

# Health and Other Legislation Amendment Regulation 2025

Explanatory notes for SL 2025 No. 25  
made under the

*Hospital and Health Boards Act 2011*  
*Hospital Foundations Act 2018*  
*Mental Health Act 2016*  
*Public Health Act 2005*  
*State Penalties Enforcement Act 1999*

## General Outline

### Short title

*Health and Other Legislation Amendment Regulation 2025*

### Authorising law

Section 282 of the *Hospital and Health Boards Act 2011*  
Section 83 of the *Hospital Foundations Act 2018*  
Section 800 of the *Mental Health Act 2016*  
Sections 229, 234 and 461 of the *Public Health Act 2005*  
Section 165 of the *State Penalties Enforcement Act 1999*

## Policy objectives and the reasons for them

The objective of the *Health and Other Legislation Amendment Regulation 2025* (Amendment Regulation) is to amend the:

- *Hospital and Health Boards Regulation 2023*, to recognise an agreement between the chief executives of Queensland Health and the Department of Transport and Main Roads (DTMR), allowing the disclosure of confidential information related to road crash data without having to obtain case-by-case written approval;
- *Hospital Foundations Regulation 2018*, to rename the ‘Ipswich Hospital Foundation’ (Foundation) as the ‘West Moreton Health Foundation’;
- *Mental Health Regulation 2017*, to ensure references to corresponding laws of other States and Territories are current and accurate;
- *Public Health Regulation 2018*, to:
  - prescribe timeframes for new notifications required to be made to the Queensland Cancer Register (QCR);

- require the notification of certain skin cancers associated with high risks of morbidity and mortality;
  - include *Vibrio parahaemolyticus* as a pathological diagnosis notifiable condition to improve detection of outbreaks and facilitate timely public health action to control outbreaks; and
  - replace ‘monkeypox (MPX)’ with ‘mpox’ in accordance with the World Health Organization’s (WHO) revised naming to destigmatise the disease.
- *State Penalties Enforcement Regulation 2014*, to amend an inadvertent duplication of the penalty unit amounts prescribed in schedule 1 for offences under sections 161(1) and 161(2) of the *Tobacco and Other Smoking Products Act 1998*.

### ***Hospital and Health Boards Regulation***

As part of the *Queensland Road Safety Action Plan 2015-2017*, a commitment was made to improve the understanding of serious injuries resulting from road related crashes. An expert panel was engaged and recommended linking data between DTMR and Queensland Health to better track and report on serious injury data related to road crash injuries.

Queensland Health and DTMR work closely together to link and share data about individuals involved in serious road crashes. This collaboration supports DTMR in progressing work to improve road safety. Data sharing between Queensland Health and DTMR is formalised through Memorandums of Understanding, which emphasise the importance of understanding the nature, contributing factors and circumstances of road traffic crashes and the resulting injuries.

Under section 142 of the *Hospital and Health Boards Act 2011*, there is a general duty of confidentiality regarding information that identifies individuals receiving public sector health services (unless disclosure is required or permitted under the Hospital and Health Boards Act). However, the following provisions in the Hospital and Health Boards Act permit the sharing of confidential information:

- section 160(1) allows disclosure if the chief executive believes it is in the public interest, with written authorisation; and
- section 151(1)(b) permits disclosure to a State entity under a prescribed agreement, as long as the disclosure is in the public interest and authorised in writing by the chief executive.

Currently, Queensland Health uses section 160(1) of the Hospital and Health Boards Act to enable the sharing of road crash information, which requires case-by-case written approval from the chief executive. This is often a time intensive process, and places significant administrative burden on both Queensland Health and DTMR.

To streamline data sharing and reduce administrative delays, Queensland Health and DTMR have finalised an agreement under section 151(1)(b) of the Hospital and Health Boards Act (Agreement). The Agreement authorises Queensland Health to disclose confidential information about public hospital activity to DTMR, without the need for case-by-case approval. The data shared may include emergency department information, emergency responder data, and hospital morbidity and mortality data, all of which are subject to the confidentiality provisions in section 142(1) of the Hospital and Health Boards Act.

The Amendment Regulation will amend schedule 8 of the Hospital and Health Boards Regulation to prescribe the Agreement between the chief executive of Queensland Health and DTMR. This amendment will facilitate the ongoing disclosure of road crash data, improving the understanding of crash causes. The objective of the Amendment Regulation is to remove the administrative burden associated with case-by-case approval under section 160(1) of the Hospital and Health Boards Act, and streamline data sharing between Queensland Health and DTMR.

### ***Hospital Foundations Regulation***

Schedule 1 of the Hospital Foundations Regulation lists the names of all hospital foundations in Queensland. If the name of a hospital foundation requires updating, an amendment to schedule 1 of the Hospital Foundations Regulation is required to implement this change.

In November 2024, the Foundation notified Queensland Health of its intent to legally change its current name to ‘West Moreton Health Foundation’. The Foundation has encountered ongoing challenges with brand recognition, which is adversely impacting the Foundation’s outreach efforts and ability to secure critical funding from regional stakeholders and local residents. The region’s current lack of understanding of what the Foundation does, and the scope of who the Foundation represents, is impacting its identity and effectiveness.

As the Foundation's current name does not adequately represent the broader West Moreton area it supports, this has created an exclusionary perception among residents and stakeholders outside of Ipswich, hindering engagement and support.

The objective of the Amendment Regulation is to more accurately reflect the West Moreton community, and align with the Foundation's rebranding efforts to improve community outreach and engagement.

### ***Mental Health Regulation***

All Australian States and Territories have legislation that governs the assessment, support, treatment and care of individuals with mental illness or developmental or intellectual disabilities. In Queensland, the *Mental Health Act 2016* allows for the recognition of mental health legislation in other jurisdictions to facilitate apprehension and detention of involuntary patients who are absent from interstate mental health services, the transport of patients who are being returned to their jurisdictions of origin, and the transport of patients who are transferring into or out of Queensland.

Recognition of relevant State and Territory legislation as corresponding laws supports consistency and continuity of care. Corresponding laws allow individuals authorised under mental health legislation in other States and Territories to exercise certain functions and powers, such as transporting a person who is absent without permission from an interstate service in Queensland.

The Mental Health Regulation prescribes the relevant legislation of other States and Territories as corresponding laws under Queensland’s Mental Health Act. The Mental Health Regulation lists these laws in specific provisions of Queensland’s Mental Health Act, as follows:

- schedule 1, section 2 of the Mental Health Regulation lists the corresponding laws for section 368(1)(b) and (5) of Queensland’s Mental Health Act, which authorises a person to

apprehend, detain, or transport individuals who are absent without permission from interstate mental health services; and

- schedule 1, section 3 of the Mental Health Regulation lists the corresponding laws that have orders recognised as ‘interstate forensic orders’ under section 513 of Queensland’s Mental Health Act, which deals with transfers of persons on an interstate mental health order to Queensland.

It is important that the Mental Health Regulation accurately reflects current mental health legislation in other States and Territories, as the following corresponding laws have recently been repealed and replaced:

- The *Criminal Law (Mentally Impaired Accused) Act 1996* (WA) has been replaced by the *Criminal Law (Mental Impairment) Act 2023* (WA). This new legislation, passed in March 2023 and commenced in April 2023, strengthens human rights protections for individuals with mental impairments in Western Australia’s justice system. It includes express provisions for the transfer of forensic patients in and out of Western Australia, emphasises community safety in decision-making, and allows for the extension of orders where there is a determination that significant risk remains. The interaction of this legislation with Queensland’s Mental Health Act remains unchanged.
- The *Mental Health (Forensic Provisions) Act 1990* (NSW) has been replaced by the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* (NSW), which commenced in March 2021. This reform resulted from recommendations by the New South Wales Law Reform Commission, modernising definitions and guidance related to mental health and cognitive impairments in the criminal justice system. The interaction of this legislation with Queensland’s Mental Health Act remains unchanged.

## ***Public Health Regulation***

### **Queensland Cancer Register**

Population-based cancer data is critical for understanding the impact of cancer, assessing treatment outcomes, and effectively addressing the burden of cancer. The QCR is one of the largest population-based cancer registers in Australia. It is a unique data resource and brings together a comprehensive set of cancer data to provide an accurate picture of cancer in Queensland.

Chapter 6, part 2, division 3 of the *Public Health Act 2005* requires notifications to the QCR from directors of pathology laboratories, hospital administrators, and residential care facility managers. These requirements were established in the 1980s, reflecting the types of health facilities and technologies involved in cancer diagnosis and management at that time.

Currently, the QCR is not required to be notified of key information from pathology laboratories, such as diagnostic, staging, and follow-up examinations, or from diagnostic imaging practices. Additionally, hospitals only provide notifications for patients who are separated from hospital, or the first time a patient attends as an outpatient for cancer treatment in a calendar year.

Part 5, division 3 of the *Health and Other Legislation Amendment Act 2023* (Amendment Act) will automatically commence on 3 May 2025. The amendments in this division will amend the Public Health Act to modernise and increase the data that is available to the QCR by imposing

new notification requirements on diagnostic imaging practices and requiring additional information from pathology laboratories and hospitals. These updated notification requirements will provide more comprehensive data on cancer incidences, treatment progress, and pathology findings following diagnosis.

Currently, the Public Health Regulation does not require notifications for some types of cancer, including basal cell carcinoma of the skin (BCCs) and squamous cell carcinoma of the skin (SCCs). However, BCCs and SCCs with perineural or lymphovascular invasion, or metastasis which require specialised surgery, hospital admission, and radiation therapy, have a high morbidity and mortality burden. Collecting data on these types of cases will improve clinical management and treatment outcomes.

The notifications required under the Public Health Act (when amended by the Amendment Act) must be provided to the chief executive within the time prescribed by regulation. The Amendment Regulation will amend the Public Health Regulation to provide timeframes for the new notification requirements. The Amendment Regulation will also ensure that relevant BCCs and SCCs are notifiable cancers.

Specifically, the Amendment Regulation will amend sections 45 and 47 of the Public Health Regulation to:

- prescribe a 30-day time period for hospitals to give a notification about persons who have received cancer diagnoses or died while in hospital;
- prescribe a 120-day time period for hospitals to give notifications in relation to cancer-related treatment episodes;
- prescribe a 30-day time period for a pathology laboratory to give a notification after a director receives a finalised report about the pathological examination;
- prescribe a 30-day time period for diagnostic imaging practices to give a notification after director receives a finalised report about the diagnostic imaging procedure;
- make BCC with perineural or lymphovascular invasion, or metastasis, a notifiable cancer; and
- make SCC with perineural or lymphovascular invasion, or metastasis, a notifiable cancer.

The objective of the amendments is to modernise the data that is provided to the QCR, ensuring that diagnostic imaging practices, pathology laboratories and hospitals provide more detailed and timely information. This will help the QCR collect more accurate data, improve the understanding of cancer, assess treatment effectiveness, and inform the development of cancer strategies and educational programs.

### *Vibrio parahaemolyticus*

*Vibrio parahaemolyticus* is a naturally occurring marine and estuarine bacterium. Infections are commonly associated with the ingestion of raw or undercooked seafood. Environmental factors such as salinity, temperature and plankton availability can influence the abundance of *Vibrio* species. With changes to Australia's climate, including increased seawater temperatures, marine heatwaves and flooding, many coastal regions and urbanised environments are likely to become ideal environments for the population of large numbers of *Vibrio* species. The increased opportunity for human exposure poses a risk of rising sporadic *Vibrio parahaemolyticus* cases, and outbreaks linked to locally grown shellfish are expected to increase.

To protect the health of Queenslanders and allow Queensland Health to better respond to possible *Vibrio* outbreaks, the Amendment Regulation will amend schedule 1 of the Public Health Regulation to make *Vibrio parahaemolyticus* a pathological diagnosis notifiable condition. Chapter 3, part 2, division 2 of the Public Health Act requires doctors, persons in charge of a hospital, and directors of pathology laboratories to notify the chief executive of Queensland Health when specified notifiable conditions criteria are met. This is a framework and mechanism to prevent and minimise adverse health impacts.

*Vibrio parahaemolyticus* was added to the National Notifiable Disease List (NNDL) on 1 January 2025. The Amendment Regulation will align Queensland with the legislated nationally notifiable diseases listed in the NNDL, as well as other States and Territories. The objective of the Amendment Regulation is to make *Vibrio parahaemolyticus* a pathological diagnosis notifiable condition to improve the detection of outbreaks and facilitate timely public health actions to control and manage these outbreaks.

### Monkeypox (MPX)

Monkeypox (mpox) is a disease caused by the monkeypox virus and can infect people of all ages. Individuals diagnosed with mpox are infectious to others while they exhibit symptoms. While the disease is not easily spread between people, it is typically contracted through close or intimate contact with someone infected with the virus. In Australia, men who have sex with other men are currently the group most at risk of contracting mpox. Although most individuals recover from mpox within a few weeks, those with weakened immune systems or other health complications may experience more severe illness or complications.

On 28 November 2022, the WHO recommended using the preferred term ‘mpox’ as a synonym for monkeypox to help reduce stigma associated with the disease. This recommendation followed consultation with experts, countries, and the public, as part of the WHO’s process when updating the International Classification of Diseases. Based on the feedback received, the WHO concluded that replacing ‘monkeypox’ with ‘mpox’ would help reduce stigma. As a result, the term ‘mpox’ was adopted in the International Classification of Diseases 11th Revision – the global standard for health data, clinical documentation, and statistical reporting.

In Queensland, Chapter 3 of the Public Health Act provides a framework for the identification of notifiable conditions and mechanisms to prevent or minimise their adverse health impacts. Notifiable conditions are prescribed in schedule 1 of the Public Health Regulation. Chapter 3, part 2, division 2 of the Public Health Act requires doctors, persons in charge of a hospital, and directors of pathology laboratories to notify the chief executive of Queensland Health when specified notifiable conditions criteria are met. Schedule 1 of the Public Health Regulation prescribes ‘monkeypox (MPX)’ as a notifiable condition on the basis that it is a significant risk to public health.

‘Monkeypox (MPX)’ is prescribed as a pathological diagnosis notifiable condition and a pathology request notifiable condition. Schedule 2 of the Public Health Regulation also prescribes ‘monkeypox (MPX)’ as a notifiable condition that requires immediate notification upon diagnosis by pathological examination or receipt of a request for pathological examination, instead of within the usual period of 48 hours.

The Amendment Regulation will align the Public Health Regulation with other States and Territories, and give effect to the WHO’s recommendation, by replacing ‘monkeypox (MPX)’

with ‘mpox’. New South Wales, the Northern Territory, and Victoria have amended their relevant notifiable conditions legislation to replace ‘monkeypox’ with ‘mpox.’

### ***State Penalties Enforcement Regulation***

There is a minor duplication in schedule 1 of the State Penalties Enforcement Regulation relating to the prescribed penalty unit amounts for offences under sections 161(1) and 161(2) of the *Tobacco and Other Smoking Products Act 1998*.

For section 161(1), the intended penalties of 200 penalty units for an individual and 1,000 penalty units for a corporation are listed. However, outdated references to 20 penalty units for an individual and 100 penalty units for a corporation also appear. A similar duplication occurs for section 161(2), where the intended penalties of 100 penalty units for an individual and 500 penalty units for a corporation are listed alongside the same outdated amounts.

To reflect the intent of the amendments made through the *Tobacco and Other Smoking Products and Other Legislation Amendment Regulation 2025*, the outdated references to 20 penalty units for an individual and 100 penalty units for a corporation should be removed from both sections.

## **Achievement of policy objectives**

### ***Hospital and Health Boards Regulation***

The Amendment Regulation will reduce the administrative burden on both Queensland Health and DTMR by amending schedule 8, part 2 of the Hospital and Health Boards Regulation to prescribe the Agreement between Queensland Health and DTMR.

This amendment will streamline data sharing between both agencies, and increase the understanding of serious road crash injuries, with the aim of progressively improving road safety in Queensland.

### ***Hospital Foundations Regulation***

The Amendment Regulation will change the name of the Foundation to West Moreton Health Foundation by amending schedule 1 of the Hospital Foundations Regulation to replace ‘Ipswich Hospital Foundation’ with ‘West Moreton Health Foundation’.

This amendment will ensure the West Moreton community is better represented, assisting in improving outreach efforts and the Foundation’s ability to secure critical funding from regional stakeholders and local residents.

### ***Mental Health Regulation***

The Amendment Regulation will update out-of-date corresponding laws referenced in section 368(1)(b) and (5), and section 513 of the Mental Health Act by amending schedule 1 of the Mental Health Regulation to replace the *Criminal Law (Mentally Impaired Accused) Act 1996* (WA) with the *Criminal Law (Mental Impairment) Act 2023* (WA), and the *Mental Health*

*(Forensic Provisions) Act 1990 (NSW) with the Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (NSW).*

These amendments will ensure the Mental Health Act accurately reflects the updated laws, facilitating proper interpretation of corresponding laws.

### ***Public Health Regulation***

#### ***Queensland Cancer Register***

The Amendment Regulation will modernise and increase the data available to the QCR by amending:

- section 45, paragraphs (a) and (b) of the Public Health Regulation to insert ‘skin without perineural or lymphovascular invasion, or metastasis’. This amendment will have the effect of ensuring only BCCs and SCCs without perineural invasion or metastasis remain non-notifiable. BCCs and SCCs with perineural or lymphovascular invasion, or metastasis, will be notifiable cancers; and
- section 47 of the Public Health Regulation to prescribe timeframes in which notifications about patients who have received cancer-related treatments, cancer diagnoses or deaths and data on treatment episodes in hospitals must be made to QCR.

These amendments will inform a better understanding of cancer and support the QCR in collecting more accurate data, analysing the use of treatments, and developing strategies and education programs relating to cancer.

#### ***Vibrio parahaemolyticus***

The Amendment Regulation will make *Vibrio parahaemolyticus* a pathological diagnosis notifiable condition by amending schedule 1 of the Public Health Regulation to insert *Vibrio parahaemolyticus* as a pathological diagnosis notifiable condition.

This amendment will ensure Queensland legislation aligns with that of other States and Territories, improving detection of outbreaks and facilitating timely public health action to control outbreaks.

#### ***Monkeypox (MPX)***

The Amendment Regulation will amend and replace ‘monkeypox (MPX)’ with ‘mpox’ in schedule 1 and schedule 2 of the Public Health Regulation.

This amendment will ensure Queensland legislation aligns with the naming of mpox in other States and Territories’ public health legislation. As recommended by the WHO, using the term ‘mpox’ will reduce stigma associated with the disease.

### ***State Penalties Enforcement Regulation***

The Amendment Regulation will update the penalty amounts prescribed in schedule 1 of the State Penalties Enforcement Regulation for offences under sections 161(1) and 161(2) of the Tobacco and Other Smoking Products Act by removing the outdated references to 20 penalty units for individuals and 100 penalty units for corporations.



The Amendment Regulation provides that amendments to the State Penalties Enforcement Regulation are taken to have commenced immediately after the commencement of the Tobacco and Other Smoking Products and Other Legislation Amendment Regulation 2025.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the policy objectives of the authorising Acts.

## **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**

No alternative ways of achieving the policy objectives have been identified. The Amendment Regulation is the only effective means of achieving the policy objectives.

## **Benefits and costs of implementation**

The cost of implementing the Amendment Regulation will be met within existing budget allocations. The amendments do not impose any new or increased fees.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is generally consistent with fundamental legislative principles in section 4 of the *Legislative Standards Act 1992*. However, it may potentially impact on the following fundamental principles.

### **Whether the legislation has sufficient regard to the rights and liberties of individuals (*Legislative Standards Act 1992*, s 4(2)(a))**

#### **Right to Privacy**

The right to privacy, the disclosure of private or confidential information, and privacy and confidentiality issues have generally been identified by the former Scrutiny of Legislation Committee as relevant when considering whether legislation has sufficient regard to an individual's rights and liberties.

#### ***Hospital and Health Boards Regulation***

The Amendment Regulation amends the Hospital and Health Boards Regulation to recognise the Agreement between the chief executive of Queensland Health and DTMR that permits the sharing of confidential road crash data without requiring case-by-case written approval. This amendment streamlines the data-sharing process, addressing the significant administrative burden that both Queensland Health and DTMR currently face when sharing this information. However, the amendment may limit the right to privacy, as it allows for the disclosure of patient information, including emergency department, emergency responder, morbidity, and mortality data.

In practice, Queensland Health already uses section 160(1) of the Hospital and Health Boards Act to facilitate the sharing of road crash data, but the need for case-by-case approval from the chief executive is time-intensive and administratively burdensome. By formalising this process through the Agreement, the Amendment Regulation reduces the associated administrative load while ensuring the continued protection of individual privacy. The Agreement also maintains strict oversight and governance by requiring written authorisation from the chief executive, ensuring that data is only used for its intended purpose.

While the amendment allows for the disclosure of patient information, any privacy concerns are mitigated by the information only being shared in accordance with legal requirements, including compliance with the *Information Privacy Act 2009* and Information Privacy Principles. Additionally, section 151(2) of the Hospital and Health Boards Act provides additional safeguards, ensuring that information is not disclosed to any third party unless specifically authorised under the Agreement.

### ***Public Health Regulation***

#### **Queensland Cancer Register**

The Amendment Regulation will amend the Public Health Regulation to include notification timeframes for the amended notification requirements under the Public Health Act. The Amendment Regulation also makes types of BCCs and SCCs notifiable, if exhibiting perineural or lymphovascular invasion or metastasis.

While the amendment may engage privacy implications due to the collection of health data, the benefits of improved cancer monitoring, combined with the privacy safeguards discussed below, outweigh these concerns. By collecting more accurate and comprehensive cancer data, Queensland Health can improve early detection, inform targeted treatments, and develop more effective public health strategies. The amendment will support research and education efforts that are crucial to reducing the cancer burden in Queensland.

The QCR has strong privacy safeguards in place. Any information collected must be maintained in accordance with strict privacy and confidentiality obligations under the Public Health Act and Information Privacy Act. Confidential information that is supplied to Queensland Health and held on the QCR must not be disclosed directly or indirectly, unless disclosure is permitted under the Public Health Act. Additionally, Cancer Alliance Queensland, which manages the operation of the QCR, abides by Queensland Health's security policies and follows industry best practice regarding security. There are clear processes and safeguards in place to ensure that the release of any health data complies with privacy principles, the Public Health Act, the Information Privacy Act, the Hospital and Health Boards Act, and ethical standards.

#### **Making *Vibrio parahaemolyticus* a notifiable condition**

The Amendment Regulation will amend the Public Health Regulation to include *Vibrio parahaemolyticus* as a pathological diagnosis notifiable condition. While this amendment will facilitate the collection of health data, it is necessary to ensure timely public health responses to prevent and manage outbreaks.

Additionally, the amendment will strengthen Queensland's ability to respond proactively to rising public health threats, including those associated with climate change. By tracking

*Vibrio parahaemolyticus* cases effectively, Queensland Health is able to protect the public from further harm, and limit the spread of the condition. Any minor impact on privacy is outweighed by the benefits to public health.

The Public Health Act ensures that personal health information is disclosed only when necessary for public health management. Confidential information that is supplied to Queensland Health and held on the Notifiable Conditions Register must not be disclosed directly or indirectly, unless disclosure is permitted under the Public Health Act. Any confidential information that is collected must also comply with obligations under the Information Privacy Act. Safeguards prescribed under the Public Health Act and Information Privacy Act ensure that a person's confidential health information is protected, and mitigate any risks to privacy that collecting data on *Vibrio parahaemolyticus* may present. Making *Vibrio parahaemolyticus* a notifiable condition is the most effective approach to facilitating timely outbreak responses while adhering to strict privacy controls.

**Legislation should not adversely affects rights and liberties, or impose obligations, retrospectively (*Legislative Standards Act 1992*, section 4(3)(g))**

Section 4(3)(g) provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether the legislation adversely affects rights and liberties, or impose obligations, retrospectively. While the Amendment Regulation includes amendments which may have retrospective application, these do not adversely impact the rights and liberties of individuals.

***State Penalties Enforcement Regulation***

The Amendment Regulation provides that amendments to the State Penalties Enforcement Regulation are taken to have commenced on 3 April 2025, immediately after the commencement of the Tobacco and Other Smoking Products and Other Legislation Amendment Regulation. As such, these amendments have retrospective effect.

The retrospective amendments correct an inadvertent duplication in schedule 1 of the State Penalties Enforcement Regulation to ensure the prescribed penalty amounts are consistent with the policy intent of the Tobacco and Other Smoking Products and Other Legislation Amendment Regulation. That Regulation, among other things, increased the prescribed penalty units for offences under the Tobacco and Other Smoking Products Act involving the supply and possession of illicit tobacco as part of a business activity. Specifically:

- For the supply offence (s 161(1)), the penalty was increased from 20 to 200 penalty units for individuals, and from 100 to 1,000 penalty units for corporations.
- For the possession offence (s 161(2)), the penalty was increased from 20 to 100 penalty units for individuals, and from 100 to 500 penalty units for corporations.

The rationale for increasing these penalties was to strengthen deterrence and disrupt the economic drivers of the illicit tobacco trade, which continues to present a serious public health risk in Queensland. The profitability of this illegal activity, particularly among repeat and organised offenders, outweighs the perceived risks of enforcement. Stronger penalties are intended to make this illegal behaviour less attractive for offenders.

The retrospective commencement is limited in scope and necessary to correct a technicality. It does not impose any new obligations, liabilities, or disadvantages on any person. Instead, it

ensures that the State Penalties Enforcement Regulation accurately reflects the intended operation of the Tobacco and Other Smoking Products and Other Legislation Amendment Regulation.

Section 34 of the *Statutory Instruments Act 1992* provides that a beneficial provision of a statutory instrument may be given retrospective operation if the statutory instrument expressly provides for that operation. A ‘beneficial provision’ is broadly defined in section 34(2) to include any provision that does not operate to disadvantage a person by decreasing the person’s rights or imposing liabilities on the person.

As these amendments simply remove outdated penalty unit references that were not intended to remain in force, they fall within the scope of section 34 of the Statutory Instruments Act. Accordingly, the retrospective operation of the amendments is justified and consistent with fundamental legislative principles.

## **Consultation**

In January 2025, a consultation paper on the amendments was published on the Queensland Health website and sent to key stakeholders across medical, nursing and psychological peak bodies, Aboriginal and Torres Strait Islander health organisations, allied health and clinic networks, and Queensland Health, including the Queensland Ambulance Service and Hospital and Health Services (HHSs). The amendments to the State Penalties Enforcement Regulation did not require stakeholder consultation, as they are technical in nature.

All stakeholders were broadly supportive of the amendments in the consultation paper. Some stakeholders sought further clarification on specific amendments, as detailed below.

### ***Hospital and Health Boards Regulation***

The majority of stakeholders supported the amendment to recognise the Agreement between the chief executive of Queensland Health and DTMR. Some stakeholders, including the Queensland Trauma Clinical Network, Queensland Nurses and Midwives’ Union (QMNU), raised minor concerns relating to protecting the privacy of patients and families when sharing data related to serious injuries from road crashes. Some stakeholders were also interested in the detail of the Agreement between the chief executive of Queensland Health and DTMR.

Stakeholders have been informed that disclosed information will be de-identified, and governance processes will ensure the secure release and management of linked data. Further, Queensland Health has clarified the intention of the Agreement, and the legal requirements in place to protect the privacy of patients and their families.

### ***Public Health Regulation***

#### **Queensland Cancer Register**

The majority of stakeholders supported these amendments. Some stakeholders queried what cancers will be notifiable pursuant to the proposed changes, and the potential impacts of new notification timeframes on healthcare services and teams. Stakeholders have been informed that Queensland Health is providing funding for the implementation of a project that will allow

the Queensland Cancer Alliance to assist cancer notifiers in complying with the new information requirements, and corresponding notification timeframes.

The QMNU supported the amendments, noting that the notification requirements were likely developed following consultation with HHSs to ensure there are no adverse impacts on resourcing. All HHSs were supportive of these amendments, noting that these notification timeframes are already in place and adhered to by hospitals.

The Non-Melanoma Skin Cancer Subcommittee and Australian Skin and Skin Cancer Research Centre recommended that types of BCCs and SCCs that exhibit lymphocascular invasion be made notifiable. The Non-Melanoma Skin Cancer Subcommittee also recommended using the word ‘metastases’ to incorporate all types of metastases, and not just nodal. This feedback has been incorporated into the Amendment Regulation.

#### Monkeypox (MPX)

Stakeholders supported the amendment to replace ‘monkeypox (MPX)’ with ‘mpox’. The Laboratory Notification Criteria and the Queensland Health website containing the notifiable conditions list will be updated to remove the reference to ‘monkeypox’, as recommended by Pathology Queensland.