

Public Health Regulation 2018

Explanatory notes for SL 2018 No. 117

made under the

Public Health Act 2005

Health Act 1937

State Penalties Enforcement Act 1999

General Outline

Short title

Public Health Regulation 2018

Authorising law

Section 461 of the *Public Health Act 2005*

Section 180 of the *Health Act 1937*

Section 165 of the *State Penalties Enforcement Act 1999*

Policy objectives and the reasons for them

The *Public Health Regulation 2005* (the 2005 Regulation) will expire on 31 August 2018 in accordance with part 7 of the *Statutory Instruments Act 1992*. The *Public Health Regulation 2018* (the 2018 Regulation) replaces the 2005 Regulation to prescribe certain matters to support the *Public Health Act 2005* (the Act).

The main objective of the Act is to protect and promote the health of the Queensland public. This is achieved by:

- preventing, controlling and reducing risks to public health
- providing for the identification of, and response to, notifiable conditions
- imposing obligations on persons and particular health care facilities involved in the provision of declared health services to minimise infection risks
- providing for persons who have a major disturbance in mental capacity to be transported to a treatment or care place

- protecting children who have been harmed or are at risk of harm when the children present at health service facilities
- restricting the performance of cosmetic procedures on children
- collecting and managing particular health information, and establishing mechanisms for health information held by a health agency to be accessed for appropriate research
- inquiring into serious public health matters
- responding to public health emergencies, and
- providing for compliance with the Act to be monitored and enforced.

Achievement of policy objectives

The 2018 Regulation is largely consistent with the 2005 Regulation, with some minor rewording to reflect contemporary drafting practices and improve clarity and readability.

The 2018 Regulation prescribes a range of matters for the Act, including:

- requirements in relation to particular public health risks, specifically: asbestos, mosquitoes, rats and mice, and invasive procedures that may expose a person to an infectious condition
- medical conditions that are notifiable conditions, contagious conditions and vaccine preventable conditions
- health care facilities not required to hold an infection control management plan
- procedures that are not considered cosmetic procedures for the purposes of chapter 5A of the Act
- agreements between Queensland and the Commonwealth, another State or a Commonwealth or State entity relating to the disclosure of confidential information
- notification periods for perinatal and maternal death statistics
- non-notifiable types of cancer, the prescribed contractor for keeping the Queensland Cancer Register, and notification periods for section 234 of the Act
- information about a woman for the purposes of the definition of *clinical information* in section 251 of the Act relating to the pap smear register, and
- standards for the quality of drinking water and recycled water.

Consistency with policy objectives of authorising law

The main objective of the Act is to protect and promote the health of the Queensland public. The 2018 Regulation is consistent with that objective as it prescribes a range of public health matters to enable the operation of the Act.

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives.

Benefits and costs of implementation

The 2018 Regulation is largely consistent with the 2005 Regulation and accordingly imposes no additional costs on persons or organisations.

Consistency with fundamental legislative principles

The 2018 Regulation is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

Subdelegation

Asbestos provisions

Clause 8 of the 2018 Regulation enables the chief executive to establish or approve administrative arrangements and training competencies under which a person may obtain a certificate for the safe removal of bonded asbestos containing material (ACM).

Clause 62 of the 2018 Regulation similarly allows the chief health officer to prescribe training for clause 454G of the Act, in relation to the exercise of powers by authorised officers for asbestos-related events.

These provisions may be seen to breach the principle that subordinate legislation should allow the subdelegation of a power delegated by an Act only in appropriate cases and to appropriate persons and if authorised by an Act (section 4(5)(e) of the *Legislative Standards Act 1992*).

Providing discretion to decide if a person has the necessary training to obtain a certificate and to prescribe necessary training ensures the integrity of the industry and provides confidence to the community that only appropriately qualified persons are dealing with asbestos. It is also not possible to prescribe every eligible training program, provider or arrangement in legislation. For example, a person might have completed training or obtained a certificate in another State, and apply for a certificate in Queensland.

Providing the chief executive and the chief health officer with discretion provides greater operational flexibility to keep pace with changing training modules or requirements. The courses approved by the chief executive under which a home renovator or member of the public may obtain a certificate for the safe removal of bonded ACM are published on the Queensland Government website. The training prescribed by the chief health officer for the exercise of powers by authorised officers for asbestos-related events are published on a dedicated local government website that authorised officers can access.

Clause 11 of the 2018 Regulation provides that reasonable measures to minimise the release of asbestos fibres includes using vacuum cleaning equipment that complies with the relevant Australian/New Zealand Standard to collect the asbestos fibres. This may raise the issue of whether the legislation has sufficient regard to the institution of Parliament by allowing subdelegation of a power delegated by an Act (section 4(5)(e) of the *Legislative Standards Act*).

Australian Standards are recognised and accepted industry standards and developed by technical experts with industry and government consultation. The standards are accredited by Standards Australia, which is the nationally recognised peak body for standards. The prescribed standard in clause 11 deals with vacuum cleaning equipment. It is technical and detailed in nature. It is appropriate to delegate this detail to the standard rather than set out the requirements for vacuum cleaning equipment in the 2018 Regulation.

Water risk management plans

Clause 28 of the 2018 Regulation requires a laboratory carrying out testing for Legionella to be accredited as complying with ISO/IEC 17025 to carry out the test. Accreditation must be provided by the National Association of Testing Authorities Australia or another entity the chief executive is satisfied is appropriately qualified to accredit a laboratory as complying with ISO/IEC 17025.

Prescribing an external standard that is not subject to parliamentary scrutiny may breach section 4(5)(e) of the Legislative Standards Act.

The ISO/IEC 17025 standard is published jointly by the International Organization for Standardization and the International Electrotechnical Commission. These bodies are internationally recognised peak bodies that develop and publish International Standards. These International Standards are developed by technical experts with input from government and industry organisations. ISO/IEC 17025 contains the general requirements for the competence of testing and calibration laboratories. The subdelegation to the Standard is justified as it is detailed and technical in nature and applies to a specialist area. The proposed approach ensures laboratories continually keep up with industry expectations and standards, removing the need to amend the 2018 Regulation each time a competency standard changes.

Allowing the chief executive to decide if another entity is appropriately qualified to accredit laboratory may be seen to breach section 4(5)(e) of the Legislative Standards Act.

It is not practical to prescribe a list of entities that are appropriately qualified to accredit laboratories. This would diminish the ability of the 2018 Regulation to keep pace with changes to approved entities, such as name changes and new entities. Allowing the chief executive discretion to decide if an entity has the qualifications to accredit a laboratory provides operational flexibility and removes the need to amend the 2018 Regulation each time an entity changes. Furthermore, the chief executive must be satisfied that an entity is appropriately qualified before it can be permitted to accredit a laboratory.

Infection control for health care facilities

Sections 153 and 154 of the Act impose obligations on the owner of a health care facility and the operator of a health care facility respectively to have an infection control management plan (ICMP). Subsections 153(3) and 154(3) provide that the requirement to have an ICMP does not apply if the facility is a health care facility prescribed under a regulation.

Clause 34 of the 2018 Regulation prescribes the health care facilities that are exempt from requiring an ICMP. This includes health care facilities accredited against the *Standards for general practices* (the Standards) developed by the Royal Australian College of General Practitioners (RACGP) and by an entity approved by the Australian Commission on Safety and Quality in Health Care (the Commission) to accredit health care facilities against the Standards.

The Commission is a corporate Commonwealth entity established under the *National Health Reform Act 2011* (Cwlth). The Commission grants approval to accrediting agencies wishing to accredit health care facilities to the Standards. The list of approved accrediting agencies is available on the Commission's website (www.safetyandquality.gov.au) and is updated periodically.

Requiring health care facilities to be accredited against external Standards and by reference to entities approved by the Commission may be seen to breach section 4(5)(e) of the Legislative Standards Act. However, prescribing specific accrediting entities in the 2018 Regulation will mean it is not able to keep pace with changes to approved entities, such as name changes and new entities being approved by the Commission. The proposed approach provides an easily accessible and up to date list of entities through the Commission's website. It removes the need to amend the 2018 Regulation each time the list changes, while ensuring that all prescribed entities meet the requirements set by the Commission.

The Standards were developed over a three year period, in consultation with general practitioners, practice managers, nurses, consumers and other stakeholders, with the purpose of protecting patients from harm by improving the quality and safety of health services. The Standards support general practices in identifying and addressing any gaps in their systems and processes. Where health care facilities are accredited against the Standards, it is appropriate to provide an exemption from the requirement of an ICMP as these facilities will be required to provide a high level of safe care in order to maintain their accreditation.

Requirements for vaccination

Clause 38 of the 2018 Regulation provides that the way for vaccinating a child for a vaccine preventable condition is for the child to receive all vaccinations for the condition recommended in the National Immunisation Program Schedule Queensland. Referring to Queensland's immunisation schedule may be considered to breach section 4(5)(e) of the Legislative Standards Act.

The National Immunisation Program Schedule Queensland is technical in nature and readily accessible to the public through the Queensland Health website (www.health.qld.gov.au). It is updated periodically as new information or best practice guidelines are developed and new vaccines are included/funded under the National Immunisation Program or state programs. Referring to the Schedule ensures the 2018 Regulation does not need to be updated each time the Schedule is modified.

Water quality provisions

The water quality provisions in part 9 of the 2018 Regulation make multiple references to the Australian Drinking Water Guidelines (ADWG) as published by the National Health and Medical Research Council (NHMRC), and parameters under those guidelines (see clauses 52, 53 and 55).

The provisions may be seen to infringe section 4(5)(e) of the Legislative Standards Act.

The ADWG is developed based on the best available scientific evidence and provides a framework for good management of drinking water supplies to ensure safety at point of use. The document is freely available on the NHMRC website (www.nhmrc.gov.au), granting users easy access to the latest version at any time. The technical and detailed nature of the document, as well as the fact that the parameters contained in the ADWG are subject to

change, makes it appropriate to reference the ADWG and relevant parameters in the 2018 Regulation.

Paint standard

Section 60 of the Act requires a person manufacturing, selling, supply or using paint to comply with the prescribed part of the Standard for the Uniform Scheduling of Drugs and Poisons (the Poisons Standard) compiled by the Australian Health Minister's Advisory Council and published by the Commonwealth.

Clause 60 of the 2018 Regulation provides that the prescribed part of the Poisons Standard dealing with paint is part 2.

Prescribing requirements by reference to an external standard may be seen to breach section 4(5)(e) of the Legislative Standards Act. The Poisons Standard is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (Cwlth). Part 2 of the Poisons Standard sets out matters of technical detail for the control of medicines and poisons, such as requirements for labelling, storage and record keeping. As the Poisons Standard is updated regularly and contains matters of detail, it is appropriate to reference it in the 2018 Regulation rather than prescribing these matters.

Human research ethics committee

Clause 63 of the 2018 Regulation prescribes requirements for the definition of *human research ethics committee* in the Act by reference to the National Statement on Ethical Conduct in Human Research 2007 published by the NHMRC.

Referencing a document made by an external body may be seen to infringe section 4(5)(e) of the Legislative Standards Act.

The National Statement consists of a series of guidelines made in accordance with the *National Health and Medical Research Council Act 1992* (Cwlth) and is subject to 'rolling review'. It is therefore more appropriate to reference the National Statement in the 2018 Regulation rather than prescribing all its requirements in the Regulation itself. The document is available on the NHMRC website, granting users easy access to the latest version at any time.

Reverse onus of proof

Section 4(3)(d) of the Legislative Standards Act provides that legislation should not reverse the onus of proof in criminal proceedings without adequate justification. The following provisions of the 2018 Regulation may be seen to reverse the onus of proof.

- Clause 17 requires a relevant person for a place to ensure water or another liquid that has accumulated at the place is not a breeding ground for mosquitoes. Subsection (3) provides a defence, requiring the defendant to prove they took all reasonable steps to comply with the requirement.
- Clause 19 makes it an offence to destroy, damage or remove a mosquito-proof screen or flap valve. The provision includes a defence where a person removes the mosquito-proof screen or flap valve to carry out maintenance, and immediately replaces the screen or flap valve after the maintenance is finished. The onus of proving the defence rests with the person seeking to rely on it.

- Clause 24 makes it an offence to destroy, damage or remove a screen or other object that has been fixed to a relevant structure to stop mice and rats from entering a structure. The provision includes a defence where a person removes the screen or other object to carry out maintenance, and immediately replacing the screen or object after the maintenance is finished. The onus of proving the defence rests with the person seeking to rely on it.
- Clause 25 provides that a relevant person for land around a dwelling must ensure rats or mice are not harboured on the land, and that the land is not a breeding ground for rats and mice. Subsection (2) provides a defence that requires the defendant to prove that they took all reasonable steps to comply with the requirement.

These offences have a defence of reasonable excuse, to ensure that strict liability for the offences does not arise. Placing the onus on the defendant is justified in circumstances where the matter that is the subject of proof is within the defendant's knowledge and would be difficult for the prosecution to prove.

Under clause 17, for example, it would be impractical for the prosecution to prove that the relevant person did not take all reasonable steps as there are likely to be multiple options available for the relevant person to ensure that water accumulated at the place has not become a breeding ground for mosquitoes. For example, methods to prevent water accumulating in the bottom of an unused swimming pool from becoming a breeding ground could include, but are not limited to, pumping the water out of the pool, treating it with chlorine, or placing an oil on the water's surface. Establishing that the relevant person had taken reasonable steps through one of these methods would require the authorised person to obtain different evidence for each method used. This would impose an administrative burden to prove that each method has not occurred.

The provisions are considered appropriate to remove unnecessary administrative burden and improve administrative efficiency.

Consultation

A wide range of stakeholders were invited to comment on the 2018 Regulation, including local governments, the Local Government Association of Queensland, Queensland drinking and recycled water providers, including Seqwater and Queensland Urban Utilities, Queensland Water Directorate, Queensland AIDS Council, Queensland Positive People, the Australian Commission on Safety and Quality in Health Care, professional bodies such as the Australian Medical Association of Queensland, the Royal Australian College of General Practitioners (Queensland), Royal Australasian College of Physicians (Queensland) and Australia College of Rural and Remote Medicine, the Private Hospitals Association of Queensland, Environmental Health Australia (Queensland) and Hospital and Health Services.

Some stakeholders provided feedback on drafting matters. This feedback was incorporated into the 2018 Regulation where appropriate.

A sunset review of the Regulation was undertaken in accordance with the *Queensland Government Guide to Better Regulation*. The Office of Best Practice Regulation was consulted on the sunset review and advised that the Department of Health satisfactorily met the objectives for sunset reviews as set out in the Guidelines and that no further regulatory impact analysis was required.

Notes on provisions

Part 1 Preliminary

1 Short title

Clause 1 provides the short title of the regulation.

2 Commencement

Clause 2 provides for the regulation to commence on 1 September 2018.

3 Dictionary

Clause 3 provides that the dictionary in schedule 8 defines words used in the regulation.

Part 2 Public health risks

Division 1 Asbestos

4 Purpose and application of division

Clause 4 provides that the purpose of the division is to prescribe measures to prevent and control the public health risk posed by the dispersal or release of asbestos fibres.

5 Definitions for division

Clause 5 defines certain terms used in this division.

6 Administration and enforcement of division

Clause 6 provides that the division is to be administered and enforced by local governments only.

7 Removal of friable ACM

Clause 7 provides that a person must not remove friable ACM located in a non-workplace area unless they hold a class A asbestos removal licence under the *Work Health and Safety Regulation 2011*. The maximum penalty for not complying with this requirement is 100 penalty units.

8 Removal of bonded ACM

Clause 8 provides that a person must not remove a quantity of bonded ACM of more than 10 square metres located in a non-workplace area unless they hold a current certificate under section 8. The maximum penalty for not complying with this requirement is 100 penalty units.

Subsection (2) provides that the chief executive may establish or approve arrangements under which a person who finishes training about safely removing bonded ACM satisfactory to the chief executive, in competencies decided by the chief executive, may obtain a certificate. Examples are provided of how the chief executive may establish or approve arrangements for obtaining a certificate. Clause 8 also defines the term *current certificate*.

Subsection (3) provides that where more than one person is removing the bonded ACM, this requirement applies to each person involved.

9 Cleaning or cutting ACM

Clause 9 establishes the methods that are not to be used to cut or clean ACM located in a non-workplace area. The maximum penalty for not complying with this requirement is 100 penalty units.

10 Requirement to seal bonded ACM if broken

Clause 10 requires a person carrying out prescribed work (for example, cleaning or cutting ACM) in a non-workplace area in relation to bonded ACM that is broken to seal the broken surface of the bonded ACM that is not being removed from the non-workplace area. An example is provided of how to seal a broken surface of bonded ACM.

The maximum penalty for not complying with this requirement is 100 penalty units.

11 Requirement to take reasonable measures to minimise release of asbestos fibres

Clause 11 provides that a person undertaking prescribed work in a non-workplace area must take reasonable measures to minimise the risk of asbestos fibres from being released and the associated health hazard for the person undertaking the work and any other person.

The maximum penalty for not complying with this requirement is 100 penalty units.

Subsection (2) sets out what reasonable measures may include, such as spraying water or a coat of PVA glue on ACM or other associated asbestos waste, and using vacuum cleaning equipment that complies with the relevant standard to collect asbestos fibres.

12 Packaging and disposal of associated asbestos waste

Clause 12 requires a person carrying out prescribed work in a non-workplace area to ensure all associated asbestos waste is packaged and disposed of as soon as practicable, but within five business days, after carrying out the work and in accordance with the requirements of this section. The provision specifies the ways in which the waste must be wrapped, labelled and disposed of.

The maximum penalty for not complying with this section is 100 penalty units.

13 Prohibition on selling or giving away ACM

Clause 13 provides it is an offence for a person to sell or give away ACM removed from a non-workplace area.

The maximum penalty for the offence is 100 penalty units.

Division 2 Mosquitoes

14 Purpose of division—Act, s 61

Clause 14 provides that the purpose of the division is to prescribe measures to control mosquitoes and prevent and control public health risks in relation to mosquitoes.

15 Definitions for division

Clause 15 provides definitions for the division.

16 Administration and enforcement of division

Clause 16 provides that the division is to be administered and enforced by local governments only.

17 Requirement to ensure place is not a breeding ground for mosquitoes

Clause 17 requires a relevant person for a place (that is, the occupier, or if there is no occupier of the place, the owner) to ensure water or another liquid that has accumulated at the place is not a breeding ground for mosquitoes. *Clause 17* provides that it is irrelevant whether the accumulation is artificial, natural, permanent or temporary and defines the term *breeding ground*.

The maximum penalty for not complying with this requirement is 40 penalty units.

The provision provides that it is a defence for the defendant to prove that they took all reasonable steps to comply with the requirement.

18 Construction, installation and maintenance of a relevant tank

Clause 18 provides that a person must comply with particular mosquito-proofing requirements when constructing or installing a relevant tank. A relevant person for a place at which a relevant tank is installed must also ensure the tank is maintained so it continues to comply with the mosquito-proofing requirements.

Subsection (4) sets out the mosquito-proofing requirements, including the specifications for a mosquito-proof screen.

The maximum penalty for not complying with these requirements is 40 penalty units.

19 Offence to damage screen or flap valve

Clause 19 provides it is an offence to destroy, damage or remove a mosquito-proof screen or flap valve fixed to a relevant tank. The maximum penalty for the offence is 40 penalty units

Subsection (2) provides that the offence does not apply to a person who removes the mosquito-proof screen or flap valve to carry out maintenance, if the screen or flap valve is replaced immediately after the maintenance is finished.

Division 3 Rats and mice

20 Purpose of division—Act, s 61

Clause 20 provides that the purpose of the division is to prescribe measures to control rats and mice and prevent and control the public health risks in relation to rats and mice.

21 Definition for division

Clause 21 provides a definition of *relevant structure* for the division.

22 Administration and enforcement of division

Clause 22 provides that the division is to be administered and enforced by local governments only.

23 Requirement for owner of relevant structure

Clause 23 provides that an owner of a relevant structure must take reasonable steps to stop rats and mice entering the structure.

The maximum penalty for not complying with this requirement is 40 penalty units.

Subsection (2) outlines what reasonable steps may include, for example, sealing or covering any holes or gaps in the exterior surface of the structure.

Subsection (3) clarifies that the requirement does not apply to a rat or mouse kept in accordance with section 26 as a pet, at a laboratory or for the purpose of selling the rat or mouse.

24 Offence to damage screen etc. on relevant structure

Clause 24 provides that it is an offence for a person to destroy, damage or remove a screen or other object that has been fixed to a relevant structure to stop rats and mice entering the structure. The maximum penalty for the offence is 40 penalty units.

Subsection (2) provides that the requirement does not apply to a person who removes the screen or other object to carry out maintenance, if the screen or other object is replaced immediately after the maintenance is finished.

25 Requirement to ensure rats or mice do not live or breed on land around dwelling

Clause 25 requires a relevant person for land around a dwelling to ensure that rats or mice are not harboured on the land and the land is not a breeding ground for rats or mice. *Relevant person* is defined for clause 25 to mean, for land around a dwelling, an occupier of the dwelling or an owner of the dwelling, where it is unoccupied. The maximum penalty for not complying with this requirement is 40 penalty units.

The provision provides that it is a defence for the defendant to prove they took all reasonable steps to comply with the requirements. Clause 25 clarifies that the requirement does not apply to a rat or mouse kept in accordance with section 26.

26 Requirements about keeping rat or mouse for particular purposes

Clause 26 applies to a person who keeps a rat or mouse as a pet; at a laboratory for medical, research, scientific or teaching purposes; or for the purpose of selling the rat or mouse, giving it away or using it as a food source for other animals.

Clause 26 provides that the person must keep the rat or mouse in an enclosure from which it can not escape. The maximum penalty for not complying with this requirement is 40 penalty units.

This section does not limit a local law about keeping rats or mice.

Division 4 Other public health risks

27 Invasive procedures

Clause 27 prescribes an activity associated with, or part of, an invasive procedure that may expose a person to an infectious condition as a public health risk.

Invasive procedure is defined for the section by reference to section 147 of the Act, which provides that an invasive procedure is a procedure involving the insertion of an instrument, appliance or other object into human tissue, organs, body cavities or body orifices.

Subsection (2) provides that the provisions of the Act, in relation to invasive procedures, are to be administered and enforced by the State only.

Part 3 Water risk management plans

28 Prescribed test for Legionella

Clause 28 sets out when a test for Legionella is prescribed for section 61A of the Act, definition of *prescribed test*. A test for Legionella is prescribed if it quantifies the number of Legionella colony forming units in a sample tested and the test is carried out by a laboratory that is accredited to carry out the test.

Clause 28 also defines the terms *accredited* and *ISO/IEC 17025* for the section.

29 Prescribed requirement for water risk management plans—Act, s 61D

Clause 29 requires a water risk management plan for a prescribed facility to identify the person, by position title, who is responsible for giving a notice or reports about the results of tests carried out under the plan to the chief executive.

30 Prescribed reporting period—Act, s 61I

Clause 30 prescribes the reporting period for reports required to be given under the Act about the tests carried out under a water management plan.

The reporting period is whichever is the shortest of either a quarter (that is, a three month period ending on 31 March, 30 June, 30 September or 31 December) or the period stated in a notice given to the prescribed facility by the chief executive.

Part 4 Notifiable conditions

31 Notifiable conditions and types of notifiable conditions

Clause 31 provides, for section 64(1) of the Act, that the medical conditions prescribed in schedule 1, column 1 are notifiable conditions.

Clause 31 consolidates sections 3 to 8 of the 2005 Regulation into a single section, providing that notifiable conditions can be identified as one or more of the following types: a clinical diagnosis notifiable condition; a pathological diagnosis notifiable condition; a pathology request notifiable condition; a provisional diagnosis notifiable condition; or a controlled notifiable condition.

32 Requirements for notice of particular notifiable conditions—Act, ss 70-73

Clause 32 prescribes requirements for providing a notice to the chief executive about notifiable conditions, including the timeframes for notification. The provision consolidates sections 9 to 12 of the 2005 Regulation into a single section.

33 Prescribed agreements—Act, s 84

Clause 33 provides that the agreements for section 84(1)(a)(i)(B) of the Act relating to disclosure of confidential information by the chief executive are prescribed in schedule 3, part 1, division 1 and division 2.

Part 5 Infection control for health care facilities

34 ICMP not required for prescribed health care facilities—Act, ss 153 and 154

Clause 34 prescribes the types of health care facilities that are not required to have an infection control management plan under sections 153 and 154 of the Act.

Section 12AB of the 2005 Regulation exempted particular health care facilities, including those owned by a local government where an immunisation service is performed at the health care facility or a doctor, from the need to hold an infection control management plan. Section 12AC of the 2005 Regulation exempted particular health care facilities, including those owned and operated by a local government where an immunisation service is performed at the health care facility or a doctor, from the need to hold an infection control management plan. These provisions have been consolidated into one section.

To reflect that accreditation is issued to practices themselves, rather than individual doctors, and that practices are often owned by companies or other ownership structures, clause 34 provides that an infection control management plan is not required where a health care facility is accredited, rather than where a health care facility owned/owned and operated by a doctor is accredited.

The 2005 Regulation prescribed certain accrediting agencies that provide general practice accreditation. As the agencies that provide accreditation may change over time, clause 34 instead provides that health care facilities accredited against the *Standards for general practices* developed by the Royal Australian College of General Practitioners and by an

entity approved by the Australian Commission on Safety and Quality in Health Care to accredit health care facilities against the standards are exempt from the requirement to have an infection control management plan under the Act. Health care facilities will continue to be required to hold a general practice accreditation to be exempt from the need for an infection control management plan.

Part 6 Child health

Division 1 Contagious conditions and vaccine preventable conditions

35 Contagious conditions

Clause 35 provides that the conditions set out in schedule 4, part 2, column 1 are contagious conditions for section 158 of the Act, definition *contagious condition*.

36 Prescribed period for a contagious condition—Act, s 160

Clause 36 provides that the prescribed periods for contagious conditions are set out in schedule 4, part 2, column 2 and 3 and schedule 4, part 3, columns 2 and 3. There are different prescribed periods depending on whether the child is suspected of having the condition or does not have the condition but is suspected of not having been vaccinated for the condition and is at risk of contracting the condition if they continue to attend a school, education and care service or QEC approved service.

37 Vaccine preventable conditions

Clause 37 provides that the conditions set out in schedule 5 are vaccine preventable conditions for section 158 of the Act, definition *vaccine preventable condition*.

38 Requirements for vaccination

Clause 38 provides, for the definition of *vaccinated* in section 158 of the Act, that the way for vaccinating a child for a vaccine preventable condition is for the child to receive all vaccinations for the condition recommended for the child's age in the National Immunisation Program Schedule Queensland. This replaces the reference in the 2005 Regulation to the 'National Immunisation Program Schedule' (IMM66). The National Immunisation Program Schedule Queensland is published on the Queensland Health website.

Division 2 Disclosure of information for school health programs

39 Prescribed information for school health programs—Act, s 213AD

Clause 39 prescribes student information that a school health program provider may ask a school principal to provide for the purposes of a school health program.

Part 7 Performance of cosmetic procedures on children

40 Procedures that are not cosmetic procedures—Act, s 213A

Clause 40 establishes those procedures that are not cosmetic procedures for the purposes of chapter 5A of the Act.

Part 8 Health information management

Division 1 Perinatal statistics

41 Prescribed time for notifying about delivery—Act, s 217

Clause 41 prescribes the timeframe for section 217 of the Act within which the designated person must notify the chief executive of the delivery.

42 Prescribed agreements—Act, s 226

Clause 42 provides that the agreements listed in schedule 3, part 2 are agreements for section 266(1)(a)(i)(B) of the Act, which provides that confidential information may be disclosed by the chief executive to the Commonwealth or another State, or an entity of the Commonwealth or another State, where the disclosure is required or allowed under an agreement and is considered to be in the public interest.

Division 2 Maternal death statistics

43 Prescribed time for notifying about maternal death—Act, s 228F

Clause 43 prescribes the timeframe for section 228F(2) of the Act within which a health professional must notify the chief executive of a maternal death.

44 Prescribed agreements—Act, s 228O

Clause 44 provides that the agreements listed in schedule 3, part 2 are agreements for section 228O(1)(a)(i)(B) of the Act, which provides that confidential information may be disclosed by the chief executive to the Commonwealth or another State, or an entity of the Commonwealth or another State, where the disclosure is required or allowed under an agreement and is considered to be in the public interest.

Division 3 Cancer notifications

45 Non-notifiable types of skin cancer and non-invasive carcinoma

Clause 45 prescribes the types of skin cancer and non-invasive carcinoma that are not included in the definition of *cancer* in section 229, paragraph (b) of the Act.

46 Prescribed person for keeping register—Act, s 232

Clause 46 prescribes the contractor responsible for keeping the Queensland Cancer Register for the purposes of section 232(1) of the Act as the Metro South Hospital and Health Service.

47 Prescribed time for giving notification about cancer—Act, s 234

Clause 47 prescribes the time periods for section 234 of the Act for giving a cancer notification to the chief executive.

48 Prescribed agreements—Act, s 244

Clause 48 provides that the agreements listed schedule 3, part 3 are agreements for section 244(1)(a)(i)(B) of the Act, which provides that confidential information may be disclosed by the chief executive to the Commonwealth or another State, or an entity of the Commonwealth or another State, where the disclosure is required or allowed under an agreement and is considered to be in the public interest.

Division 4 Pap Smear Register**49 Clinical information**

Clause 49 prescribes particular information about a woman for the definition of *clinical information* in section 251 of the Act.

References to ‘HPV sample’ and ‘HPV test’ have been included in the list of information for consistency with the Act.

Part 9 Water Quality**Division 1 Preliminary****50 Definitions for part**

Clause 50 sets out the definitions for part 9.

Division 2 Standards for and management of water quality**51 Standards for the quality of water and management of water quality**

Clause 51 provides that division 2 prescribes standards for the quality of water and requirements for the management of the quality of water.

52 Quality standard for drinking water

Clause 52 identifies the parameters that drinking water supplied by drinking water service providers must be tested for, the associated allowable values and the frequency of testing.

Subsection (1) provides that drinking water in a drinking water service must be tested for the presence of *Escherichia coli* (*E. coli*), as well as for each required Australian Drinking Water

Guidelines (ADWG) parameter and for radioactivity, if the water is required to be tested for the parameter or radioactivity under a management plan. Subsection (1)(b) provides that for any ADWG or radiological parameter that is required to be sampled for under an approved drinking water quality management plan, the sampling frequency is that specified in an approved drinking water quality management plan.

Subsection (2) outlines the frequency of testing for E. coli. The sampling frequency is dictated by the size of population served by the drinking water supply. The sampling frequency values in the 2018 Regulation are the same as those previously required in schedule 3A of the 2005 Regulation.

Subsection (3) sets out the allowable value for E. coli that must be achieved in each sample of water taken, that is, there must not be a detectable amount in any 100mL sample. Subsection (4) sets out further requirements for the testing of E. coli.

Subsection (5) provides that for ADWG parameters, the allowable value is specified as not more than the guideline value for health for the parameter stated in the physical and chemical guideline table printed in chapter 10 of the ADWG. Subsection (6) provides that the allowable value for the radiological quality of each sample of drinking water is that provided for in the radiological quality of water in chapter 10 of the ADWG.

Subsection (7) clarifies that guideline value for health stated in the physical and chemical guideline table and the radiological quality of water table printed in chapter 10 of the ADWG apply to samples of drinking water, whether or not the sample is required under a management plan.

53 Quality standard for recycled water intended to augment a supply of drinking water

Clause 53 prescribes the testing requirements for recycled water intended to augment a supply of drinking water.

Subsection (1) prescribes that recycled water intended to augment a drinking water supply must be tested for parameters identified within the relevant management plan for the supply at the frequency specified in the plan.

Subsection (2) sets out allowable values for relevant parameters. Allowable values for any parameter prescribed in schedule 6, parts 1 and 2 are specified in schedule 6. Allowable values for ADWG parameters not listed in schedule 6 must not contain more of the parameter than the guideline value for health for the parameter stated in the physical and chemical guideline table printed in chapter 10 of the ADWG. Viral, bacterial and protozoan pathogens must not be present.

Subsection (3) provides that the allowable value for the radiological quality of each sample of recycled water intended to augment drinking water is that provided for in the radiological quality of water table in chapter 10 of the ADWG.

Subsection (4) provides that the allowable values apply to a sample of water tested for a microorganism, parameter or pathogen or for radioactivity, whether or not a management plan for the water required the sample to be tested for the microorganism, parameter or pathogen or for radioactivity.

Subsection (5) sets out the definitions for the section.

54 Standard for recycled water intended to augment a supply of drinking water—supply and storage

Clause 54 provides that recycled water intended to augment a supply of drinking water must be supplied and stored in accordance with particular requirements, to manage any health risks from the recycled water quality.

55 Management of the quality of recycled water intended to augment a supply of drinking water—assessment and reporting

Clause 55 sets out the assessment and reporting requirements for recycled water intended to augment a supply of drinking water, where a sample has been taken by a provider and the test shows that the quality of the water does not comply with the requirements in clause 53. Clause 55 applies whether or not the management plan for the water required the water to be tested for the microorganism, parameter or pathogen or for radioactivity.

Subsection (2) requires the provider to perform an assessment of the risks to the health of the public from the quality of the water and give a report about the assessment to the chief executive within 10 business days after the result of the test is known.

Subsection (3) sets out the definitions for the section.

56 Quality standard for recycled water for irrigation of minimally processed food crops

Clause 56 provides that the standards for recycled water supplied for irrigating minimally processed food crops are set out in schedule 7 and sets out a definition of *minimally processed food crop*.

57 Quality standard for recycled water supplied for a dual reticulation system

Clause 57 prescribes the standards for recycled water supplied to a dual reticulation system, including the frequency of testing and standards for turbidity and chlorine residual.

Recycled water supplied for a dual reticulation system must be class A+ recycled water.

Subsection (4) sets out the definitions for the section.

58 Quality standard for class A+ recycled water

Clause 58 prescribes the standards for class A+ recycled water, including the allowable values for relevant parameters, and testing frequency.

Class A+ recycled water must be tested for each relevant parameter at the frequency required under a water management plan.

59 Quality standard for class A, B, C or D recycled water

Clause 59 prescribes the standards for class A, B, C and D recycled water.

Class A, B, C and D recycled water must be tested for the presence of E. coli at the frequency required under the water management plan.

Part 10 Miscellaneous

60 Paint—Act, s 60

Clause 60 establishes part 2 of the Standard for the Uniform Scheduling of Drugs and Poisons as the part of the standard dealing with paint for the purposes of section 60(2) of the Act.

61 Emergency officers (general)—Act, s 333

Clause 61 provides that ambulance officers under the *Ambulance Service Act 1991* may be appointed as emergency officers (general) for declared public health emergencies under section 333(1)(e) of the Act.

62 Prescribed training for indemnity conditions—Act, s 454G

Clause 62 prescribes training for section 454G of the Act, that authorised persons from local governments exercising powers in relation to asbestos-related events must satisfactorily complete.

63 Human research ethics committee—Act, sch 2, definition *human research ethics committee*

Clause 63 prescribes the requirements stated in the document called *National Statement on Ethical Conduct in Human Research 2007* issued by the National Health and Medical Research Council for a committee formed for the purposes of the definition of *human research ethics committee* in schedule 2 (Dictionary) of the Act.

Part 11 Transitional provisions

64 Definitions for part

Clause 64 provides the definitions for the part.

65 Certificates for the removal of bonded ACM

Clause 65 provides that existing arrangements approved or established by the chief executive under section 2E of the 2005 Regulation in relation to obtaining a certificate of training in the removal of bonded ACM are taken to be arrangements approved or established by the chief executive under section 8 of the 2018 Regulation.

Further, a person who holds an existing certificate under section 2E of the 2005 Regulation is taken to hold a certificate under section 8 of the 2018 Regulation.

66 Existing notices about reporting periods for prescribed facilities

Clause 66 provides that an existing notice given to a prescribed facility by the chief executive under the 2005 Regulation, section 2ZA, is taken to be a notice given under section 30 of the 2018 Regulation.

67 Use of drinking water samples taken under expired regulation for annual value

Clause 67 applies if a sample of drinking water was taken to test for E. coli under section 18AC(a) of the 2005 Regulation during the period starting on 1 September 2017 ending on the day before the commencement of the 2018 Regulation. Clause 52(4) applies to the sample as though it was taken for testing as required under clause 52(1) of the 2018 Regulation.

68 Existing approved recycled water management plans

Clause 68 applies to an approved recycled water management plan that refers to taking samples of recycled water to be supplied as class A+ or as class A, B, C or D recycled water to test for certain parameters. This section applies until the plan is amended and the reference to the 2005 Regulation is omitted.

Subsections (2) and (3) set out the testing frequency for particular parameters. Subsection (4) sets out definitions for the provision.

69 Use of class A+ recycled water sample taken under expired regulation for annual value

Clause 69 applies if a sample of recycled water to be supplied as class A+ recycled water was taken to test for a class A+ parameter under section 18AE(a) of the 2005 Regulation during the period starting on 1 September 2017 and ending on the day before the commencement of the 2018 Regulation.

Clause 58(2) applies to the sample as though the sample was taken for testing as required under clause 58(1).

70 Use of class A, B, C or D recycled water samples taken under expired regulation for annual value

Clause 70 applies if a sample of recycled water to be supplied as class A, B, C or D recycled water was taken to test for E. coli under section 18AF(a) of the 2005 Regulation during the period starting on 1 September 2017 and ending on the day before the commencement of the 2018 Regulation.

Clause 59(2) applies to the sample as though the sample was taken for testing as required under clause 59(1).

Part 12 Amendment of Health Regulation 1996

71 Regulation amended

Clause 71 provides that part 12 amends the *Health Regulation 1996*.

72 Amendment of s 170 (Specifications for places)

Clause 72 replaces the reference in the Health Regulation to the 2005 Regulation, part 1A, division 3 with a reference to the 2018 Regulation, part 2, division 3.

Part 13 Amendment of State Penalties Enforcement Regulation 2014

73 Regulation amended

Clause 73 provides that part 13 amends the *State Penalties Enforcement Regulation 2014*.

74 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)

Clause 74 omits the entry for the 2005 Regulation from schedule 1 of the State Penalties Enforcement Regulation and inserts reference to the relevant infringement notice offences for the 2018 Regulation. The infringement notice offences and penalty units are consistent with the 2005 Regulation, with the section references updated to reflect the numbering in the 2018 Regulation.

Schedule 1 Notifiable conditions

Schedule 1 prescribes those medical conditions that are notifiable conditions for section 64(1) of the Act, and indicates whether each notifiable condition is a clinical diagnosis notifiable condition, pathological diagnosis notifiable condition, pathology request notifiable condition, provisional diagnosis notifiable condition or controlled notifiable condition. A notifiable condition may be indicated in one or more of these categories.

The schedule of notifiable conditions is consistent with the 2005 Regulation, with the following changes.

- The entry for acquired immunodeficiency syndrome (AIDS) has been removed. Since the introduction of antiretroviral therapy for human immunodeficiency virus (HIV) infections, AIDS notifications have decreased substantially and AIDS surveillance is no longer a reliable measure of the HIV epidemic. AIDS has been removed from the National Notifiable Diseases List. HIV will continue to be prescribed as a controlled notifiable condition to enable Queensland Health to monitor trends in HIV transmission, and assist with HIV prevention planning and delivery of appropriate health services.
- A minor wording change has been made to the entry for ‘Australian bat lyssavirus – potential exposure’ to clarify that bat bite, scratch or mucous membrane exposure are examples of types of potential exposure.

- The entry for ‘flavivirus infections’ under arbovirus infections has been amended to specifically exclude yellow fever and dengue (both flaviviruses), as they are already listed separately in schedule 1. This ensures consistency with schedule 2 where yellow fever and dengue are already listed separately. These amendments do not alter the notification requirements for these conditions.
- Rheumatic heart disease has been included as a clinical diagnosis notifiable condition. Rheumatic heart disease is a chronic and non-communicable disease. It occurs as a result of acute rheumatic fever, which is a communicable and notifiable disease. Repeated episodes of acute rheumatic fever can result in damage to the heart muscle or heart valves. In its most severe and untreated form, this leads to heart failure and death. In Australia, rheumatic heart disease disproportionately affects Aboriginal and Torres Strait Islander people and has been identified as a priority for prevention. As outlined in the *Queensland Aboriginal and Torres Strait Islander Rheumatic Heart Disease Action Plan 2018-2021*, making rheumatic heart disease a notifiable condition in Queensland would improve reporting of the disease, potentially leading to increased patient engagement and better health outcomes. The amendment meets the recommendation in the Action Plan to assess the option of including rheumatic heart disease as a notifiable condition.
- Zika virus has been added as a provisional diagnosis notifiable condition in addition to its existing inclusion as a pathological diagnosis notifiable condition. Including Zika virus as a provisional diagnosis notifiable condition will assist in identifying any cases quickly.

Schedule 2 Immediate notifications

Schedule 2 prescribes the medical conditions that require notification to the chief executive immediately after the examination, pathological examination or receipt of the request, for the purposes of section 32(3) of the 2018 Regulation.

The schedule is consistent with the 2005 Regulation, with the following changes.

- A minor wording change has been made to the entry for ‘Australian bat lyssavirus – potential exposure’ to clarify that bat bite, scratch or mucous membrane exposure are examples of types of potential exposure.
- Japanese encephalitis and Murray Valley encephalitis have been listed as separate conditions rather than as types of flavivirus infections. This ensures consistency with schedule 1 and does not alter the requirement for immediate notification of these conditions.

Schedule 3 Agreements

Schedule 3 prescribes agreements with the Commonwealth, other States and entities of the Commonwealth and other states relating to confidentiality of information for sections 33, 42, 44 and 48 of the 2018 Regulation.

The agreements relating to confidentiality of information for perinatal and maternal death statistics have been consolidated into one part to remove unnecessary duplication.

Schedule 4 Contagious conditions

Schedule 4 prescribes the conditions that are contagious conditions and the period for a contagious condition for section 160 of the Act.

There has been minor rewording of the schedule to improve clarity and readability.

The prescribed period for a child suspected of having a gastroenteritis illness has been redrafted to more clearly express when different time periods apply to determine the end of the prescribed period. This is not a change in policy from the 2005 Regulation. The prescribed period ends once the child has no symptoms and has not had a loose bowel motion:

- for at least 24 hours, where a laboratory test has not been performed for a norovirus or a test has been performed and has returned a negative result, or
- for at least 48 hours, where a laboratory test confirms a norovirus.

Schedule 5 Vaccine preventable conditions

Schedule 5 prescribes vaccine preventable conditions for section 37 of the 2018 Regulation.

Schedule 6 Standards for quality of recycled water supplied to augment a supply of drinking water

Schedule 6 prescribes, for recycled water intended to augment a supply of drinking water, the relevant values for microorganisms and chemical parameters.

Schedule 7 Standards for quality of recycled water for irrigating minimally processed food crops

Schedule 7 prescribes the standards for the quality of recycled water for irrigating minimally processed food crops, including the type of crop, method of irrigation and class of recycled water for each type of crop.

Schedule 8 Dictionary

Schedule 8 defines certain terms for the purposes of the 2018 Regulation.