



Queensland

Public Health (Infection Control) Amendment Act 2017

Act No. 16 of 2017

An Act to amend the Public Health Act 2005 for particular purposes

[Assented to 5 June 2017]



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The Parliament of Queensland enacts—

1 Short title

This Act may be cited as the *Public Health (Infection Control) Amendment Act 2017*.

2 Commencement

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

3 Act amended

This Act amends the *Public Health Act 2005*.

4 Amendment of s 61A (Definitions for chapter)

Section 61A, definition *health service chief executive*—
omit.

5 Replacement of ch 4, pt 2 (Obligations to minimise infection risks for declared health services)

Chapter 4, part 2—
omit, insert—

Part 2

**General obligation to
minimise infection
risks for declared
health services**

151 Obligation to minimise risk of infection

A person involved in the provision of a declared health service must take reasonable precautions and care to minimise the risk of infection to other

persons.

Examples of a person involved in the provision of a declared health service—

- 1 a registered nurse collecting blood for a blood bank
- 2 the medical superintendent or director of nursing of a public sector hospital
- 3 the owner of a dental practice that employs dentists, on a permanent or casual basis
- 4 the owner of a business that operates a first aid room for its employees

Example of how a person might take reasonable precautions and care—

The person complies with the ICMP for the health care facility at which the declared health service is provided and with any measures prescribed under section 461(2)(a) about preventing and controlling the spread of infectious conditions in providing the declared health service

Maximum penalty—1000 penalty units.

6 Amendment of s 153 (Obligation of owner for ICMP)

Section 153(2)—

omit, insert—

- (2) The owner must ensure—
 - (a) there is an ICMP for the health care facility that complies with section 155(1) and includes the matters prescribed under section 155(2); and
 - (b) declared health services provided at the health care facility are provided in compliance with the ICMP; and
 - (c) the operator reviews the effectiveness and implementation of the ICMP at intervals of not more than 1 year.

Maximum penalty—500 penalty units.

7 Amendment of s 154 (Obligation of owner/operator for ICMP)

Section 154(2)—

omit, insert—

(2) The operator must—

- (a) ensure there is an ICMP for the health care facility that complies with section 155(1) and includes the matters prescribed under section 155(2); and
- (b) ensure declared health services provided at the health care facility are provided in compliance with the ICMP; and
- (c) review the effectiveness and implementation of the ICMP at intervals of not more than 1 year.

Maximum penalty—500 penalty units.

8 Amendment of s 155 (What an ICMP must contain)

Section 155(5)—

insert—

Maximum penalty—100 penalty units.

9 Insertion of new ss 156A and 156B

Chapter 4, part 3—

insert—

156A Giving copy of ICMP and information to authorised person

- (1) An authorised person appointed by the chief executive may, by notice given to the operator of a health care facility, require the operator to give the following to the authorised person by the day stated in the notice—

[s 10]

- (a) a copy of the ICMP for the health care facility;
 - (b) other stated information about procedures for preventing or minimising the risk of infection to persons at the health care facility.
- (2) The operator must comply with the notice, unless the operator has a reasonable excuse.

Maximum penalty—200 penalty units.

156B Amending ICMP

- (1) This section applies if an authorised person appointed by the chief executive is satisfied an ICMP for a health care facility requires amendment to comply with this part.
- (2) The authorised person may, by notice given to the operator of the health care facility, require the operator to amend the ICMP.
- (3) The notice must state the following—
 - (a) that the operator must amend the ICMP;
 - (b) the way the ICMP must be amended;
 - (c) the day by which the ICMP must be amended;
 - (d) the day by which the operator must give the authorised person a copy of the amended ICMP.
- (4) The operator must comply with the notice, unless the operator has a reasonable excuse.

Maximum penalty—500 penalty units.

10 Insertion of new ch 4, pt 3A

Chapter 4—

insert—

Part 3A Improvement notices and directions notices

156C Improvement notice

- (1) This section applies if an authorised person appointed by the chief executive reasonably believes—
 - (a) the operator or owner of a health care facility—
 - (i) is contravening a relevant provision; or
 - (ii) has contravened a relevant provision in circumstances that make it likely the contravention will continue or be repeated; and
 - (b) a matter relating to the contravention is reasonably capable of being remedied; and
 - (c) it is appropriate to give the operator or owner an opportunity to remedy the matter.
- (2) The authorised person may give the operator or owner a notice (an *improvement notice*) requiring the operator or owner to remedy the contravention or have the contravention remedied.
- (3) The improvement notice must state the following—
 - (a) the relevant provision the authorised person believes is being, or has been, contravened;
 - (b) that the authorised person reasonably believes the operator or owner—
 - (i) is contravening the relevant provision; or
 - (ii) has contravened the relevant provision in circumstances that make it likely the contravention will continue or be repeated;

- (c) briefly, how it is believed the relevant provision is being, or has been, contravened;
 - (d) the period within which the operator or owner must remedy the contravention or have the contravention remedied;
 - (e) that it is an offence to fail to comply with the improvement notice, unless the operator or owner has a reasonable excuse.
- (4) The period stated under subsection (3)(d) must be reasonable, having regard to the risk to public health posed by the contravention.
 - (5) The improvement notice may also state the reasonable steps the authorised person considers necessary to remedy the contravention, or avoid further contravention, of the relevant provision.
 - (6) The operator or owner must comply with the improvement notice, unless the operator or owner has a reasonable excuse.

Maximum penalty—

- (a) if the relevant provision the subject of the improvement notice is section 151—1000 penalty units; or
 - (b) if the relevant provision the subject of the improvement notice is section 153(2) or 154(2)—500 penalty units; or
 - (c) if the relevant provision the subject of the improvement notice is section 155(5)—100 penalty units.
- (7) An operator or owner may be prosecuted for the contravention of a relevant provision without an authorised person first giving an improvement notice for the contravention.

- (8) In this section—

relevant provision means—

-
- (a) in relation to the operator of a health care facility—section 151, 154(2) or 155(5); or
 - (b) in relation to the owner of a health care facility who is not the operator of the facility—section 153(2).

156D Record of compliance with improvement notice

- (1) If the operator or owner of a health care facility who is given an improvement notice by an authorised person under this part reasonably believes the operator or owner has complied with the notice, the operator or owner may inform the authorised person of the belief.
- (2) If the authorised person is satisfied the operator or owner has complied with the improvement notice, the authorised person must—
 - (a) record the date of the compliance on a copy of the notice; and
 - (b) if asked, give a copy of the dated notice to the operator or owner.

156E Directions notice

- (1) This section applies if the chief executive reasonably believes—
 - (a) the operator of a health care facility—
 - (i) is contravening section 151; or
 - (ii) has contravened section 151 in circumstances that make it likely the contravention will continue or be repeated; and
 - (b) there is a serious risk of harm to a person's health because of the contravention or likely contravention.

- (2) The chief executive may give the operator a notice (a *directions notice*) directing the operator to stop providing a stated declared health service at the health care facility for a stated period of not more than 30 days.
- (3) The directions notice must also state the following—
 - (a) that the chief executive reasonably believes the operator—
 - (i) is contravening section 151; or
 - (ii) has contravened section 151 in circumstances that make it likely the contravention will continue or be repeated;
 - (b) briefly, how it is believed section 151 is being, or has been, contravened;
 - (c) the period within which the operator must remedy the contravention or have the contravention remedied;
 - (d) the serious risk of harm caused by the contravention or likely contravention;
 - (e) that it is an offence to fail to comply with the notice, unless the operator has a reasonable excuse.
- (4) The directions notice may also state the reasonable steps the chief executive considers necessary to remedy the contravention, or avoid further contravention, of section 151.
- (5) The directions notice takes effect when it is given to the operator of the health care facility.

156F Chief executive may extend directions notice

- (1) This section applies if, before the end of the period stated under section 156E(2) for a directions notice, the chief executive still believes

the matters mentioned in section 156E(1) for the directions notice.

- (2) The chief executive may, by notice given to the operator, extend the period during which the operator must not provide the stated declared health service by not more than 30 days.

156G Court order may extend directions notice

- (1) This section applies if the chief executive has given a directions notice to the operator of a health care facility.
- (2) The chief executive may apply to a magistrate for an order to extend the period during which the operator must not provide the stated declared health service.
- (3) The application must be made before the end of—
 - (a) the period stated under section 156E(2) for the directions notice; or
 - (b) if the period is extended under section 156F(2)—the extended period.
- (4) If the magistrate has not decided the application before the end of the period in which the application must be made, the directions notice continues in effect until the magistrate decides the application.
- (5) The magistrate may refuse to consider the application until the chief executive gives the magistrate all the information the magistrate requires to make the order.
- (6) The magistrate may make an order to extend the period mentioned in subsection (2) for a further stated period if the magistrate is satisfied—
 - (a) the operator—
 - (i) is contravening section 151; or

- (ii) has contravened section 151 in circumstances that make it likely the contravention will continue or be repeated; and
- (b) there is a serious risk of harm to a person's health because of the contravention or likely contravention.

156H Offence to fail to comply with a directions notice

The operator of a health care facility must comply with a directions notice given to the operator, unless the operator has a reasonable excuse.

Maximum penalty—3000 penalty units.

156I Record of compliance with directions notice

- (1) If the operator of a health care facility who is given a directions notice under this part reasonably believes the operator has complied with the notice, the operator may inform the chief executive of the belief.
- (2) If the chief executive is satisfied the operator has complied with the directions notice, the chief executive must—
 - (a) record the date of the compliance on a copy of the notice; and
 - (b) if asked, give a copy of the dated notice to the operator.
- (3) The directions notice stops having effect on the date of compliance.

11 Amendment of s 213AA (Definitions for part)

Section 213AA, definition *health service chief executive*—
omit.

12 Amendment of s 388A (Power to enter places to check compliance with improvement notice)

Section 388A(1), after ‘improvement notice’—

insert—

under section 57A

13 Amendment of s 390 (Power to enter health care facility)

(1) Section 390(3), after ‘facility’—

insert—

about the intended entry

(2) Section 390—

insert—

(3A) Subsection (3) does not apply if the authorised person reasonably believes immediate entry is necessary to prevent or minimise an imminent risk of infection to a person at the health care facility.

(3) Section 390(3A) and (4)—

renumber as section 390(4) and (5).

14 Amendment of s 455 (Delegations)

Section 455(2)—

omit, insert—

(2) However, the chief executive may delegate the chief executive’s power to give a directions notice under section 156E(2) only to—

(a) a person mentioned in subsection (1)(a) or
(b) who is—

(i) a member of the health executive service as defined in the *Hospital and Health Boards Act 2011*, schedule 2;
and

- (ii) employed by the department; or
- (b) the chief health officer.

15 Amendment of s 461 (Regulation-making power)

Section 461(2)(a)—

insert—

- (iii) the training and qualifications for a person who is providing a declared health service;

16 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *declared health service*, *health service chief executive*, first and second occurring, and *improvement notice*—

omit.

- (2) Schedule 2—

insert—

declared health service see section 148.

directions notice see section 156E(2).

health service chief executive see the *Hospital and Health Boards Act 2011*, schedule 2.

improvement notice—

- (a) for chapter 2, part 5A, division 1, see section 57A(2); or
- (b) for chapter 4, part 3A, see section 156C(2).