health service employee;

(c) a person prescribed under a regulation.

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(2) However, the chief executive may appoint a person as a State analyst only if the chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.

431 Appointment conditions

(1) A State analyst holds office on any conditions stated in—

(a) the State analyst's instrument of appointment; or

(b) a signed notice given to the State analyst; or

(c) a regulation.

(2) In this section—

signed notice means a notice signed by the chief executive.

432 When State analyst ceases to hold office

(1) A State analyst ceases to hold office if any of the following happens—

(a) the term of office stated in a condition of office ends;

(b) under another condition of office, the State analyst ceases to hold office;

(c) the State analyst's resignation under section 433 takes effect.

(2) Subsection (1) does not limit the ways a State analyst may cease to hold office.

(3) In this section—

condition of office means a condition on which the State analyst holds office.

433 Resignation

A State analyst may resign by signed notice given to the chief executive.

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434 Chief executive may approve laboratory

The chief executive may approve a laboratory to analyse things taken under this Act if the chief executive is satisfied the laboratory has the resources and expertise to conduct the analysis.

435 Analysis

(1) If an authorised person takes a thing for analysis under this Act, the authorised person must as soon as practicable give it to a State analyst for analysis.

(2) If a State analyst receives a thing for analysis under subsection (1), the State analyst must as soon as practicable—

(a) analyse the thing; or

(b) give the thing to an approved laboratory for analysis.

(3) If the State analyst analyses the thing, the State analyst must, as soon as practicable after analysing it—

(a) complete a certificate of analysis for it; and

(b) give the certificate to the authorised person who took the thing for analysis.

(4) If an approved laboratory analyses the thing, the State analyst must, as soon as practicable after it is analysed—

(a) obtain a certificate of analysis for it from the approved laboratory; and

(b) give the certificate to the authorised person who took the thing for analysis.

436 Certificate must indicate methodology used

The certificate of analysis must include information about the methodology used to conduct the analysis.

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Chapter 10 Legal proceedings

Part 1 Application

437 Application of ch 10

This chapter applies to a proceeding under this Act.

Part 2 Evidence

438 Appointments and authority

The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

(a) the chief executive's appointment;

(b) a chief executive officer's appointment;

(c) an authorised person's appointment;

(d) a contact tracing officer's appointment;

(e) an emergency officer's appointment;

(f) a designated medical officer's appointment;

(g) a state analyst's appointment;

(h) the authority of the chief executive, a local government, a chief executive officer, an authorised person, a contact tracing officer, an emergency officer, a designated medical officer or a state analyst, to do anything under this Act.

439 Signatures

A signature purporting to be the signature of the chief executive, a chief executive officer, an authorised person, a contact tracing officer, an emergency officer, a designated

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medical officer or a state analyst is evidence of the signature it purports to be.

440 Evidentiary provisions

(1) A certificate purporting to be signed by the chief executive or a chief executive officer and stating any of the following matters is evidence of the matter—

(a) a stated document is one of the following things made, given, issued or kept under this Act—

(i) an appointment, approval or decision;

(ii) a notice or requirement;

(iii) a record, or an extract from a record;

(b) a stated document is another document kept under this Act;

(c) a stated document is a copy of a thing mentioned in paragraph (a) or (b);

(d) on a stated day, or during a stated period, an appointment as an authorised person, a contact tracing officer, an emergency officer, a designated medical officer or State analyst was, or was not, in force for a stated person;

(e) on a stated day, or during a stated period, an approval as an approved laboratory was, or was not, in force for a stated entity;

(f) on a stated day, a stated person was given a stated notice under this Act;

(g) on a stated day, a stated requirement was made of a stated person;

(h) a stated amount is payable under this Act by a stated person and has not been paid.

(2) A certificate of analysis for a thing taken for analysis under this Act stating any of the following matters is evidence of the matters—

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(a) the qualifications of the person (the ***analyst***) who conducted the analysis;

(b) the analyst received the thing from a stated person;

(c) the thing was analysed at a stated place on a stated day or during a stated period;

(d) the methodology used to analyse the thing;

(e) the results of the analysis.

(3) In a complaint starting a proceeding, a statement that the matter of complaint came to the complainant's knowledge on a stated day is evidence of when the matter came to the complainant's knowledge.

(4) In a proceeding in which the State or a local government applies under section 443 to recover costs incurred by the State or local government, a certificate by the chief executive for the State or the chief executive officer of the local government stating that stated costs were incurred and the way in which, and purpose for which, they were incurred is evidence of the matters stated.

Part 3 Proceedings

441 Summary offences

(1) Subject to section 213I, a proceeding for an offence against this Act is to be taken in a summary way under the *Justices Act 1886*.

(2) The proceeding must start within the later of the following periods to end—

(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.

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442 Allegations of false or misleading information or document

In any proceeding for an offence against this Act defined as involving false or misleading information, or a false or misleading document, it is enough for a charge to state that the information or document was, without specifying which, 'false or misleading'.

443 Recovery of costs of investigation

(1) This section applies if—

(a) a court convicts a person of an offence against this Act; and

(b) the State or a local government applies to the court for an order against the person for the payment of the costs the State or the local government has incurred in taking a thing or doing something else during the investigation of the offence; and

(c) the court finds the State or local government has reasonably incurred the costs.

(2) The court may order the person to pay the State or local government an amount equal to the costs if it is satisfied it would be just to make the order in the circumstances of the particular case.

(3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

444 Application for order for payment of costs under s 443

(1) An application to a court under section 443 is, and any order made by the court on the application is a judgment, in the court's civil jurisdiction.

(2) Any issue on the application is to be decided on the balance of probabilities.

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445 Forfeiture on conviction

(1) On conviction of a person for an offence against this Act, a court may order the forfeiture to the State or a local government of—

(a) anything used to commit the offence; or

(b) anything else the subject of the offence.

(2) The court may make the order—

(a) whether or not the thing has been seized; and

(b) if the thing has been seized, whether or not the thing has been returned to its owner.

(3) The court may make any order to enforce the forfeiture it considers appropriate.

(4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

446 Dealing with forfeited thing

(1) On the forfeiture of a thing to the State or a local government, the thing becomes the State's or local government's property and may be dealt with by the State or local government as the State or local government considers appropriate.

(2) Without limiting subsection (1), the State or local government may destroy the thing.

447 Responsibility for acts or omissions of representative

(1) This section applies in a proceeding for an offence against this Act.

(2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

(a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the state of mind.

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(3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

(4) In this section—

representative means—

(a) for a corporation—an executive officer, employee or agent of the corporation; or

(b) for an individual—an employee or agent of the individual.

state of mind of a person includes—

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

448 Liability of executive officer—particular offences committed by corporation

(1) An executive officer of a corporation commits an offence if—

(a) the corporation commits an offence against an executive liability provision; and

(b) the officer did not take all reasonable steps to ensure the corporation did not engage in the conduct constituting the offence.

Maximum penalty—the penalty for a contravention of the executive liability provision by an individual.

(2) In deciding whether things done or omitted to be done by the executive officer constitute reasonable steps for subsection (1)(b), a court must have regard to—

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(a) whether the officer knew, or ought reasonably to have known, of the corporation's conduct constituting the offence against the executive liability provision; and

(b) whether the officer was in a position to influence the corporation's conduct in relation to the offence against the executive liability provision; and

(c) any other relevant matter.

(3) The executive officer may be proceeded against for, and convicted of, an offence against subsection (1) whether or not the corporation has been proceeded against for, or convicted of, the offence against the executive liability provision.

(4) This section does not affect—

(a) the liability of the corporation for the offence against the executive liability provision; or

(b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against the executive liability provision.

(5) In this section—

executive liability provision means either of the following provisions—

- section 57E
- section 57F(2).

449 Fines payable to local government

(1) Subsection (2) applies if—

(a) a proceeding for an offence about a matter is taken by a local government; and

(b) a court imposes a fine for the offence.

(2) The fine must be paid to the local government.

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Part 4 Appeals

450 Who may appeal

(1) An owner of a thing forfeited to a relevant entity under section 413(1) who is dissatisfied with the decision resulting in the forfeiture may appeal against the decision.

(2) In this section—

relevant entity see section 413(4).

451 Starting an appeal

(1) An appeal may be started at—

(a) the Magistrates Court nearest the place where the person lives or carries on business; or

(b) a Magistrates Court at Brisbane.

(2) The notice of appeal under the *Uniform Civil Procedure Rules 1999* must be filed with the registrar of the court within 28 days after—

(a) if the person is given notice of the decision—the day the person is given the notice; or

(b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the forfeiture.

(3) The court may, at any time, extend the time for filing the notice of appeal.

452 Hearing procedures

In hearing the appeal, the court is not bound by the rules of evidence.

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453 Appeal to District Court

An appeal lies to the District Court from a decision of a Magistrates Court under this part, but only on a question of law.

Chapter 11 Miscellaneous

Part 1 Annual report on public health issues

454 Chief executive to give Minister annual report

(1) The chief executive must give the Minister an annual report (a ***public health report***) about public health issues for Queensland.

(2) The public health report may be included in the department's annual report under the *Financial Accountability Act 2009*.

(3) If the public health report is not included in the department's annual report, the Minister must table the public health report in Parliament within 7 sitting days of receiving it.

Part 1A Civil liability for asbestos-related harm

Division 1 Preliminary

454A Definitions for pt 1A

In this part—

annual compliance certificate see section 454J(1).

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asbestos-related event means an event—

(a) involving the exposure, release or dispersal, or potential exposure, release or dispersal, of asbestos fibres; and

(b) related to the performance of a local government's asbestos-related function.

asbestos-related function, of a local government, means the administration and enforcement of this Act by the local government for a public health risk mentioned in section 11(1)(b)(v) or (viii) to the extent the risk relates to asbestos at a place other than a workplace.

asbestos-related harm means harm that is, or is suffered because of, a dust-related condition within the meaning of the *Civil Liability Act 2003* that is attributable to asbestos.

conduct means an act or omission to act.

harm means harm of any kind, other than damage to property, including—

(a) personal injury, including the following—

(i) disease;

(ii) psychological or psychiatric injury;

(iii) fatal injury; and

(b) economic loss.

indemnified liability, of a local government, means a civil liability of the local government that is indemnified by the State under section 454C(1).

indemnity conditions see section 454F.

official conduct, of a prescribed person, means conduct engaged in by the person as part of, or in connection with, the performance of a local government's asbestos-related function.

prescribed person means—

(a) a chief executive officer of a local government; or

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(b) an authorised person appointed by a chief executive officer of a local government; or

(c) a person acting under the direction of a person mentioned in paragraph (a) or (b), other than a third-party contractor.

third-party contractor, of a local government, means a person engaged by the local government under a contract to provide services to assist the local government with the performance of its asbestos-related function.

Division 2 Protection from civil liability and indemnity

454B Protecting prescribed persons from civil liability for asbestos-related harm

(1) A prescribed person is not civilly liable for official conduct engaged in by the person that gives rise to asbestos-related harm.

(2) If subsection (1) prevents a civil liability attaching to a prescribed person, the liability attaches instead to the relevant local government.

(3) If liability attaches to a local government under subsection (2), the local government may recover contribution from the prescribed person but only if the official conduct was engaged in—

(a) other than in good faith; and

(b) with gross negligence.

(4) In a proceeding under subsection (3) to recover contribution, the amount of contribution recoverable is the amount found by the court to be just and equitable in the circumstances.

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454C Indemnifying local government against civil liability for asbestos-related harm

(1) A local government is indemnified by the State against any civil liability for official conduct of a prescribed person that gives rise to asbestos-related harm, including liability that attaches to the local government under section 454B(2).

(2) However, subsection (1) applies only if the local government has reasonably complied with the indemnity conditions in relation to each asbestos-related event to which the official conduct relates.

(3) The onus of proving the local government has reasonably complied with the indemnity conditions is on the local government.

(4) For the purposes of subsection (1), the State is subrogated to the rights of the local government in relation to the civil liability.

(5) For the purposes of subsection (4), the State may manage and control any proceedings started against the local government in relation to the civil liability.

454CA Local government must notify State of claim

(1) This section applies if a proceeding is started against a local government and it may result in an indemnified liability of the local government.

(2) The local government must give notice of the proceeding to the State as soon as practicable after the proceeding has started.

454D State may recover contribution in particular circumstances

(1) The State may recover contribution from the local government for an indemnified liability of the local government but only if the circumstances stated in subsection (2), (3) or (4) exist.

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(2) The official conduct giving rise to the liability was engaged in—

(a) other than in good faith; and

(b) with gross negligence.

(3) The local government engaged in conduct that the local government knew, or ought reasonably to have known, could have prejudiced the State's defence of a claim, or potential claim, relating to the liability.

(4) The local government did not, at its cost, reasonably cooperate with, and assist, the State to defend the claim that resulted in the liability.

(5) In a proceeding under this section to recover contribution, the amount of contribution recoverable is the amount found by the court to be just and equitable in the circumstances.

454E Limitation on indemnity

A local government's right to indemnity under section 454C does not apply in relation to a civil liability of the local government under the *Workers' Compensation and Rehabilitation Act 2003*.

Division 3 Indemnity conditions

454F Purpose of div 3

This division states the conditions (the ***indemnity conditions***) with which a local government must comply, for the purposes of section 454C(2), in relation to an asbestos-related event.

454G Training

The local government must ensure an authorised person who exercises the person's powers under this Act in relation to the asbestos-related event has satisfactorily completed the training prescribed by regulation.

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454H Compliance with Act, laws and guidelines

(1) The local government must comply with the following in relation to the asbestos-related event—

(a) this Act;

Note—

Under section 17(3), a local government must comply with a request from the chief executive for information about the local government's administration and enforcement of particular matters within a stated reasonable time. Noncompliance with the request may breach this indemnity condition.

(b) any other law relevant to the event;

(c) a guideline made under subsection (2) that is prescribed by regulation and published on the department's website.

(2) The chief executive may make a guideline about asbestos-related events.

454I Record-keeping

(1) The local government must ensure a record is kept about the asbestos-related event that includes details of the following matters—

(a) if a complaint was received about the event—the date of the complaint, the name and contact details of the complainant, and the nature of the event;

(b) the location of the event, including the address of the place or premises, and the location at the place or premises, where the event occurred;

(c) the names and contact details of persons known to have knowledge of the event or any action taken in response to the event;

(d) any action taken by the local government in response to the event, including, for example, investigation, remediation, enforcement or prosecution action;

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(e) any advice given to a person by the local government about the event, including a copy of any written advice and a summary of any verbal advice;

(f) any correspondence sent to or received by the local government about the event, including a copy of the correspondence;

(g) any measures intended to remove or reduce the public health risk, or prevent the risk from recurring, relating to asbestos put in place in relation to the event by—

(i) the local government; or

(ii) a person other than the local government if the local government is aware of the measures;

(h) any results known to the local government of action mentioned in paragraph (d) or measures mentioned in paragraph (g);

(i) a guideline made under section 454H(2) complied with by the local government in relation to the event, including the name and version of the guideline.

(2) Also, the local government must ensure a record is kept about an authorised person who exercises powers under this Act in relation to the asbestos-related event that includes details of any training mentioned in section 454G completed by the person.

(3) Despite the *Public Records Act 2023*, the local government must ensure a public record about any of the following is kept for at least 70 years after the day of the last action on the record—

(a) the asbestos-related event;

(b) training completed by an authorised person relating to the event mentioned in subsection (2);

(c) an annual compliance certificate relating to the event that is given under section 454J;

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(d) a notice given under section 454K acknowledging receipt of an annual compliance certificate mentioned in paragraph (c).

(4) In this section—

public record see the *Public Records Act 2023*, section 9.

Division 4 Annual compliance certificate

454J Requirement for annual compliance certificate

(1) The chief executive officer of a local government may give the chief executive a certificate (an ***annual compliance certificate***) for a year about the local government's compliance with the indemnity conditions for 1 or more asbestos-related events that happened during the year.

(2) The annual compliance certificate for a year must be—

(a) in the approved form; and

(b) signed by the chief executive officer; and

(c) verified by statutory declaration.

(3) In this section—

approved form means a form approved by the chief executive.

454K Acknowledgement of receipt of annual compliance certificate

(1) This section applies if the chief executive receives an annual compliance certificate from the chief executive officer of a local government under section 454J.

(2) As soon as practicable after receiving the certificate, the chief executive must give the chief executive officer a notice acknowledging receipt of the certificate.

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454L Evidentiary provision

(1) An annual compliance certificate purporting to be signed by the chief executive officer of a local government is, in the absence of evidence to the contrary, evidence of the matters stated in the certificate.

(2) Subsection (1) applies only if the annual compliance certificate was given to the chief executive under section 454J(1) within 2 years after the end of the year to which the certificate relates.

Part 2 Other provisions

455 Delegations

(1) The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified person who is—

(a) a public service officer or public service employee; or

(b) a health service employee.

(2) However, the chief executive may delegate the chief executive's power to give a directions notice under section 156E(2) only to—

(a) a person mentioned in subsection (1)(a) or (b) who is—

(i) a member of the health executive service as defined in the *Hospital and Health Boards Act 2011*, schedule 2; and

(ii) employed by the department; or

(b) the chief health officer.

456 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.

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(2) If subsection (1) prevents a civil liability attaching to a prescribed person, the liability attaches instead to—

(a) if the prescribed person is a chief executive officer, an authorised person appointed by a chief executive officer or a person acting under the direction of an authorised person appointed by a chief executive officer—the relevant local government; or

(b) if paragraph (a) does not apply—the State.

(3) This section does not apply to a prescribed person—

(a) in relation to a civil liability, if section 454B(1) prevents the liability attaching to the person; or

(b) if the person is also a prescribed person under the *Public Sector Act 2022*, section 267.

Note—

For protection from civil liability in relation to the chief executive, chief health officer, a deputy chief health officer or another public service officer or public service employee, see the *Public Sector Act 2022*, section 269.

(4) In this section—

prescribed person means—

(a) the Minister; or

(b) a chief executive officer; or

(c) an authorised person; or

(d) a contact tracing officer; or

(e) an emergency officer; or

(f) a person in charge of a public sector health service; or

(g) a designated medical officer; or

(h) a State analyst; or

(i) a person acting under the direction of a person mentioned in paragraph (a) to (h).

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457 Public officials for Police Powers and Responsibilities Act

The following persons are declared to be public officials for the *Police Powers and Responsibilities Act 2000*—

(a) the chief executive; or

(b) an authorised person; or

(c) a contact tracing officer; or

(d) an emergency officer; or

(e) a person in charge of a public sector health service; or

(f) a designated medical officer.

458 Approval of forms

(1) The chief executive may approve forms for use under this Act.

(2) The chief executive officer of a local government may approve forms for use by the local government under this Act.

459 Service of documents

(1) If a document is required or permitted under this Act to be given to a person, the document may be given to the person by fax transmission directed and sent to—

(a) the last fax number given to the giver of the document by the person as the facsimile transmission number for service of documents on the person; or

(b) the fax transmission number operated—

(i) at the address of the person last known to the giver of the document; or

(ii) if the person is a corporation, at the corporation's registered office under the Corporations Act.

(2) A document given under subsection (1) is taken to have been given on the day the document is transmitted.

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460 Compliance with provisions about explaining and giving documents

(1) This section applies if, under a provision of this Act, a person is authorised or required to explain the terms and effects of an order or something else under this Act, or give information or a notice to—

(a) a child; or

(b) a child's parents, each of a child's parents or at least 1 of a child's parents.

(2) Also, this section applies if a person is required to obtain the consent of a parent.

(3) The person need only comply with the provision to the extent that is reasonably practicable in the circumstances.

(4) Without limiting subsection (3), it is not, for example, reasonably practicable to comply with the provision in relation to a child's parents if, after reasonable inquiries, the parents or their whereabouts can not be ascertained or, if ascertained, can not be contacted.

(5) Also, so far as compliance relates to telling a child about a matter, a person need only comply with the provision to the extent that the person reasonably considers is appropriate in the circumstances having regard to the child's age or ability to understand the matter.

(6) If under the provision a person is required to give a child's parents a copy of a document or information in writing, the person must also give the child the information in writing if the person considers it is appropriate in the circumstances having regard to the child's age or ability to understand the information.

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Part 3 Regulations

461 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation made under this Act may be made about the following—

(a) measures to prevent and control the spread of infectious conditions, including—

(i) standards for the manufacture of any product or the provision of any service; and

(ii) procedures to be followed in cleaning, disinfecting, sterilising or disposing of any matter exposed to an infectious condition; and

(iii) the training and qualifications for a person who is providing a declared health service;

(b) standards for the storage, transport and quality of drinking water, greywater, recycled water and water used for recreational purposes, including, for example, standards for the quality of recycled water for use on particular crops;

(c) the management of the quality of drinking water, greywater, recycled water and water used for recreational purposes, including, for example, monitoring, analysis and reporting requirements for a water service provider.

(3) Also, a regulation made under this Act may—

(a) impose a penalty of not more than 100 penalty units for a contravention of a provision of a regulation; and

(b) set fees payable under this Act.

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Chapter 12 Savings and transitional

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

462 Notifiable conditions

(1) Section 70 applies to a doctor in relation to a clinical diagnosis notifiable condition or a provisional diagnosis notifiable condition if—

(a) the doctor was required to give a notice to the chief executive under the *Health Act 1937*, section 32A(1), about a notifiable disease to which the condition relates; and

(b) the doctor did not give the notice before the commencement day.

(2) Section 71 applies to a person in charge of a hospital in relation to a clinical diagnosis notifiable condition or a provisional diagnosis notifiable condition if—

(a) the person was required to give a notice to the chief executive under the *Health Act 1937*, section 32A(2)(b), about a notifiable disease to which the condition relates; and

(b) the person did not give the notice before the commencement day.

(3) Section 72 applies to a person who is the director of a pathology laboratory in relation to a specimen if—

(a) the person was required to give a notice to the chief executive under the *Health Act 1937*, section 32A(4), relating to the specimen; and

(b) the person did not give the notice before the commencement day.

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(4) Section 75 applies as if a reference to a notice given under chapter 3, part 2, division 2 included a reference to a notice given under the *Health Act 1937*, section 32A.

(5) If, immediately before the commencement day, a person had not complied with a requirement under the *Health Act 1937*, section 32A(9), to give further information to the chief executive, the requirement is taken to have been made under section 75(2).

(6) In this section—

commencement day means—

(a) for subsection (1)—the day section 70 commences; or

(b) for subsection (2)—the day section 71 commences; or

(c) for subsection (3)—the day section 72 commences; or

(d) for subsection (5)—the day section 75 commences.

463 Notifiable Conditions Register

The chief executive may include, in the Notifiable Conditions Register, the information held by the chief executive that was obtained from notices given under the *Health Act 1937*, section 32A.

464 Order for removal or detention of person with notifiable disease

(1) This section applies to an order under the *Health Act 1937*, section 36(1) or (3) or 37, that was—

(a) made less than 28 days before the commencement day; and

(b) in force immediately before the commencement day.

(2) The order continues in force as a detention order under chapter 3, part 5, division 4.

(3) Subject to this Act, the order ends at the time stated in the order, or 28 days after it was made, whichever happens first.

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(4) In this section—

commencement day means the day section 129 commences.

465 Order to cleanse and disinfect premises

(1) This section applies to a notice under the *Health Act 1937*, section 38, in force immediately before the commencement day.

(2) The notice continues in force as a public health order.

(3) In this section—

commencement day means the day section 23 commences.

466 Order closing a school

(1) This section applies to an order under the *Health Act 1937*, section 47(7), that was—

(a) made less than 1 month before the commencement day; and

(b) in force immediately before the commencement day.

(2) The order continues in force as an order under section 181.

(3) Subject to this Act, the order ends at the time stated in the order, or 1 month after it was made, whichever happens first.

(4) In this section—

commencement day means the day section 181 commences.

467 Mandatory reporting

(1) Section 191 applies to a professional in relation to harm or likely harm if the professional—

(a) was required to give notice of the harm or likely harm under the *Health Act 1937*, section 76KC; and

(b) did not give the notice before the commencement day.

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(2) Section 192 applies to a professional in relation to harm or likely harm if the professional—

(a) orally gave notice about the harm or likely harm under the *Health Act 1937*, section 76KC; and

(b) did not give written notice about the harm or likely harm under the *Health Act 1937*, section 76KD, before the commencement day.

(3) Section 194 applies to a professional in relation to harm or likely harm if the professional gave the chief executive (child safety) a notice about the harm or likely harm under the *Health Act 1937*, section 76KC or 76KD.

(4) Section 194(3) applies to a request for stated information under the *Health Act 1937*, section 76KF that was not complied with before the commencement day.

(5) In this section—

commencement day means—

(a) for subsection (1)—the day section 191 commences; or

(b) for subsection (2)—the day section 192 commences; or

(c) for subsection (3) or (4)—the day section 194 commences.

468 Temporary custody of children

(1) This section applies to an order under the *Health Act 1937*, section 76L, that was in force immediately before the commencement day.

(2) The order continues in force as an order under section 197.

(3) Subject to this Act, the order ends at the time stated in it, even if that is more than 48 hours after it was made.

(4) In this section—

commencement day means the day section 197 commences.

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469 Abatement of nuisance

(1) This section applies to a notice under the *Health Act 1937*, section 79, requiring the abatement of a nuisance mentioned in section 77(a), (b), (c), (d) or (h) of that Act, that was in force immediately before the commencement day.

(2) The notice continues in force as a public health order.

(3) In this section—

commencement day means the day section 23 commences.

470 Notice relating to sewer, stormwater drain or sanitary convenience

(1) This section applies to a notice under the *Health Act 1937*, section 94(3), in force immediately before the commencement day.

(2) The order continues in force as a public health order.

(3) In this section—

commencement day means the day section 23 commences.

471 Cancer notifications

(1) Section 234(1) applies to the director of a pathology laboratory in relation to a pathological examination of a specimen of human origin carried out at the laboratory before the commencement day if—

(a) the examination indicates that the person from whom the specimen was taken is or was suffering from cancer of a class to which the *Health Act 1937*, section 100C(2) applied; and

(b) the director did not give a completed return for the person under the *Health Act 1937*, section 100C(2).

(2) If, immediately before the commencement day, a medical practitioner had not given a completed return or copy of a completed return to the chief executive under the *Health Act 1937*, section 100C(3), that subsection, as in force

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immediately before the commencement day, continues to apply to the medical practitioner.

(3) In this section—

commencement day means the day section 234 commences.

472 Cancer registers

(1) The chief executive may include in the Queensland Cancer Register—

(a) the contents of the old cancer register; and

(b) any of the following information held by the chief executive that, on the commencement day, had not yet been included in the old cancer register—

(i) information from a return mentioned in the *Health Act 1937*, section 100C;

(ii) information obtained under the *Health Act 1937*, section 100DC.

(2) In this section—

commencement day means the day section 230 commences.

old cancer register means the register that, before the commencement day, was kept under the *Health Act 1937*, section 100D.

473 Continued obligation to give cancer return

(1) This section applies if, immediately before the commencement day, a person had not complied with a requirement under the repealed provision to give a return to the chief executive.

(2) The repealed provision, as in force immediately before the commencement day, continues to apply to the person in relation to the return.

(3) In this section—

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commencement day means the day the *Health Act 1937*, section 100C(1) is repealed under this Act.

repealed provision means the *Health Act 1937*, section 100C(1).

474 Contractor

(1) This section applies to an agreement with a person under the *Health Act 1937*, section 100DA, that was in force immediately before the commencement day (the ***current agreement***).

(2) The current agreement continues in force under section 232 in accordance with its terms, with any necessary changes, as if it were an agreement to keep the Queensland Cancer Register.

(3) While the current agreement is in force, the person with whom it is made (the ***current contractor***) is taken to be prescribed under section 232.

(4) Subsection (3) does not affect the power of the Governor in Council to—

(a) prescribe the current contractor under section 232 for a time after the current agreement ends; or

(b) prescribe another person under section 232, whether before or after the current agreement ends.

(5) In this section—

commencement day means the day section 232 commences.

475 Further information may be required about cancer returns

(1) Section 236 applies as if a reference to a notification about cancer included a return given, before the commencement day, under the *Health Act 1937*, section 100C.

(2) In this section—

commencement day means the day section 236 commences.

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476 Continuing obligation to give further information about cancer return

(1) This section applies if, immediately before the commencement day, a person had not complied with a notice given to the person under the *Health Act 1937*, section 100DC.

(2) The notice is taken to have been given under section 236.

(3) In this section—

commencement day means the day section 236 commences.

477 Pap Smear Register

(1) The chief executive may include the contents of the old Pap Smear Register in the Pap Smear Register under section 253.

(2) In this section—

commencement day means the day section 253 commences.

old Pap Smear Register means the register that, before the commencement day, was kept under the *Health Act 1937*, section 100FC.

478 Duty of director to give Pap smear information

(1) This section applies if—

(a) the director of a pathology laboratory was required to give information to the chief executive under the *Health Act 1937*, section 100FJ; and

(b) immediately before the commencement day, the director had not given the information to the chief executive.

(2) Section 259(2) and (3) apply to the information.

(3) In this section—

commencement day means the day section 259 commences.

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479 Chief executive's duty to send notice

(1) This section applies if, before the commencement day, the chief executive received information mentioned in the *Health Act 1937*, section 100FK(1), relating to a woman but did not send the woman a notice under that section.

(2) The chief executive must send the woman a notice under section 260.

(3) In this section—

commencement day means the day section 260 commences.

480 Request to remove registered screening history

(1) Section 263 applies to a request made under the *Health Act 1937*, section 100FM, if, immediately before the commencement day, the chief executive had not complied with the request.

(2) In this section—

commencement day means the day section 263 commences.

481 Request to change identifying information

(1) Section 264 applies to a request under the *Health Act 1937*, section 100FN, if, immediately before the commencement day, the chief executive had not complied with the request.

(2) In this section—

commencement day means the day section 264 commences.

482 Request for registered screening history

(1) Section 268(1) applies to a request under the *Health Act 1937*, section 100FP(2), if, immediately before the commencement day, the person receiving the request had not complied with it.

(2) In this section—

commencement day means the day section 268 commences.

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483 Agreement to send out notices

(1) This section applies to an agreement with a person under the *Health Act 1937*, section 100FV, that was in force immediately before the commencement day.

(2) The agreement continues in force under section 277 in accordance with its terms, with any necessary changes, as if it were an agreement to send out the notices mentioned in that section.

(3) In this section—

commencement day means the day section 277 commences.

484 Designated health practitioners

(1) This section applies to a person who was, immediately before the commencement day, a person designated as a health practitioner under the *Health Act 1937*, section 100FX.

(2) The person is taken to be designated as a health practitioner under section 279.

(3) In this section—

commencement day means the day section 279 commences.

485 Perinatal Statistics Collection

(1) The chief executive may include, in the Perinatal Statistics Collection, information from a return given, before the commencement day, under the *Health Act 1937*, section 100H.

(2) In this section—

commencement day means the day section 215 commences.

486 Notification about delivery

(1) Section 217 applies to a person in relation to a delivery that happened before the commencement day if the person did not

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give the chief executive a return relating to the delivery under the *Health Act 1937*, section 100H.

(2) In this section—

commencement day means the day section 217 commences.

487 Further information about perinatal statistics

(1) The information that may be required under section 218 includes information relating to a delivery that happened before the commencement day.

(2) In this section—

commencement day means the day section 218 commences.

delivery see section 214.

488 Notice to comply with standard about paint

(1) This section applies to a notice to comply under the *Health Act 1937*, section 129H, in force immediately before the commencement day.

(2) The notice continues in force as a public health order.

(3) In this section—

commencement day means the day section 23 commences.

489 Authority to conduct scientific research and studies

(1) This section applies to a person who, immediately before the commencement day, was authorised to conduct scientific research and studies under the *Health Act 1937*, section 154M.

(2) The chief executive is taken to have granted an application by the person under chapter 6, part 4, division 2, to be given health information held by the department for the research to which the authority applied.

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(3) The application is taken to have been granted for a period ending 2 years after the commencement day.

(4) Subsection (3)—

(a) applies subject to any earlier ending, under this Act, of the period for which the application is taken to have been granted; and

(b) does not affect the making, or dealing with, of another application by the person under chapter 6, part 4.

(5) In this section—

commencement day means the day section 284 commences.

490 Offences

(1) Proceedings for an offence against a repealed provision may be started or continued, and a repealed provision necessary or convenient to be used in relation to the proceedings continues to apply, as if this Act had not commenced.

(2) For subsection (1), the *Acts Interpretation Act 1954*, section 20 applies, but does not limit the subsection.

(3) In this section—

repealed provision means a provision of the *Health Act 1937* omitted by this Act.

491 References to Health Act 1937

In an Act or other document, a reference to the *Health Act 1937* may, if the context permits, be taken to be a reference to this Act.

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

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

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

(2) In this section—

commencement means the commencement of this section.

cosmetic procedure see section 213A.

Part 3 Transitional provisions for Hospital and Health Boards Act 2011

493 Definitions for pt 3

In this part—

commencement means the commencement of this part.

Hospital and Health Service see the *Hospital and Health Boards Act 2011*, schedule 2.

494 Application for information for research

(1) This section applies if—

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(a) the chief executive has granted an application under chapter 6, part 4 for a person to be given health information held by the department for research; and

(b) on the commencement, the period for which the application has been granted has not ended; and

(c) on the commencement, some or all of the health information given, or that may be given, to the person is held by a Hospital and Health Service instead of the department.

(2) The grant is taken to also apply to the health information held by the Hospital and Health Service instead of the department.

Part 4 Transitional provision for Health Legislation Amendment Act 2013

495 Maternal Death Statistics Collection

The chief executive may include, in the Maternal Death Statistics Collection, information relating to maternal mortality that was received by the chief executive before the commencement of this section.

Part 5 Saving provision for Health Legislation Amendment Act 2020

496 Proceeding for particular offence

(1) This section applies in relation to an offence against former section 266 committed by a person before the commencement.

(2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and

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the person may be convicted of and punished for the offence, as if the *Health Legislation Amendment Act 2020*, section 30 had not commenced.

(3) Subsection (2) applies despite the Criminal Code, section 11.

(4) In this section—

former section 266 means section 266 as in force from time to time before the commencement.

Part 6 Transitional provisions for Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020

497 Application of s 366

Section 366(2) applies, and is taken to have applied from 16 March 2020, in relation to loss or damage suffered on or after 16 March 2020.

498 Proceedings against repealed s 362D or 362J

(1) This section applies in relation to an offence against repealed section 362D or repealed section 362J committed by a person before the commencement.

(2) Without limiting the *Acts Interpretation Act 1954*, section 20, 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 8, part 7A had not expired.

(3) Subsection (2) applies despite the Criminal Code, section 11.

(4) In this section—

repealed, for a provision of this Act, means the provision as in force from time to time before the commencement.

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Part 7 Transitional provision for Community Services Industry (Portable Long Service Leave) Act 2020

499 Application of s 362MD

(1) Section 362MD applies in relation to a person required to quarantine only if the requirement for the person's quarantine is made on or after the commencement.

(2) However, if the requirement for the person's quarantine is made on the person's arrival in Queensland from overseas, section 362MD does not apply in relation to the person if the chief executive—

(a) is satisfied, having regard to documentary evidence given by or for the person, that the arrival date for the person's travel to Queensland was confirmed on or before midnight on 17 June 2020; and

(b) gives the person, or a person who would otherwise be liable to pay fees under that section for the person's quarantine, a notice that payment of the fees is waived under this section.

Note—

For transitional provisions relating to the expiry of chapter 8, part 7AA, see chapter 12, part 8, division 3.

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Part 8 Transitional and validation provisions for Public Health and Other Legislation (Further Extension of Expiring Provisions) Amendment Act 2021

Division 1 Provisions for amendments commencing on assent

507 Validation of particular directions given by emergency officers

(1) This section applies in relation to a direction under section 362H given to a person, before the commencement, by sending the direction by electronic communication to a unique electronic address nominated by the person for the giving of the direction.

(2) The direction is declared to be, and always to have been, as validly given as if—

(a) section 362HA had been in force on the day the direction was given; and

(b) the person had consented to the use of the unique electronic address for the giving of the direction.

(3) Also, the direction is declared for all purposes to be, and always to have been, as valid as if—

(a) section 362HA had been in force on the day the direction was given; and

(b) the person had consented to the use of the unique electronic address for the giving of the direction.

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507A Application of ch 8, pt 7A, div 6

Chapter 8, part 7A, division 6 applies in relation to relevant information whether the information is collected before or after the commencement.

Division 1A Provisions applying on expiry of chapter 8, part 7A

507B Application of division

(1) This division applies on the expiry of chapter 8, part 7A.

(2) This division does not limit the *Acts Interpretation Act 1954*, section 20.

507C Interpretation

(1) In this division—

former, for a provision of this Act, means the provision as in force from time to time before the expiry.

(2) A reference in a provision of this division to the expiry generally is a reference to the expiry of chapter 8, part 7A.

(3) Words defined under former chapter 8, part 7A and used in this division have the same meaning as they had under the former part.

507D Continuation of confidentiality requirements

(1) This section applies in relation to a relevant person who, in that capacity, has acquired or has access to relevant information collected before the expiry, whether the relevant person acquires or has access to the relevant information before or after the expiry.

(2) Despite the expiry, former chapter 8, part 7A, division 6 continues to apply in relation to the relevant person.

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(3) To remove any doubt, it is declared that a proceeding for an offence against former section 362MAF may, after the expiry, be started or continued under that section as if the section had not expired.

507E Continuation of limits on use of relevant information and derived evidence

Despite the expiry, former section 362MAI continues to apply in relation to—

(a) relevant information collected before the expiry; and

(b) derived evidence, if the evidence was obtained as a direct or indirect result of relevant information mentioned in paragraph (a); and

(c) evidence relating to relevant information mentioned in paragraph (a) or derived evidence mentioned in paragraph (b).

Division 2 Provision for amendments commencing by proclamation

508 Application of s 362ME

Section 362ME, as in force on the commencement, applies in relation to the quarantine fees a person is liable to pay under section 362MD whether the person's liability under that section arose before, or arises after, the commencement.

Division 3 Provisions applying on expiry of chapter 8, part 7AA

509 Application of division

(1) This division applies on the expiry of chapter 8, part 7AA.

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(2) This division does not limit the *Acts Interpretation Act 1954*, section 20.

510 Interpretation

(1) In this division—

former, for a provision of this Act, means the provision as in force from time to time before the expiry.

(2) A reference in a provision of this division to the expiry generally is a reference to the expiry of chapter 8, part 7AA.

(3) Words defined under former chapter 8, part 7AA and used in this division have the same meaning as they had under the former part.

511 Continuation of liability under former s 362MD or 362ME arising before expiry

(1) This section applies if, immediately before the expiry, a person was liable under former section 362MD or 362ME to pay the quarantine fees for a person's quarantine.

(2) The expiry of former section 362MD or 362ME does not affect the person's liability under either provision.

(3) Despite its expiry, former chapter 8, part 7AA continues to apply in relation to the person.

512 Liability under s 362ME arising on or after expiry

(1) Despite its expiry, section 362ME as in force immediately before the expiry continues to apply in relation to a third party who wishes to accept liability for payment of the quarantine fees that a primary party was, immediately before the expiry, liable to pay under former section 362MD.

(2) Without limiting subsection (1)—

(a) the third party may, on or after the expiry, give an acceptance notice, as mentioned in

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section 362ME(1)(b), in relation to the quarantine fees; and

(b) the chief executive may, on or after the expiry, approve the third party under section 362ME(2) as an approved person in relation to the primary party.

(3) Despite its expiry, chapter 8, part 7AA as in force immediately before the expiry continues to apply in relation to a third party who, on or after the expiry, becomes liable under section 362ME, as applied under subsection (1), to pay the quarantine fees for a person's quarantine.

513 Continued application of former s 362MM

(1) This section applies in relation to a person who, before the expiry—

(a) was given a prepayment notice in relation to a prescribed person; and

(b) paid the amount required under the notice.

(2) Despite its expiry, former section 362MM continues to apply in relation to the person.

(3) However, former section 362MM applies as if the reference in former section 362MM(1)(b)(i) to the prescribed person not travelling to Queensland within 120 days after the amount is paid under the prepayment notice were a reference to the prescribed person not travelling to Queensland before the expiry.

514 Continued application of ss 362MN and 362MO

(1) Despite its expiry, section 362MN as in force immediately before the expiry continues to apply for giving a notice, or making an application, in the approved way under, or for, a provision of chapter 8, part 7AA that is continued in effect under this division.

(2) Despite its expiry, section 362MO as in force immediately before the expiry continues to apply for giving a person a

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relevant document, within the meaning of that section, under a provision of chapter 8, part 7AA that is continued in effect under this division.

Part 9 Transitional provisions for Public Health and Other Legislation (COVID-19 Management) Amendment Act 2022

515 Application of part

This part applies on the expiry of chapter 3, part 5A.

516 Proceedings for particular offence

(1) This section applies in relation to an offence against former section 142K committed by a person before the expiry of chapter 3, part 5A.

(2) Without limiting the *Acts Interpretation Act 1954*, section 20, 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 3, part 5A had not expired.

(3) Subsection (2) applies despite the Criminal Code, section 11.

(4) In this section—

former section 142K means section 142K as in force from time to time before the expiry of chapter 3, part 5A.

517 Continued application of s 142R

Section 142R as in force immediately before the expiry of chapter 3, part 5A continues to apply as if that part had not expired.

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Part 10 Transitional provision for Health and Other Legislation Amendment Act 2023

518 Continued application of former s 234 for giving particular notifications

(1) This section applies if—

(a) before the commencement, either of the following events happened—

(i) a pathological examination mentioned in former section 234(1) was undertaken;

(ii) a person mentioned in former section 234(3) separated from being a patient at a hospital; and

(b) immediately before the commencement, the time for giving a notification for the event under the former section had not ended; and

(c) immediately before the commencement, the notification had not been given to the chief executive.

(2) The notification must be given as if former section 234 had not been repealed.

(3) In this section—

former section 234 means section 234 as in force from time to time before the commencement.

Part 11 Transitional provisions for Health Legislation Amendment Act (No. 2) 2025

519 Definition for part

In this part—

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former, for a provision of this Act, means the provision as in force from time to time before the commencement.

520 Application of new ch 6, pt 3A to particular diagnoses made before commencement

(1) This section applies if—

(a) before the commencement, a medical practitioner diagnosed a person with a notifiable dust lung disease within the meaning of former section 279AA; and

(b) immediately before the commencement—

(i) former section 279AF(2) applied in relation to the diagnosis; and

(ii) the prescribed period mentioned in former section 279AF(2) had not ended; and

(iii) the medical practitioner had not complied with former section 279AF(2); and

(c) on the commencement, the disease is a notifiable occupational respiratory disease under new section 279AB.

(2) New chapter 6, part 3A, division 1 applies in relation to the diagnosis as if the diagnosis were made on the commencement.

(3) In this section—

new, for a provision of this Act, means the provision as in force from the commencement.

521 Proceedings for particular offences

(1) This section applies in relation to an offence against former sections 279AF(2), 279AG(4) or 279AL(1) committed by a person before the commencement.

(2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be convicted of and punished for the offence,

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as if the *Health Legislation Amendment Act (No. 2) 2025*, section 44 had not commenced.

(3) Subsection (2) applies despite the Criminal Code, section 11.

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Schedule 2 Dictionary

section 8

administering executive means—

(a) for a person appointed under this Act as an authorised person or contact tracing officer by the chief executive—the chief executive; or

(b) for a person appointed under this Act as an authorised person by a chief executive officer—the chief executive officer; or

(c) for a person appointed under this Act as an authorised person by 2 or more chief executive officers—the chief executive officers jointly.

ambulance officer, for chapter 4A, see section 157A.

annual compliance certificate, for chapter 11, part 1A, see section 454J(1).

anonymity code, for chapter 3, see section 62.

approved form means a form approved by the chief executive or the chief executive officer of a local government.

approved inspection program see section 427.

approved laboratory means a laboratory approved by the chief executive under section 434.

approved provider—

(a) for chapter 2A, see section 61A; and

(b) for chapter 5, see section 158.

asbestos means the asbestiform varieties of mineral silicates belonging to the serpentine or amphibole groups of rock-forming minerals, including the following—

(a) actinolite asbestos;

(b) grunerite (or amosite) (brown) asbestos;

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(c) anthophyllite asbestos;

(d) chrysotile (white);

(e) crocidolite (blue);

(f) tremolite asbestos;

(g) a mixture containing 1 or more of the minerals mentioned in paragraphs (a) to (f).

Note—

Paragraphs (a), (b), (c) and (f) mention mineral silicates that use the same mineral term for both the asbestiform and nonasbestiform varieties. The word 'asbestos' has been included when listing these minerals to emphasise that only the asbestiform habit of these minerals is regulated as asbestos.

asbestos-related event, for chapter 11, part 1A, see section 454A.

asbestos-related function, of a local government, for chapter 11, part 1A, see section 454A.

asbestos-related harm, for chapter 11, part 1A, see section 454A.

Australian Immunisation Handbook, for chapter 5, part 2, division 1AA, see section 160A.

authorised person—

(a) for chapter 4A, see section 157A; or

(b) otherwise—see section 377.

baby, for chapter 6, part 1, see section 214.

baby born alive, for chapter 6, part 1, see section 214.

baby not born alive, for chapter 6, part 1, see section 214.

behavioural order means a behavioural order by a magistrate under chapter 3, part 5, division 3.

biomedical study, for chapter 6, part 4, see section 280.

business contact information, for chapter 3, part 3, division 2, see section 98.

business contact information requirement, for chapter 3, part 3, division 2, see section 98.

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cancer, for chapter 6, see section 229.

care and treatment order, for chapter 5, see section 158.

centre based service, for chapter 5, see section 158.

chairperson, for chapter 7, see section 293.

chief executive (child safety), for chapter 5, see section 158.

chief executive officer means the chief executive officer of a local government.

chief executive's authorisation, for chapter 2, part 4, see section 36(2).

chief executive's order, for chapter 3, see section 112.

chief health officer see the *Hospital and Health Boards Act 2011*, schedule 2.

child means an individual under 18 years.

clinical and applied study, for chapter 6, part 4, see section 280.

clinical diagnosis notifiable condition see section 62.

collection—

(a) for chapter 6, part 1, see section 214; or

(b) for chapter 6, part 1A, see section 228C.

commencement means—

(a) for chapter 4, see section 147; or

(b) for chapter 12, part 3, see section 493.

Commonwealth Act, for chapter 6, part 3A, division 1, see section 279AA.

Commonwealth chief medical officer, for chapter 6, part 3A, division 1, see section 279AA.

communication network means a network—

(a) capable of electronic communication; and

(b) designed to enable a user of the network to communicate with a specific person or group of people.

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Examples—

a telephone network or computer network

conduct, for chapter 11, part 1A, see section 454A.

confidential information—

(a) for chapter 2, part 5, division 4, see section 53; or

(b) for chapter 3, part 2, division 3, see section 76; or

(c) for chapter 3, part 3, division 3, see section 104; or

(d) for chapter 5, part 2, division 3, see section 174; or

(e) for chapter 6, part 1, division 4, see section 219; or

(f) for chapter 6, part 1A, division 4, see section 228H; or

(g) for chapter 6, part 2, division 4, see section 237; or

(h) for chapter 6, part 3A, division 2, see section 279AD.

contact information, for chapter 3, part 3, division 2, see section 98.

contact information requirement, for chapter 3, part 3, division 2, see section 98.

contact tracing officer means a person appointed as a contact tracing officer under section 90.

contagious condition, for chapter 5, see section 158.

contractor, for chapter 6, part 2, see section 229.

controlled notifiable condition see section 63.

controlled notifiable conditions declaration, for chapter 8, see section 315.

controlled notifiable conditions order, for chapter 3, see section 62.

conversion therapy, for chapter 5B, see section 213F.

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

cooling tower, for chapter 2A, see section 61A.

coroner see the *Coroners Act 2003*, schedule 2.

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cosmetic procedure, for chapter 5A, see section 213A.

COVID-19 emergency, for chapter 8, see section 315.

declared health service see section 148.

declared public health emergency, for chapter 8, see section 315.

delivery, for chapter 6, part 1, see section 214.

deputy chief health officer see the *Hospital and Health Boards Act 2011*, schedule 2.

designated medical officer see section 158.

designated person, for chapter 6, part 1, see section 214.

designated pests means any of the following—

(a) mosquitos;

(b) rats;

(c) mice;

(d) other animals prescribed under a regulation.

detention order—

(a) for chapter 3, means a detention order by a magistrate under chapter 3, part 5, division 4; or

(b) for chapter 8, see section 315.

directions notice see section 156E(2).

director, of a pathology laboratory, means the person who has effective control of—

(a) the laboratory premises, whether or not the person has an interest in the premises; and

(b) the use of equipment used at the laboratory; and

(c) the work performed by the staff in the laboratory.

disclose, for chapter 6, part 3A, division 2, see section 279AD.

document certification requirement see section 418(5).

document production requirement see section 418(6).

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drinking water—

1 *Drinking water* means water, for human consumption, intended primarily as water for drinking, whether or not the water is used for other purposes.

2 *Drinking water* does not include—

(a) water that is food as defined under the *Food Act 2006*; or

(b) water taken or supplied for domestic purposes under the *Water Act 2000*.

drinking water service provider means a drinking water service provider under the *Water Supply (Safety and Reliability) Act 2008*.

dwelling does not include land around a dwelling.

education and care service, for chapter 5, see section 158.

educator, for chapter 5, see section 158.

emergency examination authority, for chapter 4A, see section 157D(1).

emergency notifiable condition, for chapter 8, see section 315.

emergency officer see section 315.

emergency officer (general), for chapter 8, see section 315.

emergency officer (medical), for chapter 8, see section 315.

enforcement order means an enforcement order made under chapter 2, part 3, division 3.

entity of the State means—

(a) a department; or

(b) an entity established under an Act for a public purpose.

environmental health event, for chapter 2, part 5, see section 47.

environmental health event register, for chapter 2, part 5, see section 48.

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epidemiological study, for chapter 6, part 4, see section 280.

evaluation and planning study, for chapter 6, part 4, see section 280.

examination period, for chapter 4A, see section 157E(1).

executive officer, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

family day care co-ordinator, for chapter 5, see section 158.

family day care service, for chapter 5, see section 158.

gender identity, of a person, for chapter 5B, see section 213G.

general search, for chapter 4A, part 6, see section 157X.

government entity has the meaning given in the *Government Owned Corporations Act 1993*.

greywater means wastewater from a bath, basin, kitchen, laundry or shower, whether or not the wastewater is contaminated with human waste.

harm, for chapter 5, see section 158.

harm, for chapter 11, part 1A, see section 454A.

harmful thing, for chapter 4A, part 6, see section 157X.

hazard, for chapter 2A, see section 61A.

hazardous event, for chapter 2A, see section 61A.

hazard source, for chapter 2A, see section 61A.

health agency means the department or a Hospital and Health Service.

health care facility see section 149.

health information held by a health agency—

(a) means—

(i) information held by the agency about a person's health or the provision of a health service to a person; or

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(ii) information about a person's health or the provision of a health service to the person obtained by the agency under this Act or another Act; or

(iii) for chapter 6, part 4, information about a person's health or the provision of a health service to a person held or obtained by a contractor for the contractor to keep the Queensland Cancer Register; and

(b) includes information about a person who is deceased.

health ombudsman means the health ombudsman under the *Health Ombudsman Act 2013*.

health practitioner, for chapter 4A, see section 157A.

health professional, for chapter 6, part 1A, see section 228C.

health service—

(a) for chapter 5, part 4, see section 213AA; or

(b) for chapter 6, part 1A, see section 228C.

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

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

health service facility, for chapter 5, see section 158.

health service provider, for chapter 5B, see section 213E.

historical dust lung disease register, for chapter 6, part 3A, division 2, see section 279AD.

hospital means a public sector hospital, a private health facility or the Mater Misericordiae Public Hospitals.

Hospital and Health Service for chapter 12, part 3, see section 493.

human research ethics committee means a committee formed in accordance with requirements prescribed under a regulation.

ICMP, for chapter 4, see section 147.

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immunisation history statement, for chapter 5, part 2, division 1AA, see section 160A.

immunisation status "up to date", for chapter 5, part 2, division 1AA, see section 160A.

improvement notice—

(a) for chapter 2, part 5A, division 1, see section 57A(2); or

(b) for chapter 4, part 3A, see section 156C(2).

indemnity conditions, for chapter 11, part 1A, see section 454F.

information—

(a) for chapter 2, part 5, division 4, see section 53; or

(b) for chapter 3, part 2, division 3, see section 76; or

(c) for chapter 3, part 3, division 3, see section 104; or

(d) for chapter 5, part 2, division 3, see section 174; or

(e) for chapter 6, part 1, division 4, see section 219; or

(f) for chapter 6, part 1A, division 4, see section 228H; or

(g) for chapter 6, part 2, division 4, see section 237; or

(h) for chapter 6, part 3A, division 2, see section 279AD.

initial examination order means an initial examination order by a magistrate under chapter 3, part 5, division 2.

invasive procedure, for chapter 4, see section 147.

issuing authority means—

(a) if a matter is done by a person for a local government, the local government; or

(b) if a matter is done by the chief executive or by a person for the chief executive, the chief executive.

Legionella, for chapter 2A, see section 61A.

local government public health risk, for chapter 2, see section 10.

maternal death, for chapter 6, part 1A, see section 228C.

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Maternal Death Statistics Collection see section 228C.

midwife means a person registered under the Health Practitioner Regulation National Law to practise in the midwifery profession, other than as a student.

mobile premises, for chapter 4, see section 147.

monitoring and surveillance study, for chapter 6, part 4, see section 280.

motor vehicle means a vehicle for which registration is required under the *Transport Operations (Road Use Management) Act 1995* and includes a caravan and a trailer.

national registry, for chapter 6, part 3A, division 1, see section 279AA.

notice means a written notice.

notifiable condition see section 64.

Notifiable Conditions Register see section 62.

notification, for chapter 6, part 1A, see section 228C.

notification about cancer, for chapter 6, part 2, see section 229.

obstruct includes hinder and attempt to obstruct or hinder.

occupier, of a place, includes a person who reasonably appears to be an occupier, or in charge, of the place.

official conduct, of a prescribed person, for chapter 11, part 1A, see section 454A.

operator, of a health care facility, for chapter 4, see section 147.

owner, of land, has the meaning given in the *Local Government Act 2009*.

panel, for chapter 7, see section 293.

parent, of a child, for chapter 5, see section 158.

pathological diagnosis notifiable condition, for chapter 3, see section 62.

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pathology laboratory includes premises used for the pathological examination of Pap smears, histological samples, blood or other specimens of human origin.

pathology request notifiable condition, for chapter 3, see section 62.

Perinatal Statistics Collection see section 214.

personal search, for chapter 4A, part 6, see section 157X.

person in charge—

(a) for a school, for chapter 5, see section 158; or

(b) for an education and care service, see section 158; or

(c) for a child care service, for chapter 5, see section 158.

place includes premises and vacant land.

pollution event, for chapter 7A, see section 313C.

pollution notice, in relation to a pollution event, for chapter 7A, see section 313D.

premises includes—

(a) a building or other structure; and

(b) a part of a building or other structure; and

(c) a vehicle; and

(d) a caravan.

prescribed facility, for chapter 2A, see section 61A.

prescribed medical practitioner, for chapter 6, part 3A, division 1, see section 279AA.

prescribed period, for a contagious condition, for chapter 5, see section 158.

prescribed person, for chapter 11, part 1A, see section 454A.

prescribed test, for chapter 2A, see section 61A.

prevention and control program, for chapter 2, part 4, see section 36.

private health facility see *Private Health Facilities Act 1999*, section 8.

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professional, for chapter 5, see section 158.

provisional diagnosis notifiable condition see section 62.

public health emergency, for chapter 8, see section 315.

public health emergency area, for chapter 8, see section 315.

public health emergency order, for chapter 8, see section 315.

public health order means an order given by an authorised person under section 23.

public health risk see section 10.

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

public sector health service facility, for chapter 4A, see section 157A.

public sector hospital see the *Hospital and Health Boards Act 2011*, schedule 2.

publish, for chapter 7A, see section 313B.

QEC approved service, for chapter 5, see section 158.

quality assurance committee see the *Hospital and Health Boards Act 2011*, schedule 2.

Queensland Cancer Register see section 229.

reasonably suspects means suspects on grounds that are reasonable in the circumstances.

recognised vaccination provider, for chapter 5, part 2, division 1AA, see section 160A.

recycled water see the *Water Supply (Safety and Reliability) Act 2008*, schedule 3.

recycled water provider means—

(a) a recycled water provider under the *Water Supply (Safety and Reliability) Act 2008*; or

(b) an entity, other than a recycled water provider, declared to be part of a multiple-entity recycled water scheme

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under the *Water Supply (Safety and Reliability) Act 2008*.

register—

(a) for chapter 3, part 2, see section 62; or

(b) for chapter 6, part 2, see section 229; or

(c) for chapter 6, part 4, see section 280.

registered health practitioner, for chapter 6, part 1A, see section 228C.

registered nurse means a person registered under the Health Practitioner Regulation National Law—

(a) to practise in the nursing profession, other than as a student; and

(b) in the registered nurses division of that profession.

registrar of titles means the registrar of titles under the *Land Title Act 1994*.

relevant person means—

(a) for chapter 2, part 5, division 4, see section 53; or

(b) for chapter 3, part 2, division 3, see section 76; or

(c) for chapter 3, part 3, division 3, see section 104; or

(d) for chapter 5, part 2, division 3, see section 174; or

(e) for chapter 6, part 1, division 4, see section 219; or

(f) for chapter 6, part 1A, division 4, see section 228H; or

(g) for chapter 6, part 2, division 4, see section 237; or

(h) for chapter 6, part 3A, division 2, see section 279AD.

repealed provision means—

(a) for chapter 3, part 2, division 3, see section 76; or

(b) for chapter 3, part 3, division 3, see section 104; or

(c) for chapter 6, part 1, division 4, see section 219; or

(d) for chapter 6, part 2, division 4, see section 237.

research, for chapter 6, part 4, see section 280.

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Research Register, for chapter 6, part 4, see section 280.

residential aged care facility, for chapter 2A, see section 61A.

residential care, for chapter 2A, see section 61A.

responsible person, for chapter 2A, see section 61A.

scanning search, for chapter 4A, part 6, see section 157X.

school, for chapter 5, see section 158.

school health program, for chapter 5, part 4, see section 213AA.

school health program provider, for chapter 5, part 4, see section 213AA.

school principal, for chapter 5, part 4, see section 213AA.

search requiring the removal of clothing, for chapter 4A, part 6, see section 157X.

security officer, for chapter 4A, see section 157A.

Service, for chapter 5, part 4, see section 213AA.

sexual orientation, of a person, for chapter 5B, see section 213E.

State aged care facility, for chapter 2A, see section 61A.

State analyst means a person appointed as a State analyst under section 430.

State public health risk, for chapter 2, see section 10.

structure includes any building, wall, fence, water reservoir or drain and anything projecting from a structure.

student, for chapter 5, part 4, see section 213AA.

teacher, for chapter 5, see section 158.

third party, for chapter 2, part 3, division 5, see section 33.

third-party contractor, for chapter 11, part 1A, see section 454A.

treatment or care place, for chapter 4A, see section 157A.

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unique electronic address, for a person, means a fixed designation on a communication network assigned to the person for the purpose of the person receiving information.

Examples—

an email address, mobile phone number or user account

vaccinated, for chapter 5, see section 158.

vaccine preventable condition, for chapter 5, see section 158.

vehicle includes an aircraft and a vessel.

water distribution system, for chapter 2A, see section 61A.

water risk management plan, for chapter 2A, see section 61A.

water service provider means—

(a) a drinking water service provider; or

(b) a recycled water provider.

witness requirement notice, for chapter 7, see section 293.

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