



Queensland

Health and Other Legislation Amendment Act 2009

Act No. 44 of 2009



Queensland

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Queensland

Health and Other Legislation Amendment Act 2009

Act No. 44 of 2009

An Act to amend the Chiropractors Registration Act 2001, the Dental Practitioners Registration Act 2001, the Dental Technicians and Dental Prosthetists Registration Act 2001, the Health Practitioners (Professional Standards) Act 1999, the Health Quality and Complaints Commission Act 2006, the Health Services Act 1991, the Medical Practitioners Registration Act 2001, the Medical Radiation Technologists Registration Act 2001, the Nursing Act 1992, the Occupational Therapists Registration Act 2001, the Optometrists Registration Act 2001, the Osteopaths Registration Act 2001, the Pharmacists Registration Act 2001, the Physiotherapists Registration Act 2001, the Podiatrists Registration Act 2001, the Police Powers and Responsibilities Act 2000, the Psychologists Registration Act 2001, the Public Health Act 2005, the Speech Pathologists Registration Act 2001, the Tobacco and Other Smoking Products Act 1998 and the Workers' Compensation and Rehabilitation Act 2003 for particular purposes

[Assented to 3 November 2009]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Health and Other Legislation Amendment Act 2009*.

2 Commencement

- (1) Sections 163 and 165(2) are taken to have commenced on 16 January 2006.
- (2) Parts 19 (other than sections 163 and 165(2)) and 22 commence on assent.
- (3) The remainder of the Act commences on a day fixed by proclamation.

Part 2 Amendment of Chiropractors Registration Act 2001

3 Act amended in pt 2

This part amends the *Chiropractors Registration Act 2001*.

4 Amendment of s 64 (Period)

Section 64, '6 months'—
omit, insert—
'12 months'.

5 Replacement of s 82 (Ground for cancellation)

Section 82—

omit, insert—

‘82 Grounds for cancellation

‘A general registration may be cancelled, under this division, on the following grounds—

- (a) the registration happened because the board was given, by the registrant or someone else, information or a document that—
 - (i) was materially false, within the meaning given by section 210(1), at the time it was given; or
 - (ii) became materially false, within the meaning given by section 210(1), after it was given;
- (b) the registrant ceases to have, or does not have, the qualifications necessary for registration.’.

6 Amendment of s 96 (Failure by board to make decision on application)

- (1) Section 96(1) and (3), ‘remove’—

omit, insert—

‘confirm’.

- (2) Section 96(4)—

omit.

7 Amendment of s 97 (Failure by board to make decision on review agreed to under s 90)

- (1) Section 97(1) and (3), ‘remove’—

omit, insert—

‘confirm’.

- (2) Section 97(4)—

omit.

[s 8]

8 Amendment of s 99 (Amending, replacing, or issuing new, certificate of general registration)

(1) Section 99(4)—

omit, insert—

‘(4) Subsection (5) applies if a general registrant receives a notice, under section 94(5), about a decision to remove the conditions of the registration.’.

(2) Section 99(5), ‘or taken to have been made’—

omit.

9 Amendment of s 113 (Grounds for cancellation)

Section 113(e)—

omit, insert—

‘(e) the registration happened because the board was given, by the registrant or someone else, information or a document that—

(i) was materially false, within the meaning given by section 210(1), at the time it was given; or

(ii) became materially false, within the meaning given by section 210(1), after it was given;

(f) the registrant ceases to have, or does not have, the qualifications necessary for registration.’.

10 Replacement of s 210 (False or misleading information or documents)

Section 210—

omit, insert—

‘210 False or misleading information or documents

‘(1) For this section—

(a) information is taken to be materially false if—

- (i) the information is false or misleading in a material particular; or
 - (ii) regardless of the literal truth of the information, it has a propensity to mislead or deceive the board in a material particular, including through the omission of other material information; and
- (b) a document is taken to be materially false if—
- (i) the document contains or conveys information that is materially false; or
 - (ii) the document contains or conveys information that, by the time the document is given to the board, has become materially false; or
 - (iii) the document—
 - (A) is, or purports to be, a copy of an original document; and
 - (B) is not, in a material particular, a true, accurate and complete copy of the original document; or
 - (iv) the document—
 - (A) is, or purports to be, an extract from or summary of an original document; and
 - (B) fails, in a material particular, to convey a true, accurate and complete representation of the information contained in the original document.
- ‘(2) A person must not give the board—
- (a) information that is materially false to the knowledge of the person; or
 - (b) a document that is materially false to the knowledge of the person.

Maximum penalty—200 penalty units.

[s 10]

- ‘(3) A person must not contravene subsection (2) in connection with an application for registration by the person or someone else.

Maximum penalty—2000 penalty units or 3 years imprisonment.

- ‘(4) A person must convey the relevant facts to the board as soon as reasonably practicable after the person—

- (a) being a registrant, becomes aware that information or a document that was given to the board in connection with the person’s registration—

(i) was materially false when it was given to the board; or

(ii) has since become materially false; or

- (b) being a person who previously gave information or a document to the board, becomes aware that the information or document—

(i) was materially false when it was given to the board; or

(ii) has since become materially false.

Maximum penalty—200 penalty units.

- ‘(5) A registrant must not act or practise as a registrant, or continue to do so, if—

- (a) the registrant committed a contravention of subsection (2) in connection with the registrant’s application for registration; or

- (b) the registrant was knowingly concerned in, or a party to, a contravention of subsection (2) in connection with the registrant’s application for registration; or

- (c) the registrant has failed to convey the relevant facts to the board after becoming aware that information or a document that was given to the board in connection with the registrant’s registration—

- (i) was materially false when it was given to the board; or
- (ii) has since become materially false.

Maximum penalty—2000 penalty units or 3 years imprisonment.

‘(6) To remove any doubt, it is declared that in this section—

material particular, in relation to an application for registration, is not limited to a particular that would have been determinative of the application, but includes any particular that, had it been known to the board at the relevant time, might have influenced the board, a member, the executive officer or a member of the office’s staff in—

- (a) granting or refusing the application; or
- (b) deciding the capacity in which the applicant may be registered; or
- (c) imposing a condition, qualification or restriction on registration granted to the applicant; or
- (d) fixing the period of the registration granted to the applicant; or
- (e) making further inquiries or conducting further investigations in connection with the application.

registration means—

- (a) registration as a registrant; or
- (b) renewal of registration as a registrant; or
- (c) restoration of registration as a registrant.’.

14 Amendment of s 96 (Failure by board to make decision on application)

(1) Section 96(1) and (3), ‘remove’—

omit, insert—

‘confirm’.

(2) Section 96(4)—

omit.

15 Amendment of s 97 (Failure by board to make decision on review agreed to under s 90)

(1) Section 97(1) and (3), ‘remove’—

omit, insert—

‘confirm’.

(2) Section 97(4)—

omit.

16 Amendment of s 99 (Amending, replacing, or issuing new, certificate of general registration)

(1) Section 99(4)—

omit, insert—

‘(4) Subsection (5) applies if a general registrant receives a notice, under section 94(5), about a decision to remove the conditions of the registration.’

(2) Section 99(5), ‘or taken to have been made’—

omit.

17 Amendment of s 132 (Grounds for cancellation)

Section 132(e)—

omit, insert—

[s 18]

- ‘(e) the registration happened because the board was given, by the registrant or someone else, information or a document that—
 - (i) was materially false, within the meaning given by section 232(1), at the time it was given; or
 - (ii) became materially false, within the meaning given by section 232(1), after it was given;
- (f) the registrant ceases to have, or does not have, the qualifications necessary for registration.’.

18 Replacement of s 232 (False or misleading information or documents)

Section 232—

omit, insert—

‘232 False or misleading information or documents

- ‘(1) For this section—
 - (a) information is taken to be materially false if—
 - (i) the information is false or misleading in a material particular; or
 - (ii) regardless of the literal truth of the information, it has a propensity to mislead or deceive the board in a material particular, including through the omission of other material information; and
 - (b) a document is taken to be materially false if—
 - (i) the document contains or conveys information that is materially false; or
 - (ii) the document contains or conveys information that, by the time the document is given to the board, has become materially false; or
 - (iii) the document—
 - (A) is, or purports to be, a copy of an original document; and

- (B) is not, in a material particular, a true, accurate and complete copy of the original document; or
 - (iv) the document—
 - (A) is, or purports to be, an extract from or summary of an original document; and
 - (B) fails, in a material particular, to convey a true, accurate and complete representation of the information contained in the original document.
- ‘(2) A person must not give the board—
 - (a) information that is materially false to the knowledge of the person; or
 - (b) a document that is materially false to the knowledge of the person.

Maximum penalty—200 penalty units.
- ‘(3) A person must not contravene subsection (2) in connection with an application for registration by the person or someone else.

Maximum penalty—2000 penalty units or 3 years imprisonment.
- ‘(4) A person must convey the relevant facts to the board as soon as reasonably practicable after the person—
 - (a) being a registrant, becomes aware that information or a document that was given to the board in connection with the person’s registration—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false; or
 - (b) being a person who previously gave information or a document to the board, becomes aware that the information or document—

[s 18]

- (i) was materially false when it was given to the board; or
- (ii) has since become materially false.

Maximum penalty—200 penalty units.

- ‘(5) A registrant must not act or practise as a registrant, or continue to do so, if—
- (a) the registrant committed a contravention of subsection (2) in connection with the registrant’s application for registration; or
 - (b) the registrant was knowingly concerned in, or a party to, a contravention of subsection (2) in connection with the registrant’s application for registration; or
 - (c) the registrant has failed to convey the relevant facts to the board after becoming aware that information or a document that was given to the board in connection with the registrant’s registration—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false.

Maximum penalty—2000 penalty units or 3 years imprisonment.

- ‘(6) To remove any doubt, it is declared that in this section—
- material particular*, in relation to an application for registration, is not limited to a particular that would have been determinative of the application, but includes any particular that, had it been known to the board at the relevant time, might have influenced the board, a member, the executive officer or a member of the office’s staff in—
- (a) granting or refusing the application; or
 - (b) deciding the capacity in which the applicant may be registered; or
 - (c) imposing a condition, qualification or restriction on registration granted to the applicant; or

- (d) fixing the period of the registration granted to the applicant; or
- (e) making further inquiries or conducting further investigations in connection with the application.

registration means—

- (a) registration as a registrant; or
- (b) renewal of registration as a registrant; or
- (c) restoration of registration as a registrant.’.

Part 4

Amendment of Dental Technicians and Dental Prosthetists Registration Act 2001

19 Act amended in pt 4

This part amends the *Dental Technicians and Dental Prosthetists Registration Act 2001*.

20 Amendment of s 64 (Period)

Section 64, ‘6 months’—

omit, insert—

‘12 months’.

21 Replacement of s 83 (Ground for cancellation)

Section 83—

omit, insert—

[s 22]

‘83 Grounds for cancellation

‘A general registration may be cancelled, under this division, on the following grounds—

- (a) the registration happened because the board was given, by the registrant or someone else, information or a document that—
 - (i) was materially false, within the meaning given by section 214(1), at the time it was given; or
 - (ii) became materially false, within the meaning given by section 214(1), after it was given;
- (b) the registrant ceases to have, or does not have, the qualifications necessary for registration.’.

22 Amendment of s 98 (Failure by board to make decision on application)

- (1) Section 98(1) and (3), ‘remove’—
omit, insert—
‘confirm’.
- (2) Section 98(4)—
omit.

23 Amendment of s 99 (Failure by board to make decision on review agreed to under s 91)

- (1) Section 99(1) and (3), ‘remove’—
omit, insert—
‘confirm’.
- (2) Section 99(4)—
omit.

24 Amendment of s 101 (Amending, replacing, or issuing new, certificate of general registration)

(1) Section 101(4)—

omit, insert—

‘(4) Subsection (5) applies if a general registrant receives a notice, under section 95(5), about a decision to remove the conditions of the registration.’.

(2) Section 101(5), ‘or taken to have been made’—

omit.

25 Amendment of s 115 (Grounds for cancellation)

Section 115(e)—

omit, insert—

‘(e) the registration happened because the board was given, by the registrant or someone else, information or a document that—

(i) was materially false, within the meaning given by section 214(1), at the time it was given; or

(ii) became materially false, within the meaning given by section 214(1), after it was given;

(f) the registrant ceases to have, or does not have, the qualifications necessary for registration.’.

26 Replacement of s 214 (False or misleading information or documents)

Section 214—

omit, insert—

‘214 False or misleading information or documents

‘(1) For this section—

(a) information is taken to be materially false if—

[s 26]

- (i) the information is false or misleading in a material particular; or
 - (ii) regardless of the literal truth of the information, it has a propensity to mislead or deceive the board in a material particular, including through the omission of other material information; and
 - (b) a document is taken to be materially false if—
 - (i) the document contains or conveys information that is materially false; or
 - (ii) the document contains or conveys information that, by the time the document is given to the board, has become materially false; or
 - (iii) the document—
 - (A) is, or purports to be, a copy of an original document; and
 - (B) is not, in a material particular, a true, accurate and complete copy of the original document; or
 - (iv) the document—
 - (A) is, or purports to be, an extract from or summary of an original document; and
 - (B) fails, in a material particular, to convey a true, accurate and complete representation of the information contained in the original document.
- ‘(2) A person must not give the board—
- (a) information that is materially false to the knowledge of the person; or
 - (b) a document that is materially false to the knowledge of the person.

Maximum penalty—200 penalty units.

-
- ‘(3) A person must not contravene subsection (2) in connection with an application for registration by the person or someone else.

Maximum penalty—2000 penalty units or 3 years imprisonment.

- ‘(4) A person must convey the relevant facts to the board as soon as reasonably practicable after the person—

- (a) being a registrant, becomes aware that information or a document that was given to the board in connection with the person’s registration—

(i) was materially false when it was given to the board; or

(ii) has since become materially false; or

- (b) being a person who previously gave information or a document to the board, becomes aware that the information or document—

(i) was materially false when it was given to the board; or

(ii) has since become materially false.

Maximum penalty—200 penalty units.

- ‘(5) A registrant must not act or practise as a registrant, or continue to do so, if—

- (a) the registrant committed a contravention of subsection (2) in connection with the registrant’s application for registration; or

- (b) the registrant was knowingly concerned in, or a party to, a contravention of subsection (2) in connection with the registrant’s application for registration; or

- (c) the registrant has failed to convey the relevant facts to the board after becoming aware that information or a document that was given to the board in connection with the registrant’s registration—

[s 26]

- (i) was materially false when it was given to the board; or
- (ii) has since become materially false.

Maximum penalty—2000 penalty units or 3 years imprisonment.

‘(6) To remove any doubt, it is declared that in this section—

material particular, in relation to an application for registration, is not limited to a particular that would have been determinative of the application, but includes any particular that, had it been known to the board at the relevant time, might have influenced the board, a member, the executive officer or a member of the office’s staff in—

- (a) granting or refusing the application; or
- (b) deciding the capacity in which the applicant may be registered; or
- (c) imposing a condition, qualification or restriction on registration granted to the applicant; or
- (d) fixing the period of the registration granted to the applicant; or
- (e) making further inquiries or conducting further investigations in connection with the application.

registration means—

- (a) registration as a registrant; or
- (b) renewal of registration as a registrant; or
- (c) restoration of registration as a registrant.’.

[s 29]

- (i) to make a decision to enter into an undertaking with a registrant, other than an undertaking in relation to disciplinary proceedings; or
- (ii) to order a registrant to attend for a further health assessment.’.

29 Insertion of new s 40A

After section 40—

insert—

‘40A Temporary appointment of panel of assessors

- ‘(1) This section applies if the Minister reasonably believes that it is necessary to urgently appoint an individual as a member of a professional panel of assessors because—
 - (a) the secretary or registrar considers a disciplinary matter is likely to raise issues of a specialist or technical nature, whether on the basis of advice received under section 19(1) or 33(1) from a board or otherwise; and
 - (b) the secretary or registrar has advised the Minister that—
 - (i) none of the panel members have the desirable professional background or skills; or
 - (ii) panel members who do have the desirable professional background or skills will not be available to hear the matter.
- ‘(2) Despite section 40(1), the Minister may appoint an individual to a professional panel of assessors for a period of not more than 6 months.
- ‘(3) An individual is qualified for appointment to a panel under this section only if the individual is qualified for appointment to the panel under section 40(4).’.

30 Amendment of s 42 (Procedure for recommending members of panels of assessors)

Section 42(4), after ‘assessors’—

insert—

‘under section 40(1)(b)’.

31 Amendment of s 55 (Notice to be given if complaint rejected)

Section 55(1), ‘within 14 days of’—

omit, insert—

‘as soon as practicable after’.

32 Amendment of s 63 (When investigation of registrant may be conducted on board’s initiative)

(1) Section 63(2) and (3)—

renumber as section 63(3) and (4).

(2) Section 63(1)—

omit, insert—

‘(1) A registrant’s board may investigate the registrant if it reasonably believes that an aspect of the registrant’s conduct or practice, or another matter relating to the registrant, may provide a ground for disciplinary action against the registrant.

‘(2) Subsection (1) applies whether or not the board has received a complaint under the complaints part about the aspect of the registrant’s conduct, practice or other matter.’.

(3) Section 63(4), as renumbered, ‘Subsection (2)’—

omit, insert—

‘Subsection (3)’.

33 Amendment of s 134 (Powers of board to refer matter to panel or tribunal etc.)

Section 134(1), ‘a hearing’—

omit, insert—

‘disciplinary proceedings’.

[s 34]

34 Amendment of s 135 (Powers of disciplinary committee to refer to panel or tribunal etc.)

Section 135(1), ‘a hearing’—

omit, insert—

‘disciplinary proceedings’.

35 Amendment of s 164 (Decision about whether ground for disciplinary action established)

Section 164(1), ‘within 14 days’—

omit.

36 Amendment of s 168 (Notification of decision)

Section 168(4)—

omit, insert—

‘(4) The decision takes effect on the day the board or disciplinary committee makes its decision or, if the board or disciplinary committee’s decision is to take effect on a later day, on the later day.

‘(5) However, if the registrant or the registrant’s representative is not present when the board or disciplinary committee makes its decision, the decision takes effect on the later of—

(a) the day the notice is given to the registrant; or

(b) the day of effect stated in the notice.’.

37 Amendment of s 205 (Notification of decision of panel)

Section 205(4)—

omit, insert—

‘(4) The decision takes effect on the day the panel makes its decision or, if the panel’s decision is to take effect on a later day, on the later day.

-
- ‘(5) However, if the registrant or the registrant’s representative is not present when the panel makes its decision, the decision takes effect on the later of—
- (a) the day the notice is given to the registrant; or
 - (b) the day of effect stated in the notice.’.

38 Amendment of s 255 (Costs)

Section 255—

insert—

- ‘(4) If an order is made about costs—
- (a) the order may be filed in the registry of a District Court; and
 - (b) on being filed, is taken to be an order made by a District Court and may be enforced accordingly.’.

39 Amendment of s 278 (Notification of board’s decision)

Section 278(3)—

omit, insert—

- ‘(3) The decision takes effect on the following day—
- (a) if the decision is a decision to enter into an undertaking with a registrant under section 276(2)(a)—on the day the undertaking is approved by the board;
 - (b) otherwise—the day the notice is given to the registrant or the day of effect stated in the notice, whichever is later.’.

40 Amendment of s 306 (Registrant may request further health assessment)

Section 306—

insert—

[s 41]

‘(3) The further assessment of the registrant must be conducted at the registrant’s expense.’.

41 Amendment of s 377 (Certain investigations not to be conducted or continued)

Section 377—

insert—

‘(1A) A board may also decide not to continue an investigation of a registrant if the board becomes aware that it is investigating the wrong registrant.’.

42 Amendment of s 392 (Confidentiality)

(1) Section 392(3)(ba) to (j)—

renumber as section 392(3)(d) to (l).

(2) Section 392(3)—

insert—

‘(c) if the disclosure is to the Queensland Nursing Council and the disclosure is necessary for the Queensland Nursing Council to perform its functions under the *Nursing Act 1992*; or’.

(3) Section 392(3)(k), as renumbered, ‘paragraph (j)’—

omit, insert—

‘paragraph (l)’.

43 Amendment of schedule (Dictionary)

Schedule—

insert—

‘*Queensland Nursing Council* means the council established under the *Nursing Act 1992*, section 6.’.

[s 46]

- ‘(3) If the costs mentioned in subsection (2)(c) are likely to be appreciable, the statement must also—
 - (a) quantify the benefits and costs to the extent that it is practicable to do so; and
 - (b) compare the benefits with the costs; and
 - (c) assess whether the benefits exceed the costs.
- ‘(4) The commission must publish on its website, for at least 14 days—
 - (a) a copy of the impact assessment statement; and
 - (b) a notice—
 - (i) inviting anyone to comment on the impact assessment statement; and
 - (ii) stating how and when comment may be made.
- ‘(5) In deciding whether to make or amend a standard, the commission must have regard to the information included in the impact assessment statement and to any comments made in relation to it.
- ‘(6) The commission must not make or amend a standard under section 22(1) until at least 30 days after the commission first publishes the copy of the impact assessment statement and notice for the standard or the amendment under subsection (4).
- ‘(7) The commission may make or amend a standard before the end of the 30 days mentioned in subsection (6) if the Minister approves a lesser period for the making or amending of the standard on the basis that the lesser period will help protect the health and well being of the users of the health service.
- ‘(8) Failure to comply with this section does not affect the validity of the standard or amendment.’.

[s 50]

50 Insertion of new s 62PA

After section 62P—

insert—

‘62PA Disclosure to State lawyers

‘Section 62A(1) does not apply to the disclosure of confidential information by the chief executive if—

- (a) the disclosure is to a lawyer in relation to a matter; and
- (b) the lawyer is representing the State in relation to the matter.’.

Part 8 Amendment of Medical Practitioners Registration Act 2001

51 Act amended in pt 8

This part amends the *Medical Practitioners Registration Act 2001*.

52 Amendment of s 66 (Period)

Section 66, ‘6 months’—

omit, insert—

‘12 months’.

53 Amendment of 84 (Grounds for cancellation)

- (1) Section 84(b) to (e)—

renumber as section 84(c) to (f).

- (2) Section 84—

insert—

‘(b) the registrant ceases to have, or does not have, the qualifications necessary for registration;’.

54 Amendment of s 92 (Board to give notice to internship nominee or supervisor)

(1) Section 92(1)—

omit, insert—

‘(1) If a registrant’s registration is subject to internship conditions, the board—

(a) must, as soon as practicable after receiving the registrant’s notice under section 91(1); or

(b) may, while the registrant is undertaking the prescribed internship;

give a notice to the internship nominee for the program undertaken by the registrant.’.

(2) Section 92(4)—

omit, insert—

‘(4) If a registrant’s registration is subject to supervised practice program conditions, the board—

(a) must, as soon as practicable after receiving the registrant’s notice under section 91(2); or

(b) may, while the registrant is undertaking the supervised practice program;

give a notice to the person (the *supervisor*) supervising the registrant at the time the registrant completed the program or at the time the notice was given.’.

55 Amendment of s 96 (Failure by board to make decision)

(1) Section 96(2), ‘remove’—

omit, insert—

‘confirm’.

[s 56]

(2) Section 96(4), 'remove'—

insert—

'confirm'.

(3) Section 96(5)—

omit.

56 Amendment of s 97 (Issuing new certificate of general registration)

(1) Section 97(1)—

omit, insert—

'(1) This section applies if a general registrant receives notice, under section 94(4)(b), about a decision to remove probationary conditions of the registration.'

(2) Section 97(2), 'or taken to have been made'—

omit.

57 Amendment of s 106 (Failure by board to make decision on application)

(1) Section 106(1) and (3), 'remove'—

omit, insert—

'confirm'.

(2) Section 106(4)—

omit.

58 Amendment of s 107 (Failure by board to make decision on review agreed to under s 100)

(1) Section 107(1) and (3), 'remove'—

omit, insert—

'confirm'.

(2) Section 107(4)—
omit.

59 Amendment of s 109 (Amending, replacing, or issuing new, certificate of general registration)

(1) Section 109(4)—
omit, insert—

‘(4) Subsection (5) applies if a general registrant receives a notice, under section 104(5), about a decision to remove the conditions of the registration.’.

(2) Section 109(5), ‘or taken to have been made’—
omit.

60 Amendment of s 149 (Grounds for cancellation)

Section 149(1)—
insert—

‘(f) the registrant ceases to have, or does not have, the qualifications necessary for registration.’.

60A Replacement of pt 3, div 10A, heading

Part 3, division 10A, heading—
omit, insert—

‘Division 10A Limited registrations and non-practising registrations’.

60B Insertion of new pt 3, div 10A, sdiv 1AA

Part 3, division 10A, before subdivision 1—
insert—

‘Subdivision 1AA Limited registration

‘150AD Limitation on right to practise

- ‘(1) This section applies to a person registered as a general or specialist registrant who has had the person’s registration fee waived by the board (before or after the commencement of this section) under a regulation (a *limited registrant*).
- ‘(2) A limited registrant’s registration is subject to the condition that the registrant must not practise the profession except to—
- (a) refer a person to another registrant; or
 - (b) prescribe a scheduled medicine for a person that has been previously prescribed for the person, within the last 12 months, by another registrant who is not a limited registrant.
- ‘(3) The board may impose further conditions on the limited registrant’s registration that the board considers necessary or desirable for the registrant to competently and safely practise the profession to the extent allowed by this section.
- ‘(4) A limited registrant may apply to the board in writing for a review of a condition imposed under subsection (3).
- ‘(5) A limited registrant may not otherwise apply for a review or appeal to a court or tribunal in relation to the following—
- (a) the imposition of a condition under subsection (3);
 - (b) the board’s decision on an application for a review of a condition under subsection (4).
- ‘(6) Subsection (5) does not limit the *Judicial Review Act 1991*.
- ‘(7) In this section—
- controlled drug* see the *Health (Drugs and Poisons) Regulation 1996*, appendix 9.
- poison* see the *Health (Drugs and Poisons) Regulation 1996*, appendix 9.

prescribe see the *Health (Drugs and Poisons) Regulation 1996*, appendix 9.

restricted drug see the *Health (Drugs and Poisons) Regulation 1996*, appendix 9.

restricted drug of dependency see the *Health (Drugs and Poisons) Regulation 1996*, appendix 9.

scheduled medicine means a restricted drug (other than a restricted drug of dependency) and does not include a controlled drug or a poison.

standard see the *Health (Drugs and Poisons) Regulation 1996*, appendix 9.’.

61 Insertion of new pt 4, div 2

After section 165—

insert—

‘Division 2 Reportable misconduct

‘166 Registrant must give notice about reportable misconduct

- ‘(1) Subsection (2) applies if, in the practice of the profession, a registrant (the *first registrant*) becomes aware, or reasonably suspects, that another registrant (the *second registrant*) has engaged in reportable misconduct.
- ‘(2) The first registrant must, as soon as practicable, give the board a written notice stating the following information—
- (a) the first registrant’s name and address;
 - (b) the second registrant’s name;
 - (c) details about the following—
 - (i) the nature of the reportable misconduct;
 - (ii) when the reportable misconduct happened, if known by the registrant;

[s 61]

(iii) where the reportable misconduct happened, if known by the registrant.

Note—

A contravention of subsection (2) by a registrant is conduct forming the basis for a ground for disciplinary action against the registrant under the *Health Practitioners (Professional Standards) Act 1999*, section 124(1)(f).

- ‘(3) A notice given to the board under subsection (2) is taken to be a complaint about the second registrant made under the *Health Practitioners (Professional Standards) Act 1999*, part 3.
- ‘(4) Subsection (2) does not apply if the first registrant knows, or reasonably believes, that a written notice under subsection (2) about the reportable misconduct has already been given to the Board.
- ‘(5) For subsection (1), the first registrant does not form the relevant suspicion about the second registrant in the practice of the profession if—
- (a) the first registrant—
 - (i) is employed or otherwise engaged by an insurer that provides professional indemnity insurance that relates to the second registrant; and
 - (ii) forms the relevant suspicion as a result of a disclosure made by a person to the first registrant in the course of legal proceedings or the provision of legal advice arising from the insurance policy; or
 - (b) the first registrant forms the relevant suspicion in the course of providing advice about the reportable misconduct for the purposes of a legal proceeding or the preparation of legal advice; or
 - (c) the first registrant is a lawyer and forms the relevant suspicion in the course of providing legal services to the second registrant in relation to a legal proceeding or the preparation of legal advice in which the reportable misconduct is an issue.

‘(6) In this section—

forms the relevant suspicion, about the second registrant, means becomes aware, or reasonably suspects, that the second registrant has engaged in reportable misconduct.

harm, to a person, means any detrimental effect on the person’s physical or psychological wellbeing.

reportable misconduct, by a registrant, means—

- (a) conduct relating to the practice of the profession that would reasonably be considered to be sexual misconduct; or
- (b) practice of the profession while intoxicated by a drug or alcohol; or
- (c) practice of the profession—
 - (i) while affected by a physical or mental impairment, or other health condition, other than intoxication by a drug or alcohol; and
 - (ii) that causes, or is likely to cause, significant harm to a person receiving professional services from the registrant practising the profession; or
- (d) practice of the profession—
 - (i) in a way that significantly departs from accepted standards of the profession; and
 - (ii) that causes, or is likely to cause, harm to a person receiving professional services from the registrant practising the profession.’.

62 Amendment of s 173 (Reprisal and grounds for reprisals)

Section 173(1)(a) and (b), after ‘division 1’—

insert—

‘, division 2’.

[s 63]

63 Amendment of s 178 (Definition for pt 5)

Section 178, definition *program*, after ‘means’—
insert—
‘all or part of’.

64 Amendment of s 182 (Decision)

Section 182(3), after ‘program’—
insert—
‘or to accredit only part of the program applied for’.

65 Amendment of s 189 (Decision)

Section 189—
insert—
(5) If it decides to renew only part of the accreditation applied for, it must as soon as practicable—
(a) give the applicant an information notice about the decision; and
(b) either—
(i) endorse the existing accreditation certificate for the program; or
(ii) cancel the existing certificate and issue another accreditation certificate for the program.’.

66 Amendment of s 195 (Return of accreditation certificate to board)

(1) Section 195(1), after ‘cancelled’—
insert—
‘all or part of’.
(2) Section 195—
insert—

- ‘(3) If the board has cancelled part of the accreditation for a program, the board must issue to the holder another accreditation certificate for any part of the accreditation that is not cancelled.’.

Part 9

Amendment of Medical Radiation Technologists Registration Act 2001

67 Act amended in pt 9

This part amends the *Medical Radiation Technologists Registration Act 2001*.

68 Amendment of s 68 (Period)

Section 68, ‘6 months’—

omit, insert—

‘12 months’.

69 Amendment of 86 (Grounds for cancellation)

- (1) Section 86(b) to (d)—

renumber as section 86(c) to (e).

- (2) Section 86(a)—

omit, insert—

‘(a) the registration happened because the board was given, by the registrant or someone else, information or a document that—

- (i) was materially false, within the meaning given by section 226(1), at the time it was given; or

[s 70]

- (ii) became materially false, within the meaning given by section 226(1), after it was given;
- (b) the registrant ceases to have, or does not have, the qualifications necessary for registration;’.

70 Amendment of s 94 (Board to give notice to supervisor)

Section 94(1)—

omit, insert—

‘(1) The board—

- (a) must, as soon as practicable after receiving the probationary registrant’s notice under section 93; or
- (b) may, while the registrant is undertaking the supervised practice program;

give a notice to the registrant’s supervisor.’.

71 Amendment of s 99 (Failure by board to make decision)

(1) Section 99(2) and (4), ‘remove’—

omit, insert—

‘confirm’.

(2) Section 99(5)—

omit.

72 Amendment of s 101 (Amending, replacing, or issuing new, certificate of general registration)

(1) Section 101(4)—

omit, insert—

‘(4) Subsection (5) applies if a probationary registrant receives a notice, under section 97(5)(c), about a decision to remove the probationary conditions of the registration.’.

-
- (2) Section 101(5), ‘or taken to have been made’—
omit.

73 Amendment of s 110 (Failure by board to make decision on application)

- (1) Section 110(1) and (3), ‘remove’—
omit, insert—
‘confirm’.
- (2) Section 110(4)—
omit.

74 Amendment of s 111 (Failure by board to make decision on review agreed to under s 104)

- (1) Section 111(1) and (3), ‘remove’—
omit, insert—
‘confirm’.
- (2) Section 111(4)—
omit.

75 Amendment of s 113 (Amending, replacing, or issuing new, certificate of general registration)

- (1) Section 113(4)—
omit, insert—
- ‘(4) Subsection (5) applies if a general registrant receives a notice, under section 108(5), about a decision to remove the conditions of the registration.’
- (2) Section 113(5), ‘or taken to have been made’—
omit.

[s 76]

76 Amendment of s 128 (Grounds for cancellation)

Section 128(e)—

omit, insert—

- ‘(e) the registration happened because the board was given, by the registrant or someone else, information or a document that—
- (i) was materially false, within the meaning given by section 226(1), at the time it was given; or
 - (ii) became materially false, within the meaning given by section 226(1), after it was given;
- (f) the registrant ceases to have, or does not have, the qualifications necessary for registration.’.

77 Replacement of s 226 (False or misleading information or documents)

Section 226—

omit, insert—

‘226 False or misleading information or documents

‘(1) For this section—

- (a) information is taken to be materially false if—
 - (i) the information is false or misleading in a material particular; or
 - (ii) regardless of the literal truth of the information, it has a propensity to mislead or deceive the board in a material particular, including through the omission of other material information; and
- (b) a document is taken to be materially false if—
 - (i) the document contains or conveys information that is materially false; or
 - (ii) the document contains or conveys information that, by the time the document is given to the board, has become materially false; or

(iii) the document—

- (A) is, or purports to be, a copy of an original document; and
- (B) is not, in a material particular, a true, accurate and complete copy of the original document; or

(iv) the document—

- (A) is, or purports to be, an extract from or summary of an original document; and
- (B) fails, in a material particular, to convey a true, accurate and complete representation of the information contained in the original document.

‘(2) A person must not give the board—

- (a) information that is materially false to the knowledge of the person; or
- (b) a document that is materially false to the knowledge of the person.

Maximum penalty—200 penalty units.

‘(3) A person must not contravene subsection (2) in connection with an application for registration by the person or someone else.

Maximum penalty—2000 penalty units or 3 years imprisonment.

‘(4) A person must convey the relevant facts to the board as soon as reasonably practicable after the person—

- (a) being a registrant, becomes aware that information or a document that was given to the board in connection with the person’s registration—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false; or

[s 77]

- (b) being a person who previously gave information or a document to the board, becomes aware that the information or document—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false.

Maximum penalty—200 penalty units.

- ‘(5) A registrant must not act or practise as a registrant, or continue to do so, if—
 - (a) the registrant committed a contravention of subsection (2) in connection with the registrant’s application for registration; or
 - (b) the registrant was knowingly concerned in, or a party to, a contravention of subsection (2) in connection with the registrant’s application for registration; or
 - (c) the registrant has failed to convey the relevant facts to the board after becoming aware that information or a document that was given to the board in connection with the registrant’s registration—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false.

Maximum penalty—2000 penalty units or 3 years imprisonment.

- ‘(6) To remove any doubt, it is declared that in this section—

material particular, in relation to an application for registration, is not limited to a particular that would have been determinative of the application, but includes any particular that, had it been known to the board at the relevant time, might have influenced the board, a member, the executive officer or a member of the office’s staff in—

 - (a) granting or refusing the application; or

- (b) deciding the capacity in which the applicant may be registered; or
- (c) imposing a probationary condition or other condition, qualification or restriction on registration granted to the applicant; or
- (d) fixing the period of the registration granted to the applicant; or
- (e) making further inquiries or conducting further investigations in connection with the application.

registration means—

- (a) registration as a registrant; or
- (b) renewal of registration as a registrant; or
- (c) restoration of registration as a registrant.’.

Part 10 Amendment of Nursing Act 1992

78 Act amended in pt 10

This part amends the *Nursing Act 1992*.

79 Amendment of s 4 (Definitions)

Section 4, definitions *health practitioner registration Act* and *health professional*—

omit.

80 Amendment of s 77B (Definitions for pt 3A)

Section 77B, definitions *health practitioner registration Act* and *health professional*—

relocate to section 4.

[s 81]

81 Amendment of s 96 (Constitution of tribunal for particular proceeding)

- (1) Section 96(3)(j) to (m)—
renumber as section 96(3)(k) to (n).
- (2) Section 96(3)—
insert—
‘(j) the discovery or inspection of documents;’.

82 Insertion of new pt 7, div 2, sdiv 1 and pt 7, div 2, sdiv 2, hdg

Part 7, division 2—
insert—

‘Subdivision 1 Power to obtain information

‘127A Power to require information or attendance

‘For conducting an investigation, an inspector may, by written notice given to a person, require the person—

- (a) to give stated information to the inspector within a stated reasonable time and in a stated reasonable way; or
- (b) to attend before the inspector at a stated reasonable time and place—
 - (i) to answer questions; or
 - (ii) to produce a stated thing.

‘127B Offences

- ‘(1) A person required to give stated information to an inspector under section 127A must not fail, without reasonable excuse, to give the information as required by the notice.

Maximum penalty—50 penalty units.

-
- ‘(2) A person given a notice to attend before an inspector must not fail, without reasonable excuse, to—
- (a) attend as required by the notice; or
 - (b) continue to attend as required by the inspector until excused from further attendance; or
 - (c) answer a question the person is required to answer by the inspector; or
 - (d) produce a thing the person is required to produce by the notice.

Maximum penalty—50 penalty units.

‘127C Self-incrimination

‘For section 127B, it is a reasonable excuse for an individual to fail to give stated information, answer a question or to produce a stated thing, if giving the information, answering the question or producing the thing might tend to incriminate the individual.

‘127D Inspection of produced things

- ‘(1) If a thing is produced to an inspector, whether under a notice under section 127A or otherwise, the inspector may inspect it.
- ‘(2) The inspector may do all or any of the following if the inspector reasonably considers the thing may be relevant to the investigation being conducted by the inspector—
- (a) photograph the thing;
 - (b) for a document—make a copy of, or take an extract from, it;
 - (c) keep the thing while it is necessary for the investigation.
- ‘(3) If the inspector keeps the thing, the inspector must permit a person otherwise entitled to possession of the thing to—

[s 83]

- (a) for a document—inspect, make a copy of, or take an extract from, the document, at the reasonable time and place the inspector decides; and
- (b) for another thing—inspect or photograph the thing, at the reasonable time and place the inspector decides.

‘Subdivision 2 Entry of places by inspector’.

83 Amendment of s 139 (Confidentiality of documents and information)

- (1) Section 139(1)—

insert—

‘health professional’s board means the board responsible for administering the health practitioner registration Act under which the health practitioner is registered.’.

- (2) Section 139—

insert—

- ‘(2B) Also, if the protected document or protected information relates to a health professional, a person to whom this section applies may disclose the protected document or protected information to the health professional’s board if it is necessary for the board to perform its functions.’.

Part 11 Amendment of Occupational Therapists Registration Act 2001

84 Act amended in pt 11

This part amends the *Occupational Therapists Registration Act 2001*.

85 Amendment of s 64 (Period)

Section 64, '6 months'—

omit, insert—

'12 months'.

86 Replacement of s 82 (Ground for cancellation)

Section 82—

omit, insert—

'82 Grounds for cancellation

'A general registration may be cancelled, under this division, on the following grounds—

- (a) the registration happened because the board was given, by the registrant or someone else, information or a document that—
 - (i) was materially false, within the meaning given by section 210(1), at the time it was given; or
 - (ii) became materially false, within the meaning given by section 210(1), after it was given;
- (b) the registrant ceases to have, or does not have, the qualifications necessary for registration.'

87 Amendment of s 96 (Failure by board to make decision on application)

- (1) Section 96(1) and (3), 'remove'—

omit, insert—

'confirm'.

- (2) Section 96(4)—

omit.

[s 88]

88 Amendment of s 97 (Failure by board to make decision on review agreed to under s 90)

(1) Section 97(1) and (3), ‘remove’—

omit, insert—

‘confirm’.

(2) Section 97(4)—

omit.

89 Amendment of s 99 (Amending, replacing, or issuing new, certificate of general registration)

(1) Section 99(4)—

omit, insert—

‘(4) Subsection (5) applies if a general registrant receives a notice, under section 94(5), about a decision to remove the conditions of the registration.’.

(2) Section 99(5), ‘or taken to have been made’—

omit.

90 Amendment of s 113 (Grounds for cancellation)

Section 113(e)—

omit, insert—

‘(e) the registration happened because the board was given, by the registrant or someone else, information or a document that—

(i) was materially false, within the meaning given by section 210(1), at the time it was given; or

(ii) became materially false, within the meaning given by section 210(1), after it was given;

(f) the registrant ceases to have, or does not have, the qualifications necessary for registration.’.

91 Replacement of s 210 (False or misleading information or documents)

Section 210—

omit, insert—

‘210 False or misleading information or documents

‘(1) For this section—

- (a) information is taken to be materially false if—
 - (i) the information is false or misleading in a material particular; or
 - (ii) regardless of the literal truth of the information, it has a propensity to mislead or deceive the board in a material particular, including through the omission of other material information; and
- (b) a document is taken to be materially false if—
 - (i) the document contains or conveys information that is materially false; or
 - (ii) the document contains or conveys information that, by the time the document is given to the board, has become materially false; or
 - (iii) the document—
 - (A) is, or purports to be, a copy of an original document; and
 - (B) is not, in a material particular, a true, accurate and complete copy of the original document; or
 - (iv) the document—
 - (A) is, or purports to be, an extract from or summary of an original document; and
 - (B) fails, in a material particular, to convey a true, accurate and complete representation of the information contained in the original document.

[s 91]

- ‘(2) A person must not give the board—
- (a) information that is materially false to the knowledge of the person; or
 - (b) a document that is materially false to the knowledge of the person.

Maximum penalty—200 penalty units.

- ‘(3) A person must not contravene subsection (2) in connection with an application for registration by the person or someone else.

Maximum penalty—2000 penalty units or 3 years imprisonment.

- ‘(4) A person must convey the relevant facts to the board as soon as reasonably practicable after the person—
- (a) being a registrant, becomes aware that information or a document that was given to the board in connection with the person’s registration—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false; or
 - (b) being a person who previously gave information or a document to the board, becomes aware that the information or document—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false.

Maximum penalty—200 penalty units.

- ‘(5) A registrant must not act or practise as a registrant, or continue to do so, if—
- (a) the registrant committed a contravention of subsection (2) in connection with the registrant’s application for registration; or

-
- (b) the registrant was knowingly concerned in, or a party to, a contravention of subsection (2) in connection with the registrant's application for registration; or
 - (c) the registrant has failed to convey the relevant facts to the board after becoming aware that information or a document that was given to the board in connection with the registrant's registration—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false.

Maximum penalty—2000 penalty units or 3 years imprisonment.

'(6) To remove any doubt, it is declared that in this section—

material particular, in relation to an application for registration, is not limited to a particular that would have been determinative of the application, but includes any particular that, had it been known to the board at the relevant time, might have influenced the board, a member, the executive officer or a member of the office's staff in—

- (a) granting or refusing the application; or
- (b) deciding the capacity in which the applicant may be registered; or
- (c) imposing a condition, qualification or restriction on registration granted to the applicant; or
- (d) fixing the period of the registration granted to the applicant; or
- (e) making further inquiries or conducting further investigations in connection with the application.

registration means—

- (a) registration as a registrant; or
- (b) renewal of registration as a registrant; or
- (c) restoration of registration as a registrant.'

omit, insert—

‘confirm’.

(2) Section 96(4)—

omit.

96 Amendment of s 97 (Failure by board to make decision on review agreed to under s 90)

(1) Section 97(1) and (3), ‘remove’—

omit, insert—

‘confirm’.

(2) Section 97(4)—

omit.

97 Amendment of s 99 (Amending, replacing, or issuing new, certificate of general registration)

(1) Section 99(4)—

omit, insert—

‘(4) Subsection (5) applies if a general registrant receives a notice, under section 94(5), about a decision to remove the conditions of the registration.’.

(2) Section 99(5), ‘or taken to have been made’—

omit.

98 Amendment of s 113 (Grounds for cancellation)

Section 113(e)—

omit, insert—

‘(e) the registration happened because the board was given, by the registrant or someone else, information or a document that—

[s 99]

- (i) was materially false, within the meaning given by section 207(1), at the time it was given; or
- (ii) became materially false, within the meaning given by section 207(1), after it was given;
- (f) the registrant ceases to have, or does not have, the qualifications necessary for registration.’

99 Replacement of s 207 (False or misleading information or documents)

Section 207—

omit, insert—

‘207 False or misleading information or documents

‘(1) For this section—

- (a) information is taken to be materially false if—
 - (i) the information is false or misleading in a material particular; or
 - (ii) regardless of the literal truth of the information, it has a propensity to mislead or deceive the board in a material particular, including through the omission of other material information; and
- (b) a document is taken to be materially false if—
 - (i) the document contains or conveys information that is materially false; or
 - (ii) the document contains or conveys information that, by the time the document is given to the board, has become materially false; or
 - (iii) the document—
 - (A) is, or purports to be, a copy of an original document; and
 - (B) is not, in a material particular, a true, accurate and complete copy of the original document; or

(iv) the document—

- (A) is, or purports to be, an extract from or summary of an original document; and
- (B) fails, in a material particular, to convey a true, accurate and complete representation of the information contained in the original document.

‘(2) A person must not give the board—

- (a) information that is materially false to the knowledge of the person; or
- (b) a document that is materially false to the knowledge of the person.

Maximum penalty—200 penalty units.

‘(3) A person must not contravene subsection (2) in connection with an application for registration by the person or someone else.

Maximum penalty—2000 penalty units or 3 years imprisonment.

‘(4) A person must convey the relevant facts to the board as soon as reasonably practicable after the person—

- (a) being a registrant, becomes aware that information or a document that was given to the board in connection with the person’s registration—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false; or
- (b) being a person who previously gave information or a document to the board, becomes aware that the information or document—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false.

[s 99]

Maximum penalty—200 penalty units.

- ‘(5) A registrant must not act or practise as a registrant, or continue to do so, if—
- (a) the registrant committed a contravention of subsection (2) in connection with the registrant’s application for registration; or
 - (b) the registrant was knowingly concerned in, or a party to, a contravention of subsection (2) in connection with the registrant’s application for registration; or
 - (c) the registrant has failed to convey the relevant facts to the board after becoming aware that information or a document that was given to the board in connection with the registrant’s registration—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false.

Maximum penalty—2000 penalty units or 3 years imprisonment.

- ‘(6) To remove any doubt, it is declared that in this section—
- material particular*, in relation to an application for registration, is not limited to a particular that would have been determinative of the application, but includes any particular that, had it been known to the board at the relevant time, might have influenced the board, a member, the executive officer or a member of the office’s staff in—
- (a) granting or refusing the application; or
 - (b) deciding the capacity in which the applicant may be registered; or
 - (c) imposing a condition, qualification or restriction on registration granted to the applicant; or
 - (d) fixing the period of the registration granted to the applicant; or

-
- (e) making further inquiries or conducting further investigations in connection with the application.

registration means—

- (a) registration as a registrant; or
(b) renewal of registration as a registrant; or
(c) restoration of registration as a registrant.’.

Part 13 Amendment of Osteopaths Registration Act 2001

100 Act amended in pt 13

This part amends the *Osteopaths Registration Act 2001*.

101 Amendment of s 64 (Period)

Section 64, ‘6 months’—

omit, insert—

‘12 months’.

102 Replacement of s 82 (Ground for cancellation)

Section 82—

omit, insert—

‘82 Grounds for cancellation

‘A general registration may be cancelled, under this division, on the following grounds—

- (a) the registration happened because the board was given, by the registrant or someone else, information or a document that—

[s 103]

- (i) was materially false, within the meaning given by section 210(1), at the time it was given; or
- (ii) became materially false, within the meaning given by section 210(1), after it was given;
- (b) the registrant ceases to have, or does not have, the qualifications necessary for registration.’.

103 Amendment of s 96 (Failure by board to make decision on application)

- (1) Section 96(1) and (3), ‘remove’—
omit, insert—
‘confirm’.
- (2) Section 96(4)—
omit.

104 Amendment of s 97 (Failure by board to make decision on review agreed to under s 90)

- (1) Section 97(1) and (3), ‘remove’—
omit, insert—
‘confirm’.
- (2) Section 97(4)—
omit.

105 Amendment of s 99 (Amending, replacing, or issuing new, certificate of general registration)

- (1) Section 99(4)—
omit, insert—
- ‘(4) Subsection (5) applies if a general registrant receives a notice, under section 94(5), about a decision to remove the conditions of the registration.’.

- (2) Section 99(5), ‘or taken to have been made’—
omit.

106 Amendment of s 113 (Grounds for cancellation)

Section 113(e)—

omit, insert—

- ‘(e) the registration happened because the board was given, by the registrant or someone else, information or a document that—
- (i) was materially false, within the meaning given by section 210(1), at the time it was given; or
 - (ii) became materially false, within the meaning given by section 210(1), after it was given;
- (f) the registrant ceases to have, or does not have, the qualifications necessary for registration.’.

107 Replacement of s 210 (False or misleading information or documents)

Section 210—

omit, insert—

‘210 False or misleading information or documents

- ‘(1) For this section—
- (a) information is taken to be materially false if—
 - (i) the information is false or misleading in a material particular; or
 - (ii) regardless of the literal truth of the information, it has a propensity to mislead or deceive the board in a material particular, including through the omission of other material information; and
 - (b) a document is taken to be materially false if—

[s 107]

- (i) the document contains or conveys information that is materially false; or
- (ii) the document contains or conveys information that, by the time the document is given to the board, has become materially false; or
- (iii) the document—
 - (A) is, or purports to be, a copy of an original document; and
 - (B) is not, in a material particular, a true, accurate and complete copy of the original document; or
- (iv) the document—
 - (A) is, or purports to be, an extract from or summary of an original document; and
 - (B) fails, in a material particular, to convey a true, accurate and complete representation of the information contained in the original document.

- ‘(2) A person must not give the board—
- (a) information that is materially false to the knowledge of the person; or
 - (b) a document that is materially false to the knowledge of the person.

Maximum penalty—200 penalty units.

- ‘(3) A person must not contravene subsection (2) in connection with an application for registration by the person or someone else.

Maximum penalty—2000 penalty units or 3 years imprisonment.

- ‘(4) A person must convey the relevant facts to the board as soon as reasonably practicable after the person—

-
- (a) being a registrant, becomes aware that information or a document that was given to the board in connection with the person's registration—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false;
 - (b) being a person who previously gave information or a document to the board, becomes aware that the information or document—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false.

Maximum penalty—200 penalty units.

- '(5) A registrant must not act or practise as a registrant, or continue to do so, if—
 - (a) the registrant committed a contravention of subsection (2) in connection with the registrant's application for registration; or
 - (b) the registrant was knowingly concerned in, or a party to, a contravention of subsection (2) in connection with the registrant's application for registration; or
 - (c) the registrant has failed to convey the relevant facts to the board after becoming aware that information or a document that was given to the board in connection with the registrant's registration—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false.

Maximum penalty—2000 penalty units or 3 years imprisonment.

- '(6) To remove any doubt, it is declared that in this section—
material particular, in relation to an application for registration, is not limited to a particular that would have been

110 Replacement of s 86 (Ground for cancellation)

Section 86—

omit, insert—

‘86 Grounds for cancellation

‘A general registration may be cancelled, under this division, on the following grounds—

- (a) the registration happened because the board was given, by the registrant or someone else, information or a document that—
 - (i) was materially false, within the meaning given by section 212(1), at the time it was given; or
 - (ii) became materially false, within the meaning given by section 212(1), after it was given;
- (b) the registrant ceases to have, or does not have, the qualifications necessary for registration.’.

111 Amendment of s 100 (Failure by board to make decision on application)

- (1) Section 100(1) and (3), ‘remove’—

omit, insert—

‘confirm’.

- (2) Section 100(4)—

omit.

112 Amendment of s 101 (Failure by board to make decision on review agreed to under s 94)

- (1) Section 101(1) and (3), ‘remove’—

omit, insert—

‘confirm’.

- (2) Section 101(4)—

omit.

[s 113]

113 Amendment of s 103 (Amending, replacing, or issuing new, certificate of general registration)

(1) Section 103(4)—

omit, insert—

‘(4) Subsection (5) applies if a general registrant receives a notice, under section 98(5), about a decision to remove the conditions of the registration.’

(2) Section 103(5), ‘or taken to have been made’—

omit.

114 Amendment of s 117 (Grounds for cancellation)

Section 117(e)—

omit, insert—

‘(e) the registration happened because the board was given, by the registrant or someone else, information or a document that—

(i) was materially false, within the meaning given by section 212(1), at the time it was given; or

(ii) became materially false, within the meaning given by section 212(1), after it was given;

(f) the registrant ceases to have, or does not have, the qualifications necessary for registration.’

115 Replacement of s 212 (False or misleading information or documents)

Section 212—

omit, insert—

‘212 False or misleading information or documents

‘(1) For this section—

(a) information is taken to be materially false if—

- (i) the information is false or misleading in a material particular; or
 - (ii) regardless of the literal truth of the information, it has a propensity to mislead or deceive the board in a material particular, including through the omission of other material information; and
- (b) a document is taken to be materially false if—
- (i) the document contains or conveys information that is materially false; or
 - (ii) the document contains or conveys information that, by the time the document is given to the board, has become materially false; or
 - (iii) the document—
 - (A) is, or purports to be, a copy of an original document; and
 - (B) is not, in a material particular, a true, accurate and complete copy of the original document; or
 - (iv) the document—
 - (A) is, or purports to be, an extract from or summary of an original document; and
 - (B) fails, in a material particular, to convey a true, accurate and complete representation of the information contained in the original document.
- ‘(2) A person must not give the board—
- (a) information that is materially false to the knowledge of the person; or
 - (b) a document that is materially false to the knowledge of the person.

Maximum penalty—200 penalty units.

[s 115]

- ‘(3) A person must not contravene subsection (2) in connection with an application for registration by the person or someone else.

Maximum penalty—2000 penalty units or 3 years imprisonment.

- ‘(4) A person must convey the relevant facts to the board as soon as reasonably practicable after the person—

- (a) being a registrant, becomes aware that information or a document that was given to the board in connection with the person’s registration—

(i) was materially false when it was given to the board; or

(ii) has since become materially false; or

- (b) being a person who previously gave information or a document to the board, becomes aware that the information or document—

(i) was materially false when it was given to the board; or

(ii) has since become materially false.

Maximum penalty—200 penalty units.

- ‘(5) A registrant must not act or practise as a registrant, or continue to do so, if—

- (a) the registrant committed a contravention of subsection (2) in connection with the registrant’s application for registration; or

- (b) the registrant was knowingly concerned in, or a party to, a contravention of subsection (2) in connection with the registrant’s application for registration; or

- (c) the registrant has failed to convey the relevant facts to the board after becoming aware that information or a document that was given to the board in connection with the registrant’s registration—

- (i) was materially false when it was given to the board; or
- (ii) has since become materially false.

Maximum penalty—2000 penalty units or 3 years imprisonment.

‘(6) To remove any doubt, it is declared that in this section—

material particular, in relation to an application for registration, is not limited to a particular that would have been determinative of the application, but includes any particular that, had it been known to the board at the relevant time, might have influenced the board, a member, the executive officer or a member of the office’s staff in—

- (a) granting or refusing the application; or
- (b) deciding the capacity in which the applicant may be registered; or
- (c) imposing a condition, qualification or restriction on registration granted to the applicant; or
- (d) fixing the period of the registration granted to the applicant; or
- (e) making further inquiries or conducting further investigations in connection with the application.

registration means—

- (a) registration as a registrant; or
- (b) renewal of registration as a registrant; or
- (c) restoration of registration as a registrant.’.

[s 116]

Part 15 **Amendment of Physiotherapists Registration Act 2001**

116 Act amended in pt 15

This part amends the *Physiotherapists Registration Act 2001*.

117 Amendment of s 64 (Period)

Section 64, ‘6 months’—

omit, insert—

‘12 months’.

118 Replacement of s 82 (Ground for cancellation)

Section 82—

omit, insert—

‘82 Grounds for cancellation

‘A general registration may be cancelled, under this division, on the following grounds—

- (a) the registration happened because the board was given, by the registrant or someone else, information or a document that—
 - (i) was materially false, within the meaning given by section 210(1), at the time it was given; or
 - (ii) became materially false, within the meaning given by section 210(1), after it was given;
- (b) the registrant ceases to have, or does not have, the qualifications necessary for registration.’.

119 Amendment of s 96 (Failure by board to make decision on application)

(1) Section 96(1) and (3), ‘remove’—

omit, insert—

‘confirm’.

(2) Section 96(4)—

omit.

120 Amendment of s 97 (Failure by board to make decision on review agreed to under s 90)

(1) Section 97(1) and (3), ‘remove’—

omit, insert—

‘confirm’.

(2) Section 97(4)—

omit.

121 Amendment of s 99 (Amending, replacing, or issuing new, certificate of general registration)

(1) Section 99(4)—

omit, insert—

‘(4) Subsection (5) applies if a general registrant receives a notice, under section 94(5), about a decision to remove the conditions of the registration.’

(2) Section 99(5), ‘or taken to have been made’—

omit.

122 Amendment of s 100 (Undertaking of special activities relating to the profession)

Section 100—

insert—

[s 123]

- ‘(2) A person may also obtain special purpose registration to undertake any 1 of the following activities (also *special activities*)—
- (a) practise the profession, under supervision approved by the board, for the purpose of preparing for and completing a written and clinical examination in the practice of the profession, conducted by the Australian Physiotherapy Council;
 - (b) practise the profession, under supervision approved by the board, for the purpose of preparing for and completing a clinical examination in the practice of the profession, conducted by the Australian Physiotherapy Council;
 - (c) practise the profession, under supervision approved by the board, if the person holds a masters degree in clinical postgraduate studies in physiotherapy from a university in Queensland;
 - (d) practise the profession, under supervision approved by the board, if the person holds a current working holiday visa.’.

123 Replacement of s 102 (Eligibility)

Section 102—

omit, insert—

‘102 Eligibility for special purpose registration under s 100(1)

- ‘(1) This section applies to an applicant for special purpose registration under section 100(1).
- ‘(2) The applicant is eligible for special purpose registration if the applicant—
- (a) has a qualification required for special purpose registration; and
 - (b) is a suitable person to be a special purpose registrant.’.

124 Insertion of new s 102A

After section 102—

insert—

‘102A Eligibility for special purpose registration under s 100(2)

- ‘(1) An applicant for special purpose registration under section 100(2)(a) is eligible for special purpose registration if the applicant—
- (a) has been accepted by the Australian Physiotherapy Council as a candidate for a written examination in the practice of the profession conducted by the Australian Physiotherapy Council; and
 - (b) has a qualification required by the board from a country prescribed under a regulation; and
 - (c) was registered or licensed to practise as a physiotherapist in the place where the qualification was obtained; and
 - (d) is fit to practise the profession under section 45.
- ‘(2) An applicant for special purpose registration under section 100(2)(b) is eligible for special purpose registration if the applicant—
- (a) holds a current certificate, issued by the Australian Physiotherapy Council, that the applicant successfully completed a written examination in the practice of the profession conducted by the Australian Physiotherapy Council; and
 - (b) has a qualification required by the board from a country other than Australia; and
 - (c) was registered or licensed to practise as a physiotherapist in the place where the qualification was obtained; and
 - (d) is fit to practise the profession under section 45.

[s 125]

- ‘(3) An applicant for special purpose registration under section 100(2)(c) is eligible for special purpose registration if the applicant—
- (a) has successfully completed a masters degree in clinical postgraduate studies in physiotherapy from a university in Queensland that is approved by the board; and
 - (b) is fit to practise the profession under section 45.
- ‘(4) An applicant for special purpose registration under section 100(2)(d) is eligible for special purpose registration if the applicant—
- (a) holds a current working holiday visa; and
 - (b) has a qualification required by the board from a country prescribed under a regulation; and
 - (c) was registered or licensed to practise as a physiotherapist in the place where the qualification was obtained; and
 - (d) has completed a period of employment in the profession of at least 12 months that is not more than 2 years before the date of the applicant’s application for special purpose registration; and
 - (e) is fit to practise the profession under section 45.’.

125 Amendment of s 104 (Suitability to be a special purpose registrant)

- (1) Section 104(d)—
renumber as section 104(e).
- (2) Section 104—
insert—
- ‘(d) if the applicant is applying for special purpose registration under section 100(2)—the nature of any supervision to be given to the applicant under that section;’.

126 Insertion of new ss 106A–106C

After section 106—

insert—

‘106A Condition for special purpose registration under s 100(2)

‘In addition to any condition imposed under section 106, a special purpose registration under section 100(2) is also subject to a condition that—

- (a) the registrant must only practise the profession under a supervised practice plan that—
 - (i) accompanied the application for the special purpose registration; or
 - (ii) is approved by the board for the registrant under section 106B: and
- (b) for special purpose registration under section 100(2)(a)—the registrant must not continue to practise the profession for more than 3 continuous years under the special purpose registration without obtaining general registration; and
- (c) for special purpose registration under section 100(2)(b)—the registrant must not continue to practise the profession for more than 2 continuous years under the special purpose registration without obtaining general registration; and
- (d) for special purpose registration under section 100(2)(c)—
 - (i) the registrant must only practise the profession in the area of the profession to which the registration relates; and
 - (ii) the registrant must not continue to practise the profession for more than 3 continuous years under the special purpose registration; and
- (e) for special purpose registration under section 100(2)(d)—the registrant must not continue to practise

[s 126]

the profession, under a working holiday visa, in a particular place of work for more than 6 months.

‘106B Supervised practice plans approved by the board

- ‘(1) This section applies to an applicant for special purpose registration under section 100(2) who intends to commence a position that will require the applicant to practise the profession under a supervised practice plan that is different to the plan under which the applicant is currently practising the profession.
- ‘(2) The applicant must apply to the board for approval of a supervised practice plan that is relevant to the position.
- ‘(3) The application must be—
 - (a) in the approved form; and
 - (b) accompanied by the proposed supervised practice plan that is relevant to the position.
- ‘(4) The board must consider the application and decide to approve, or refuse to approve, the proposed supervised practice plan.
- ‘(5) If the board decides to refuse to approve the proposed supervised practice plan, it must as soon as practicable give the applicant an information notice about the decision.
- ‘(6) If the board fails to decide the application within 14 days after its receipt, the failure is taken to be a decision by the board to approve the proposed supervised practice plan.

‘106C Board may ask for information under supervised practice plan

‘The board may ask a person involved in the supervision of a registrant under a supervised practice plan to give information to the board about the supervised practice of the registrant.’

127 Replacement of s 107A (Non-application of sdiv 2 to short-term registration)

Section 107A—

omit, insert—

‘107A Non-application of sdiv 2 to particular registrations

‘This subdivision does not apply to—

- (a) a short-term registration; or
- (b) a special purpose registration under section 100(2)(d).’

128 Amendment of s 109 (Matters that may be considered in deciding whether to renew special purpose registrations)

Section 109—

insert—

- ‘(2) Also, in deciding whether to renew a special purpose registration under section 100(2)(a) or (b), the board must be satisfied the registrant has made reasonable progress towards being qualified for general registration under section 44.’

129 Amendment of s 113 (Grounds for cancellation)

Section 113(e)—

omit, insert—

- ‘(e) the registration happened because the board was given, by the registrant or someone else, information or a document that—
 - (i) was materially false, within the meaning given by section 210(1), at the time it was given; or
 - (ii) became materially false, within the meaning given by section 210(1), after it was given;
- (f) the registrant ceases to have, or does not have, the qualifications necessary for registration.’

[s 130]

130 Insertion of new s 209A

After section 209—

insert—

‘209A Protection for persons involved in supervising registrants

- ‘(1) This section applies to a person who, honestly and on reasonable grounds, gives information to the board—
- (a) about a registrant in the person’s capacity as the registrant’s supervisor under a supervised practice plan; or
 - (b) in response to a request made under section 106C.
- ‘(2) The person is not liable, civilly, criminally or under an administrative process, for giving the information.
- ‘(3) Without limiting subsection (2)—
- (a) in a proceeding for defamation the person has a defence of absolute privilege for publishing the information; and
 - (b) if the person would otherwise be required to maintain confidentiality about the given information under an Act, oath, rule of law or practice, the person—
 - (i) does not contravene the Act, oath, rule of law or practice by giving the information; and
 - (ii) is not liable to disciplinary action for giving the information.’.

131 Replacement of s 210 (False or misleading information or documents)

Section 210—

omit, insert—

‘210 False or misleading information or documents

- ‘(1) For this section—
- (a) information is taken to be materially false if—

- (i) the information is false or misleading in a material particular; or
 - (ii) regardless of the literal truth of the information, it has a propensity to mislead or deceive the board in a material particular, including through the omission of other material information; and
- (b) a document is taken to be materially false if—
- (i) the document contains or conveys information that is materially false; or
 - (ii) the document contains or conveys information that, by the time the document is given to the board, has become materially false; or
 - (iii) the document—
 - (A) is, or purports to be, a copy of an original document; and
 - (B) is not, in a material particular, a true, accurate and complete copy of the original document; or
 - (iv) the document—
 - (A) is, or purports to be, an extract from or summary of an original document; and
 - (B) fails, in a material particular, to convey a true, accurate and complete representation of the information contained in the original document.
- ‘(2) A person must not give the board—
- (a) information that is materially false to the knowledge of the person; or
 - (b) a document that is materially false to the knowledge of the person.

Maximum penalty—200 penalty units.

[s 131]

- ‘(3) A person must not contravene subsection (2) in connection with an application for registration by the person or someone else.

Maximum penalty—2000 penalty units or 3 years imprisonment.

- ‘(4) A person must convey the relevant facts to the board as soon as reasonably practicable after the person—

- (a) being a registrant, becomes aware that information or a document that was given to the board in connection with the person’s registration—

(i) was materially false when it was given to the board; or

(ii) has since become materially false; or

- (b) being a person who previously gave information or a document to the board, becomes aware that the information or document—

(i) was materially false when it was given to the board; or

(ii) has since become materially false.

Maximum penalty—200 penalty units.

- ‘(5) A registrant must not act or practise as a registrant, or continue to do so, if—

- (a) the registrant committed a contravention of subsection (2) in connection with the registrant’s application for registration; or

- (b) the registrant was knowingly concerned in, or a party to, a contravention of subsection (2) in connection with the registrant’s application for registration; or

- (c) the registrant has failed to convey the relevant facts to the board after becoming aware that information or a document that was given to the board in connection with the registrant’s registration—

- (i) was materially false when it was given to the board; or
- (ii) has since become materially false.

Maximum penalty—2000 penalty units or 3 years imprisonment.

‘(6) To remove any doubt, it is declared that in this section—

material particular, in relation to an application for registration, is not limited to a particular that would have been determinative of the application, but includes any particular that, had it been known to the board at the relevant time, might have influenced the board, a member, the executive officer or a member of the office’s staff in—

- (a) granting or refusing the application; or
- (b) deciding the capacity in which the applicant may be registered; or
- (c) imposing a condition, qualification or restriction on registration granted to the applicant; or
- (d) fixing the period of the registration granted to the applicant; or
- (e) making further inquiries or conducting further investigations in connection with the application.

registration means—

- (a) registration as a registrant; or
- (b) renewal of registration as a registrant; or
- (c) restoration of registration as a registrant.’.

132 Amendment of pt 10, div 2, hdg (Transitional provisions)

Part 10, division 2, heading, after ‘provisions’—

insert—

‘for Act No. 13 of 2001’.

[s 133]

133 Insertion of new pt 10, div 3

After section 237—

insert—

‘Division 3 Transitional provisions for the Health and Other Legislation Amendment Act 2008

‘238 Particular registrants taken to be registered under s 100(2)(b)

‘(1) This section applies to a person who—

- (a) immediately before the commencement was a general registrant on conditions relating to the undertaking of training in preparation for a clinical examination in the practice of the profession, conducted by the Australian Physiotherapy Council; and
- (b) on the commencement is eligible for special purpose registration under section 100(2)(b).

‘(2) The person is taken to be a special purpose registrant under section 100(2)(b).

‘239 Existing applications for general registration

‘(1) This section applies to a person—

- (a) whose application for general registration is not finally dealt with under the Act before the commencement; and
- (b) who, on the commencement, is eligible for special purpose registration under section 100(2).

‘(2) The person’s application for general registration is taken to be an application for the class of special purpose registration that the person is eligible for under section 100(2).’.

134 Amendment of sch 4 (Dictionary)

Schedule 4—

[s 137]

137 Replacement of s 82 (Ground for cancellation)

Section 82—

omit, insert—

‘82 Grounds for cancellation

‘A general registration may be cancelled, under this division, on the following grounds—

- (a) the registration happened because the board was given, by the registrant or someone else, information or a document that—
 - (i) was materially false, within the meaning given by section 210(1), at the time it was given; or
 - (ii) became materially false, within the meaning given by section 210(1), after it was given;
- (b) the registrant ceases to have, or does not have, the qualifications necessary for registration.’.

138 Amendment of s 96 (Failure by board to make decision on application)

- (1) Section 96(1) and (3), ‘remove’—

omit, insert—

‘confirm’.

- (2) Section 96(4)—

omit.

139 Amendment of s 97 (Failure by board to make decision on review agreed to under s 90)

- (1) Section 97(1) and (3), ‘remove’—

omit, insert—

‘confirm’.

- (2) Section 97(4)—

omit.

140 Amendment of s 99 (Amending, replacing, or issuing new, certificate of general registration)

(1) Section 99(4)—

omit, insert—

‘(4) Subsection (5) applies if a general registrant receives a notice, under section 94(5), about a decision to remove the conditions of the registration.’.

(2) Section 99(5), ‘or taken to have been made’—

omit.

141 Amendment of s 113 (Grounds for cancellation)

Section 113(e)—

omit, insert—

‘(e) the registration happened because the board was given, by the registrant or someone else, information or a document that—

(i) was materially false, within the meaning given by section 210(1), at the time it was given; or

(ii) became materially false, within the meaning given by section 210(1), after it was given;

(f) the registrant ceases to have, or does not have, the qualifications necessary for registration.’.

142 Replacement of s 210 (False or misleading information or documents)

Section 210—

omit, insert—

‘210 False or misleading information or documents

‘(1) For this section—

(a) information is taken to be materially false if—

[s 142]

- (i) the information is false or misleading in a material particular; or
 - (ii) regardless of the literal truth of the information, it has a propensity to mislead or deceive the board in a material particular, including through the omission of other material information; and
- (b) a document is taken to be materially false if—
- (i) the document contains or conveys information that is materially false; or
 - (ii) the document contains or conveys information that, by the time the document is given to the board, has become materially false; or
 - (iii) the document—
 - (A) is, or purports to be, a copy of an original document; and
 - (B) is not, in a material particular, a true, accurate and complete copy of the original document; or
 - (iv) the document—
 - (A) is, or purports to be, an extract from or summary of an original document; and
 - (B) fails, in a material particular, to convey a true, accurate and complete representation of the information contained in the original document.
- ‘(2) A person must not give the board—
- (a) information that is materially false to the knowledge of the person; or
 - (b) a document that is materially false to the knowledge of the person.

Maximum penalty—200 penalty units.

-
- ‘(3) A person must not contravene subsection (2) in connection with an application for registration by the person or someone else.

Maximum penalty—2000 penalty units or 3 years imprisonment.

- ‘(4) A person must convey the relevant facts to the board as soon as reasonably practicable after the person—

- (a) being a registrant, becomes aware that information or a document that was given to the board in connection with the person’s registration—

(i) was materially false when it was given to the board; or

(ii) has since become materially false; or

- (b) being a person who previously gave information or a document to the board, becomes aware that the information or document—

(i) was materially false when it was given to the board; or

(ii) has since become materially false.

Maximum penalty—200 penalty units.

- ‘(5) A registrant must not act or practise as a registrant, or continue to do so, if—

- (a) the registrant committed a contravention of subsection (2) in connection with the registrant’s application for registration; or

- (b) the registrant was knowingly concerned in, or a party to, a contravention of subsection (2) in connection with the registrant’s application for registration; or

- (c) the registrant has failed to convey the relevant facts to the board after becoming aware that information or a document that was given to the board in connection with the registrant’s registration—

[s 142]

- (i) was materially false when it was given to the board; or
- (ii) has since become materially false.

Maximum penalty—2000 penalty units or 3 years imprisonment.

‘(6) To remove any doubt, it is declared that in this section—

material particular, in relation to an application for registration, is not limited to a particular that would have been determinative of the application, but includes any particular that, had it been known to the board at the relevant time, might have influenced the board, a member, the executive officer or a member of the office’s staff in—

- (a) granting or refusing the application; or
- (b) deciding the capacity in which the applicant may be registered; or
- (c) imposing a condition, qualification or restriction on registration granted to the applicant; or
- (d) fixing the period of the registration granted to the applicant; or
- (e) making further inquiries or conducting further investigations in connection with the application.

registration means—

- (a) registration as a registrant; or
- (b) renewal of registration as a registrant; or
- (c) restoration of registration as a registrant.’.

-
- ‘(1) The board—
- (a) must, as soon as practicable after receiving the probationary registrant’s notice under section 95; or
 - (b) may, while the registrant is undertaking the supervised practice program;
- give a notice to the registrant’s supervisor.’.

150 Amendment of s 100 (Failure by board to make decision on application)

- (1) Section 100(2) and (4), ‘remove’—
omit, insert—
‘confirm’.
- (2) Section 100(5)—
omit.

151 Amendment of s 102 (Amending, replacing, or issuing new, certificate of general registration)

- (1) Section 102(4)—
omit, insert—
- ‘(4) Subsection (5) applies if a probationary registrant receives a notice, under section 98(5)(c), about a decision to remove the probationary conditions of the registration.’.
- (2) Section 102(5), ‘or taken to have been made’—
omit.

152 Amendment of s 111 (Failure by board to make decision on application)

- (1) Section 111(1) and (3), ‘remove’—
omit, insert—
‘confirm’.

[s 153]

- (2) Section 111(4)—
omit.

153 Amendment of s 112 (Failure by board to make decision on review agreed to under s 105)

- (1) Section 112(1) and (3), ‘remove’—
omit, insert—
‘confirm’.
- (2) Section 112(4)—
omit.

154 Amendment of s 114 (Amending, replacing, or issuing new, certificate of general registration)

- (1) Section 114(4)—
omit, insert—
- ‘(4) Subsection (5) applies if a general registrant receives a notice, under section 109(5), about a decision to remove the conditions of the registration.’.
- (2) Section 114(5), ‘or taken to have been made’—
omit.

155 Amendment of s 129 (Grounds for cancellation)

Section 129(e)—
omit, insert—

- ‘(e) the registration happened because the board was given, by the registrant or someone else, information or a document that—
- (i) was materially false, within the meaning given by section 227(1), at the time it was given; or
 - (ii) became materially false, within the meaning given by section 227(1), after it was given;

-
- (f) the registrant ceases to have, or does not have, the qualifications necessary for registration.’.

156 Replacement of s 227 (False or misleading information or documents)

Section 227—

omit, insert—

‘227 False or misleading information or documents

‘(1) For this section—

- (a) information is taken to be materially false if—
- (i) the information is false or misleading in a material particular; or
 - (ii) regardless of the literal truth of the information, it has a propensity to mislead or deceive the board in a material particular, including through the omission of other material information; and
- (b) a document is taken to be materially false if—
- (i) the document contains or conveys information that is materially false; or
 - (ii) the document contains or conveys information that, by the time the document is given to the board, has become materially false; or
 - (iii) the document—
 - (A) is, or purports to be, a copy of an original document; and
 - (B) is not, in a material particular, a true, accurate and complete copy of the original document; or
 - (iv) the document—
 - (A) is, or purports to be, an extract from or summary of an original document; and

[s 156]

(B) fails, in a material particular, to convey a true, accurate and complete representation of the information contained in the original document.

- ‘(2) A person must not give the board—
- (a) information that is materially false to the knowledge of the person; or
 - (b) a document that is materially false to the knowledge of the person.

Maximum penalty—200 penalty units.

- ‘(3) A person must not contravene subsection (2) in connection with an application for registration by the person or someone else.

Maximum penalty—2000 penalty units or 3 years imprisonment.

- ‘(4) A person must convey the relevant facts to the board as soon as reasonably practicable after the person—
- (a) being a registrant, becomes aware that information or a document that was given to the board in connection with the person’s registration—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false; or
 - (b) being a person who previously gave information or a document to the board, becomes aware that the information or document—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false.

Maximum penalty—200 penalty units.

- ‘(5) A registrant must not act or practise as a registrant, or continue to do so, if—

-
- (a) the registrant committed a contravention of subsection (2) in connection with the registrant's application for registration; or
 - (b) the registrant was knowingly concerned in, or a party to, a contravention of subsection (2) in connection with the registrant's application for registration; or
 - (c) the registrant has failed to convey the relevant facts to the board after becoming aware that information or a document that was given to the board in connection with the registrant's registration—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false.

Maximum penalty—2000 penalty units or 3 years imprisonment.

‘(6) To remove any doubt, it is declared that in this section—

material particular, in relation to an application for registration, is not limited to a particular that would have been determinative of the application, but includes any particular that, had it been known to the board at the relevant time, might have influenced the board, a member, the executive officer or a member of the office's staff in—

- (a) granting or refusing the application; or
- (b) deciding the capacity in which the applicant may be registered; or
- (c) imposing a probationary condition or other condition, qualification or restriction on registration granted to the applicant; or
- (d) fixing the period of the registration granted to the applicant; or
- (e) making further inquiries or conducting further investigations in connection with the application.

registration means—

[s 157]

- (a) registration as a registrant; or
- (b) renewal of registration as a registrant; or
- (c) restoration of registration as a registrant.’.

Part 19 Amendment of Public Health Act 2005

157 Act amended in pt 19

This part amends the *Public Health Act 2005*.

158 Amendment of s 11 (Meaning of *public health risk*)

Section 11(1), example, ‘paragraph (vi)’—

omit, insert—

‘paragraph (viii)’.

159 Amendment of s 107 (Disclosure under Act or with written consent etc.)

Section 107(b), after ‘written’—

insert—

‘or oral’.

160 Insertion of new s 108A

After section 108—

insert—

‘108A Disclosure for contact tracing purposes

- ‘(1) Section 105(1) does not apply if the disclosure of the confidential information by a relevant person is to a provider for the purpose of contacting another person (the *traced*

person) who has, or may have, contracted a notifiable condition, to—

- (a) provide the traced person with information to prevent or minimise transmission of the notifiable condition; or
- (b) enable the traced person to seek medical examination or treatment.

‘(2) In this section—

health practitioner means a person who carries on, and is entitled to carry on, an occupation involving the provision of care for another person’s physical or mental health or wellbeing.

Examples of a health practitioner—

- a doctor
- a psychologist
- a social worker
- a registered nurse

provider, in relation to a person, means any of the following—

- (a) a health practitioner involved in the treatment or care of the person or a health practitioner nominated by the person;
- (b) if the person is a child—the person’s parent or a person exercising parental responsibility for the child, including a person who, under Aboriginal tradition or Island custom, is regarded as the parent of the child;
- (c) the person’s legal guardian;
- (d) an entity from another jurisdiction that is responsible for preventing or controlling the spread of communicable diseases in that jurisdiction;
- (e) another entity prescribed under a regulation.’

161 Replacement of ch 6, pt 4, div 1, hdg

Chapter 6, part 4, division 1, heading—

[s 162]

omit, insert—

‘Division 1 Preliminary’.

162 Insertion of new s 279A

Chapter 6, part 4, division 1—

insert—

‘279A Application of pt 4

‘This part applies to health information held by the department if—

- (a) the information relates to an individual; and
- (b) the individual could be identified from the information.’.

163 Insertion of new s 280A

Chapter 6, part 4, division 1—

insert—

‘280A Part does not prevent disclosure under other Act

‘This part does not prevent health information held by the department being disclosed under this or another Act.’.

164 Amendment of s 282 (Application to chief executive for information)

- (1) Section 282(2)(d) to (h)—

renumber as section 282(2)(e) to (i).

- (2) Section 282(b) and (c)—

omit, insert—

- ‘(b) the type of information required;
- (c) the reasons the information is required;
- (d) how the privacy of any individual identified will be protected;’.

165 Amendment of s 284 (Decision about application)

- (1) Section 284(2) and (3)—
omit, insert—
- ‘(2) The chief executive may grant the application only if the chief executive is satisfied—
- (a) the giving of the health information held by the department is in the public interest, having regard to—
 - (i) the opportunities the research will provide for increased knowledge and improved health outcomes; and
 - (ii) the privacy of individuals to whom the health information relates; and
 - (b) the identification of any person by the information is necessary for the relevant research.’.

(2) Section 284—
insert—

‘(8) The chief executive is not required to consult with an individual to whom the information relates before granting an application.’.

Part 20 **Amendment of Speech
Pathologists Registration Act
2001**

166 Act amended in pt 20

This part amends the *Speech Pathologists Registration Act 2001*.

[s 167]

167 Amendment of s 64 (Period)

Section 64, '6 months'—

omit, insert—

'12 months'.

168 Replacement of s 82 (Ground for cancellation)

Section 82—

omit, insert—

'82 Grounds for cancellation

'A general registration may be cancelled, under this division, on the following grounds—

- (a) the registration happened because the board was given, by the registrant or someone else, information or a document that—
 - (i) was materially false, within the meaning given by section 207(1), at the time it was given; or
 - (ii) became materially false, within the meaning given by section 207(1), after it was given;
- (b) the registrant ceases to have, or does not have, the qualifications necessary for registration.'

169 Amendment of s 96 (Failure by board to make decision on application)

- (1) Section 96(1) and (3), 'remove'—

omit, insert—

'confirm'.

- (2) Section 96(4)—

omit.

170 Amendment of s 97 (Failure by board to make decision on review agreed to under s 90)

(1) Section 97(1) and (3), ‘remove’—

omit, insert—

‘confirm’.

(2) Section 97(4)—

omit.

171 Amendment of s 99 (Amending, replacing, or issuing new, certificate of general registration)

(1) Section 99(4)—

omit, insert—

‘(4) Subsection (5) applies if a general registrant receives a notice, under section 94(5), about a decision to remove the conditions of the registration.’.

(2) Section 99(5), ‘or taken to have been made’—

omit.

172 Amendment of s 113 (Grounds for cancellation)

Section 113(e)—

omit, insert—

‘(e) the registration happened because the board was given, by the registrant or someone else, information or a document that—

(i) was materially false, within the meaning given by section 207(1), at the time it was given; or

(ii) became materially false, within the meaning given by section 207(1), after it was given;

(f) the registrant ceases to have, or does not have, the qualifications necessary for registration.’.

[s 173]

173 Replacement of s 207 (False or misleading information or documents)

Section 207—

omit, insert—

‘207 False or misleading information or documents

‘(1) For this section—

- (a) information is taken to be materially false if—
 - (i) the information is false or misleading in a material particular; or
 - (ii) regardless of the literal truth of the information, it has a propensity to mislead or deceive the board in a material particular, including through the omission of other material information; and
- (b) a document is taken to be materially false if—
 - (i) the document contains or conveys information that is materially false; or
 - (ii) the document contains or conveys information that, by the time the document is given to the board, has become materially false; or
 - (iii) the document—
 - (A) is, or purports to be, a copy of an original document; and
 - (B) is not, in a material particular, a true, accurate and complete copy of the original document; or
 - (iv) the document—
 - (A) is, or purports to be, an extract from or summary of an original document; and
 - (B) fails, in a material particular, to convey a true, accurate and complete representation of the information contained in the original document.

-
- ‘(2) A person must not give the board—
- (a) information that is materially false to the knowledge of the person; or
 - (b) a document that is materially false to the knowledge of the person.

Maximum penalty—200 penalty units.

- ‘(3) A person must not contravene subsection (2) in connection with an application for registration by the person or someone else.

Maximum penalty—2000 penalty units or 3 years imprisonment.

- ‘(4) A person must convey the relevant facts to the board as soon as reasonably practicable after the person—

- (a) being a registrant, becomes aware that information or a document that was given to the board in connection with the person’s registration—

- (i) was materially false when it was given to the board; or

- (ii) has since become materially false; or

- (b) being a person who previously gave information or a document to the board, becomes aware that the information or document—

- (i) was materially false when it was given to the board; or

- (ii) has since become materially false.

Maximum penalty—200 penalty units.

- ‘(5) A registrant must not act or practise as a registrant, or continue to do so, if—

- (a) the registrant committed a contravention of subsection (2) in connection with the registrant’s application for registration; or

[s 173]

- (b) the registrant was knowingly concerned in, or a party to, a contravention of subsection (2) in connection with the registrant's application for registration; or
- (c) the registrant has failed to convey the relevant facts to the board after becoming aware that information or a document that was given to the board in connection with the registrant's registration—
 - (i) was materially false when it was given to the board; or
 - (ii) has since become materially false.

Maximum penalty—2000 penalty units or 3 years imprisonment.

'(6) To remove any doubt, it is declared that in this section—

material particular, in relation to an application for registration, is not limited to a particular that would have been determinative of the application, but includes any particular that, had it been known to the board at the relevant time, might have influenced the board, a member, the executive officer or a member of the office's staff in—

- (a) granting or refusing the application; or
- (b) deciding the capacity in which the applicant may be registered; or
- (c) imposing a condition, qualification or restriction on registration granted to the applicant; or
- (d) fixing the period of the registration granted to the applicant; or
- (e) making further inquiries or conducting further investigations in connection with the application.

registration means—

- (a) registration as a registrant; or
- (b) renewal of registration as a registrant; or
- (c) restoration of registration as a registrant.'

Part 21 Amendment of Tobacco and Other Smoking Products Act 1998

174 Act amended in pt 21

This part amends the *Tobacco and Other Smoking Products Act 1998*.

175 Amendment of s 25 (Definitions for pt 2A)

(1) Section 25, definition *smoking product*, ‘cigarette papers’—
omit, insert—

‘smoking related product’.

(2) Section 25—

insert—

‘*smoking related product* means a product, prescribed under a regulation, that is used primarily in the consumption of a tobacco product, herbal cigarette or loose smoking blend.’.

176 Amendment of s 26L (Supply of object or entitlement that promotes smoking product etc.)

(1) Section 26L(3)—

renumber as section 26L(4).

(2) Section 26L—

insert—

‘(3) Subsection (1) does not apply to an object if—

(a) the primary purpose of the object is not to promote a thing mentioned in subsection (1); and

(b) the object was—

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- (i) lawfully available for supply in Queensland on or after 31 May 2002 and before 31 December 2005;
or
- (ii) substantially the same, and made by the same person, as an object under subparagraph (i).’.

177 Insertion of new s 26PB

Part 2B, before section 26Q—

insert—

‘26PB Application of pt 2B

‘This part does not apply to a motor vehicle under part 2BA.’.

178 Amendment of s 26Q (Definitions for pt 2B)

Section 26Q, definition *exempt vehicle*—

omit.

179 Amendment of s 26R (Person must not smoke in an enclosed place)

(1) Section 26R(2)(c)—

omit.

(2) Section 26R(2), paragraphs (d) and (f)—

renumber as paragraphs (c) and (d).

180 Insertion of new pt 2BA

After section 26V—

insert—

‘Part 2BA Smoke-free motor vehicles

‘26VA Definitions for pt 2BA

‘In this part—

motor vehicle means a motor vehicle within the meaning of the *Transport Operations (Road Use Management) Act 1995*, schedule 4 other than the following—

- (a) a trailer attached to the motor vehicle;
- (b) an aircraft;
- (c) a boat;
- (d) a train.

road see *Transport Operations (Road Use Management) Act 1995*, schedule 4.

road-related area see the *Transport Operations (Road Use Management—Road Rules) Regulation 1999*, section 13.

‘26VB Person must not smoke in motor vehicle being used for business use if anyone else in the vehicle

‘A person must not smoke in a motor vehicle if—

- (a) the vehicle is on a road or road-related area; and
- (b) the vehicle is being used for business use; and
- (c) another person is in the vehicle.

Maximum penalty—20 penalty units.

‘26VC Person must not smoke in motor vehicle if person under 16 in the vehicle

‘A person must not smoke in a motor vehicle if—

- (a) the vehicle is on a road or road-related area; and
- (b) another person in the vehicle is under 16 years of age.

Maximum penalty—20 penalty units.

‘26VD Defence for s 26VC

‘It is a defence to a charge for an offence against section 26VC for the defendant to prove that at the time of the offence

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the defendant honestly and reasonably believed that no person in the vehicle was under 16 years of age.

'26VE Evidentiary provisions

- '(1) This section applies to a proceeding for an offence under this part.
- '(2) A statement in a charge of any of the following, in relation to the time or date mentioned in the charge, is evidence of the matter—
 - (a) a person was under 16 years of age;
 - (b) a thing was a smoking product;
 - (c) a thing was a motor vehicle;
 - (d) a place was a road or road-related area.
- '(3) Subsection (4) applies if a defendant intends to challenge either of the following at the hearing of a charge under this part—
 - (a) that a person was under 16 years of age;
 - (b) a thing was a smoking product.
- '(4) The defendant must, at least 14 days before the day fixed for the hearing, give notice of the challenge to the prosecution in the approved form signed by the defendant.
- '(5) Evidence by a police officer of his or her belief of any matter mentioned in subsection (6) must be accepted by the court as proof of the matter if —
 - (a) the court considers the belief to be reasonable; and
 - (b) there is no evidence to the contrary.
- '(6) The matters to which the previous subsection applies are—
 - (a) a person seen by the police officer in a motor vehicle was under 16 years of age; and
 - (b) a thing being smoked by someone in a motor vehicle was a smoking product.'

181 Insertion of new pt 2C, div 4

After section 26ZP—

insert—

‘Division 4 Prohibition on smoking at public transport waiting points and malls by local governments

‘26ZPA Definitions for div 4

‘In this division—

ferry service see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

local government see the *Local Government Act 1993*, schedule 2.

local government area see the *Local Government Act 1993*, schedule 2.

local law see the *Local Government Act 1993*, schedule 2.

outdoor pedestrian mall means any of the following—

- (a) a mall established under the *Local Government Act 1993*;
- (b) the Chinatown Mall established under the *Local Government (Chinatown and Valley Malls) Act 1984*;
- (c) the Valley Mall established under the *Local Government (Chinatown and Valley Malls) Act 1984*;
- (d) the Queen Street Mall established under the *Local Government (Queen Street Mall) Act 1981*.

public passenger service see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

public transport waiting point means any of the following —

- (a) a transit terminal for public passenger services;
- (b) a ferry terminal, jetty, pontoon or landing for ferry services;

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- (c) a bus stop, bus shelter, bus station or bus lay-by;
- (d) a taxi rank, limousine rank or limousine standing area.

‘26ZPB Local government may make local laws prohibiting smoking at certain places

- ‘(1) A local government may make a local law prohibiting smoking at all or part of the following places in the local government’s local government area—
 - (a) a public transport waiting point that is not in an enclosed place if the place is under local government control;
 - (b) an outdoor pedestrian mall.
- ‘(2) A local law made under subsection (1) must not provide for a penalty of more than 20 penalty units for a contravention of the law.

‘26ZPC When local law prevails

- ‘(1) This section applies if—
 - (a) a local government makes a local law under this division about an outdoor pedestrian mall; and
 - (b) the mall is prescribed under section 26ZJ(3)(b) as a mall to which section 26ZJ(1) does not apply.
- ‘(2) The local law applies despite a regulation made under section 26ZJ(3)(b).

‘26ZPD State may require report from local government about local law

- ‘(1) This section applies to a local law made by a local government under this division.
- ‘(2) The chief executive, by written notice, may ask a local government to give the chief executive information about the

local government's administration and enforcement of the local law.

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

'26ZPE Fines payable for contravention of local law payable to local government

- (1) This section applies if—
- (a) a proceeding for an offence is taken for a contravention of a local law made by a local government under this division; and
 - (b) a court imposes a fine for the offence.
- (2) The fine must be paid to the local government.'

182 Renumbering of s 26ZPA (Sale, supply and display of ice pipes)

Section 26ZPA—
renumber as section 26ZPF.

183 Amendment of schedule

- (1) Schedule, definition *exempt vehicle*—
omit.
- (2) Schedule—
insert—
'*smoking related product*, for part 2A, see section 25.'

187 Amendment of sch 6 (Dictionary)

Schedule 6—

insert—

'chief executive (health) means the chief executive of the department administering the *Health Act 1937*.

minor injury means an injury of a person that does not require the hospitalisation of the person as an in-patient to properly treat the injury.

nurse practitioner means a registered nurse under the *Nursing Act 1992* whose annual licence certificate under that Act is endorsed to show authorisation to practice as a nurse practitioner.

workers' compensation certificate protocol means a document stating the circumstances or conditions under which a nurse practitioner may issue a certificate under section 132(3)(a), that is—

- (a) certified by the Authority's chief executive officer appointed under section 355 and the chief executive (health); and
- (b) published by the department, including by being published on the department's website and elsewhere.'