

Health Legislation Amendment Regulation (No. 2) 2025

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, the Honourable Tim Nicholls MP, Minister for Health and Ambulance Services, provide this human rights certificate with respect to the *Health Legislation Amendment Regulation (No. 2) 2025* (Amendment Regulation), made under the following Acts:

- *Hospital and Health Boards Act 2011*;
- *Medicines and Poisons Act 2019*; and
- *Public Health Act 2005*.

In my opinion, the Amendment Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the Human Rights Act. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The main objectives of the Amendment Regulation are to amend the:

- *Public Health Regulation 2018* to remove Japanese encephalitis (JE) and Murray Valley encephalitis (MVE) as pathology request notifiable conditions;
- *Hospital and Health Boards Regulation 2023* to update the reference to the information sharing agreement between Queensland Health and Services Australia to allow for the identification of women eligible for BreastScreen Queensland's (BSQ's) free breast screening service;
- *Medicines and Poisons (Medicines) Regulation 2021* to clarify that the processing fee for an initial application for a substance authority¹ applies only to licences and has not applied to general and prescribing approvals since the commencement of the regulation on 27 September 2021;
- *Medicines and Poisons (Poisons and Prohibited Substances) Regulation 2021* to clarify that the processing fee for an initial application for a substance authority and the fee for replacing a lost, stolen, or damaged hard copy document applies only to licences. These fees have not applied to general approvals since the commencement of the regulation on 27 September 2021; and
- *Medicines and Poisons (Pest Management Activities) Regulation 2021* (Pest Management Regulation) to make a minor and consequential amendment to ensure consistency in the language used across the medicines and poisons scheme.

¹ A substance authority is a manufacturing licence; wholesale licence; retail licence; pest management licence; prescribing approval; or a general approval.

Public Health Regulation 2018

Under schedule 1 of the Public Health Regulation, JE and MVE are prescribed as both pathology request notifiable conditions and pathological diagnosis notifiable conditions. Queensland is the only jurisdiction in Australia that requires notification of suspected cases of JE and MVE in addition to diagnosed cases, which exceeds national minimum reporting requirements. Removing the pathology request notification requirement will align Queensland's reporting obligation with national standards and practices and reduce unnecessary administrative burden on laboratories.

Hospital and Health Boards Regulation 2023

In 2019, Queensland Health entered into an agreement with the Commonwealth Department of Human Services, now known as Services Australia (2019 Agreement) to access their Medicare enrolment information for the purposes of identifying and contacting women eligible for the BSQ free breast screening program. The 2019 Agreement permitted access to basic demographic information, but excluded telephone numbers and email addresses, limiting outreach to postal invitations.

In September 2025, Queensland Health entered into a new agreement with Services Australia (2025 Agreement), which allows for the sharing of additional contact information, such as telephone numbers and email addresses. This will enable BSQ to contact eligible women via SMS, telephone and email, which recent trials have demonstrated are a more effective means of communication for increasing participation in the BSQ program. Updating the reference in the Hospital and Health Boards Regulation to the 2025 Agreement is required to give it effect.

Medicines and Poisons scheme

The *Medicines and Poisons Act 2019* establishes a regulatory framework for the safe, effective and appropriate handling of medicines, poisons, and other regulated substances in Queensland.

The Amendment Regulation clarifies that processing fees are only payable for specific initial applications, such as:

- a manufacturing licence or wholesale licence for an S2, S3, S4 or S8 medicine;
- an S2 retail licence;
- a manufacturing licence or wholesale licence for a hazardous poison; and
- an S7 retail licence.

Additionally, the Amendment Regulation clarifies holders of general approvals are not required to pay a fee for replacement hard copy documents evidencing their approvals.

The amendments apply retrospectively to confirm that this interpretation has always been in effect since the commencement of the medicines and poisons regulatory scheme on 27 September 2021. No fees have ever been sought or paid for these types of approvals.

The amendments will also make a minor, consequential amendment to the Pest Management Regulation to ensure the language used regarding a processing fee for an initial application is consistent across the regulations.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

The amendment to the Hospital and Health Boards Regulation introduces new data sharing requirements. In my opinion, the only human right relevant to the Amendment Regulation is the right to privacy and reputation, as protected under section 25 of the Human Rights Act.

Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

(a) the nature of the right

Section 25 of the Human Rights Act provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with, and not to have their reputation unlawfully attacked. Privacy is generally understood as a compromise of freedom from unwarranted and unreasonable intrusions into activities that society recognises as falling within the sphere of individual autonomy. The right to privacy is broad and includes safeguarding the disclosure of private or confidential information, and the collection of data.

The concept of lawfulness means that where an interference with privacy is provided for by law, it will not be unlawful.² However, lawful interference with the right to privacy may still be arbitrary if it is unreasonable, unnecessary or disproportionate. Arbitrary is not defined in the Human Rights Act, but common law consideration makes clear that it does not include decisions or actions taken to maintain or protect public safety.³ As with other rights, the right to privacy can be limited where it is reasonable and demonstrably justifiable,⁴ in a free and democratic society based on human dignity, equality and freedom.

In the context of the Amendment Regulation, the right to privacy is engaged due to the proposed sharing of additional personal contact information (e.g. telephone numbers and email addresses) under the 2025 Agreement. This information is used to facilitate communication with eligible women for participation in the BSQ program.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitation is to enhance public health outcomes by improving participation in the BSQ program. BSQ is a long-standing, evidence-based initiative that provides free breast screening to women aged 40 and over. Since its inception in 1991, BSQ has performed more than 5 million breast screens and detected more than 25 000 breast cancers. Since 1991, deaths from breast cancer for women aged 50 to 74 have fallen from 68 out of every 100 000 women each year to less than 45 out of every 100 000 women each year.⁵

² Human Rights Committee, *General Comment No. 16: The right to respect of privacy, family, home and correspondence, and protection of honour and reputation (Article 17 of the International Covenant on Civil and Political Rights)*, UNHRC, 32nd sess (8 April 1988).

³ *Thompson v Minogue* (2021) 294 A Crim R 216, 231 [55], 269 [221]; *Attorney-General (Qld) v Grant* [No 2] [2022] QSC 252; *R v Cringle* [2013] ACTSC 34.

⁴ *R v Wayne Michael Connors* [2012] ACTSC 80.

⁵ BreastScreen Queensland – Breast cancer and breast screening. Accessed here: www.breastscreen.qld.gov.au/should-i-screen/breast-cancer-and-breast-screening.

The 2025 Agreement between Queensland Health and Services Australia enables access to additional contact information for eligible women, allowing for more effective communication via SMS, telephone and email. This modernisation of outreach methods is expected to increase screening participation rates, particularly among women who may not respond to traditional postal invitations.

Any limitation on the right to privacy is justified by allowing for more effective communication with eligible women, improving participation rates, and as a result women's health.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

Replacing reference to the 2019 Agreement with reference to the 2025 Agreement will modernise the way women are contacted to participate in the BSQ program. The limitation directly supports the purpose by enabling modernised communication methods (e.g. SMS, email, phone calls), which are proved to increase participation in breast screening. Improved participation rates are expected to enhance early detection and reduce mortality from breast cancer.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

There are no less restrictive or equally effective alternatives to achieve the amendment's objective. The 2019 Agreement only permits access to limited contact details (name, date of birth and postal or residential address), which are insufficient for efficient outreach. The 2025 Agreement is necessary to give effect to the updated data sharing agreement and improve health outcomes.

The limitation on privacy is justified by the amendment's significant public health benefits and the information only being shared in accordance with legal requirements, including compliance with the *Privacy Act 1988* (Cth), *Information Privacy Act 2009* and Information Privacy Principles. Additionally, section 151(2) of the *Hospital and Health Boards Act 2011* provides additional safeguards by ensuring that confidential information is not disclosed to any third party unless specifically authorised under the agreement.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

The Amendment Regulation's impact on the right to privacy is minimal and justified given the amendment's role in improving breast cancer monitoring. The sharing of additional contact information for eligible women, such as telephone numbers and email addresses will enable Queensland Health to contact eligible women by SMS, telephone and email. Recent trials have demonstrated this to be a more effective means of communication for increasing participation in the BSQ program.

The public health benefits—particularly improved screening rates and reduced breast cancer mortality—outweigh the limited intrusion into privacy.

(f) any other relevant factors

Nil.

Conclusion

I consider that the *Health Legislation Amendment Regulation (No. 2) 2025* is compatible with the Human Rights Act because it limits human rights only to the extent that is reasonable and demonstrable justified in a free and democratic society based on human dignity, equality and freedom.

TIM NICHOLLS MP
MINISTER FOR HEALTH AND
AMBULANCE SERVICES

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