

Queensland



**HEALTH AND OTHER
LEGISLATION
AMENDMENT ACT 1998**

Act No. 41 of 1998

Queensland



HEALTH AND OTHER LEGISLATION AMENDMENT ACT 1998

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Queensland



Health and Other Legislation Amendment Act 1998

Act No. 41 of 1998

An Act to amend the *Health Act 1937* and other various Acts

[Assented to 27 November 1998]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Health and Other Legislation Amendment Act 1998*.

Commencement

2.(1) Schedule 2, amendment 1 of the *Speech Pathologists Act 1979*, and section 14(2) for the purpose of the amendment, are taken to have commenced on 28 November 1995 immediately after the amendments of section 37 of that Act made by the *Statute Law Revision Act 1995*.

(2) The remaining provisions commence on a day to be fixed by proclamation.

PART 2—AMENDMENT OF HEALTH ACT 1937

Act amended in pt 2

3. This part amends the *Health Act 1937*.

Insertion of new s 8A

4. After section 8—

‘Manager of public health services for the State

‘8A.(1) There is to be a manager of public health services for the State.

‘(2) The manager—

(a) must be a medical practitioner; and

(b) is to be employed as a public service officer, or as a health service employee under the *Health Services Act 1991*.

‘(3) The manager must, subject to the chief executive, manage the delivery of services dealing with public health in the State, including, for example, the prevention and control of disease and sickness and the prevention of injury.’.

Amendment of s 100B (Interpretation)

5.(1) Section 100B, heading—

omit, insert—

‘Definitions for div 10’.

(2) Section 100B, definition “nursing home”—

omit.

(3) Section 100B—

insert—

‘**“contractor”** see section 100DA(1).

“health service employee” means a person appointed under the *Health Services Act 1991*, section 24.¹

“nursing home” see section 76B(1).

“register” means the register established under section 100D.

“return about cancer” means a return under section 100C.’.

(4) Section 100B, definition “prescribed person”, paragraph (b)—

omit, insert—

‘(b) in relation to a nursing home—the person in control of the nursing home;’.

¹ Section 24 (Appointment of health service employees)

Amendment of s 100C (Furnishing returns to chief health officer)

6.(1) Section 100C, heading—

omit, insert—

‘Returns about cancer to be given to chief executive’.

(2) Section 100C(1), after ‘attending’—

insert—

‘, or resident of,’.

(3) Section 100C(1), ‘or a resident in a charitable institution’—

omit.

(4) Section 100C(1), ‘class of person’—

omit, insert—

‘class of patient’.

(5) Section 100C(1), ‘home, hospital or institution shall’—

omit, insert—

‘home or hospital must’.

(6) Section 100C(1), ‘furnish to the chief health officer’—

omit, insert—

‘give to the chief executive’.

(7) After section 100C(1)—

insert—

‘Maximum penalty—10 penalty units.’.

(8) Section 100C(2)(b), ‘shall furnish such return’—

omit, insert—

‘must give the completed return’.

(9) Section 100C(2)(b), ‘chief health officer’—

omit, insert—

‘chief executive’.

(10) After section 100C(2)—

insert—

‘Maximum penalty—10 penalty units.’.

(11) Section 100C(3) and (4)—

omit, insert—

‘(3) A medical practitioner to whom a completed return is given under subsection (2)(b) must give the return, or a copy of it, to the chief executive within the time prescribed under a regulation.

Maximum penalty for subsection (3)—10 penalty units.’.

Replacement of s 100D (Register)

7. Section 100D—

omit, insert—

‘Register

‘**100D.** The chief executive must establish and maintain a register of the persons in relation to whom returns about cancer have been given to the chief executive or the contractor.

‘Responsibility for maintenance of register

‘**100DA.(1)** The chief executive may enter into a written agreement with a person prescribed under a regulation (the “**contractor**”) for the contractor to maintain the register for the chief executive.

‘(2) The chief executive must take reasonable steps to ensure the contractor complies with the agreement.

‘Directions to give returns about cancer to contractor

‘**100DB.(1)** If a person must, under section 100C(1),(2)(b)(ii) or (3), give a completed return about cancer to the chief executive, the chief executive may give a written direction to the person to give the return to the contractor in place of the chief executive.

‘(2) If a person may, under section 100C(2)(b)(i), give a completed

return about cancer to the chief executive, the chief executive may give a written direction to the person to give the return to the contractor in place of the chief executive.

‘(3) A direction must state—

- (a) the name and address of the contractor; and
- (b) the day the direction is to take effect.

‘(4) A person to whom a direction is given under subsection (1) must comply with the direction.

Maximum penalty—10 penalty units.

‘(5) A person to whom a direction is given under subsection (2) must comply with the direction, unless the person has given the return about cancer to a medical practitioner under section 100C(2)(b)(i).

Maximum penalty—10 penalty units.

‘(6) If, under a direction, a person gives a return about cancer to the contractor and does not give it to the chief executive, the person does not contravene section 100C in relation to the return.

‘(7) The chief executive must monitor compliance with this section.

‘Further information may be required

‘**100DC.(1)** The chief executive or contractor may ask a person who has completed a return about cancer to give further information about the return to the chief executive or contractor to ensure the accuracy, completeness or integrity of the data making up the register.

‘(2) If the chief executive considers further information is required in relation to a return about cancer to ensure the accuracy, completeness or integrity of the data making up the register, the chief executive may give the person who completed the return a written notice mentioned in subsection (3).

‘(3) The written notice must—

- (a) require the person who completed the return to give the further information stated in the notice to the chief executive within the time prescribed under a regulation; and

- (b) warn the person that failure to comply with the notice is an offence under this Act.

‘(4) A person given a notice under subsection (2) must comply with the notice.

Maximum penalty for subsection (4)—10 penalty units.’.

Amendment of s 100E (Confidentiality)

8.(1) Section 100E(1)(a), (b) and (c)—

omit, insert—

- ‘(a) the chief executive; and
- (b) a person involved in administering this Act, including, for example, a delegate of the chief executive; and
- (c) a person who in any way helps in the administration of this Act, including, for example, a contractor and an employee of a contractor.’.

(2) Section 100E(2), penalty, ‘16’—

omit, insert—

‘50’.

(3) Section 100E(3)—

omit, insert—

‘**(3)** However, the chief executive may disclose information from the register if the disclosure is made—

- (a) in a form the chief executive reasonably believes does not identify any person; or
- (b) to a contractor, or an employee of a contractor, for maintaining the register; or
- (c) to a person when the chief executive is asking or requiring the person to give information under section 100DC; or
- (d) to a person authorised to conduct scientific research and studies

under section 154M;² or

- (e) to the Commonwealth, another State or an entity of the Commonwealth or other State and the disclosure—
 - (i) is decided by the chief executive to be in the public interest; and
 - (ii) is required to be made, or may be made, under an agreement that—
 - (A) is between the State and the Commonwealth, the other State or the entity; and
 - (B) is prescribed under a regulation for this subsection.

‘(4) Also, a contractor may disclose information from the register if the disclosure is made—

- (a) in a form the contractor reasonably believes does not identify any person; or
- (b) to the chief executive, at the written request of the chief executive stating the chief executive considers the disclosure is necessary for ensuring the proper administration of this division; or
- (c) to a person when the contractor is asking the person to give information under section 100DC(1); or
- (d) to a person or entity to which the chief executive may make the disclosure under subsection (3)(d) or (e), if the chief executive authorises the contractor, in writing, to disclose the information.

‘(5) The Commonwealth, another State or an entity, that receives information under subsection (3)(e) or (4)(d)—

- (a) must not disclose it to anyone else; and
- (b) must ensure the information is used only for the purpose for which it was given under the agreement.

² Section 154M (Authority to conduct scientific research and studies)

‘(6) The *Health Services Act 1991*, section 63,³ does not apply to a person to whom this section applies in relation to information gained by the person under this division.

‘(7) The chief executive must monitor compliance with this section.’.

Insertion of new s 100EA

9. After section 100E—

insert—

‘Arrangements about transfer of information

‘**100EA.(1)** The chief executive may arrange for the transfer of information in the register for inclusion in the register required to be established under section 100FC.⁴

‘(2) A person does not commit an offence against section 100E merely because the person does something under the arrangement.’.

Renumbering of pt 3, div 11

10. Part 3, division 11—

renumber as part 3, division 12.

Insertion of new pt 3, div 11

11. Part 3—

insert—

³ Section 100E(2) protects information gained under this division by providing for an offence for disclosing or making use of confidential information. As a specific offence is created under subsection (2), subsection (6) provides that the more general provision in the *Health Services Act 1991*, section 63 does not apply.

⁴ Section 100FC (Pap Smear Register)

‘Division 11—Pap Smear Register***‘Subdivision 1—Definitions and application*****‘Definitions for div 11**

‘100FA. In this division—

“abnormal Pap smear” means a Pap smear indicating abnormal cell growth and appearances in the cervix of the woman from whom the Pap smear was obtained.

“clinical information” means the following information about a woman appearing in the register as part of her registered screening history—

- (a) the dates and results of the Pap smear tests and histology tests for the woman;
- (b) other information prescribed under a regulation.

“clinical management” means a course of action for managing a precursor to cancer of a woman’s cervix or cancer of a woman’s cervix, including, for example, diagnosing, treating, monitoring and following up with the woman, and making recommendations to her.

“confidential information” means all information in the register about a woman.

“director”, of a pathology laboratory, means the person who has effective control of—

- (a) the laboratory premises, whether or not the person has an interest in the premises; and
- (b) the use of equipment used at the laboratory; and
- (c) the work performed by the staff in the laboratory.

“disclosure section” means section 100FP, 100FQ, 100FR, 100FV or 100FW.⁵

“health practitioner” means—

- (a) a medical practitioner; or
- (b) a registered nurse under the *Nursing Act 1992*, section 4; or
- (c) a person designated as a health practitioner for this division.⁶

“health service employee” means a person appointed under the *Health Services Act 1991*, section 24.⁷

“histological sample” means a biopsy or excision of the cervix, uterine body or vagina of a woman.

“histology test” means the processes for testing a histological sample.

“identifying information” means the following information about a woman appearing in the register as part of her registered screening history—

- (a) full name or names, including, for example, other names previously or currently used;
- (b) date of birth;
- (c) address for correspondence;
- (d) other information prescribed under a regulation.

“nominated person”, at a pathology laboratory, means a person nominated by the director of the laboratory under section 100FR(1).

“Pap smear” means the cells scraped from a woman’s cervix for detecting whether the woman has—

⁵ Section 100FP (Disclosures about woman’s registered screening history)
Section 100FQ (Access to register by health practitioners)
Section 100FR (Access to register by directors of, and nominated persons at, pathology laboratories)
Section 100FV (Agreements for sending out notices under ss 100FK and 100FL)
Section 100FW (Arrangements about transfer of information)

⁶ See section 100FX (Chief executive may designate certain persons as health practitioners).

⁷ Section 24 (Appointment of health service employees)

- (a) a precursor to cancer of the cervix; or
- (b) cancer of the cervix.

“Pap Smear Register” see section 100FC.⁸

“Pap smear test” means the processes for testing a Pap smear for—

- (a) a precursor to cancer of the cervix; or
- (b) cancer of the cervix.

“pathology laboratory” means premises used for the pathological examination of Pap smears and histological samples.

“provider” see section 100FF.⁹

“register” means the Pap Smear Register.

“registered screening history”, for a woman, means her identifying and clinical information, as appearing in the register.

“woman” means a female person.

“written” or **“in writing”**, in relation to a consent by or request from a woman, means a consent or request signed by the woman.

‘Application of division

‘100FB.(1) This division applies to a procedure performed in Queensland after the commencement of this section to obtain a Pap smear or histological sample from a woman.

‘(2) However, this division does not apply to the procedure if the woman’s usual place of residence is outside of Queensland when the Pap smear or histological sample is obtained.

⁸ Section 100FC (Pap Smear Register)

⁹ Section 100FF (Definition for sdiv 3)

‘Subdivision 2—Establishment and purposes of register

‘Pap Smear Register

‘100FC.(1) The chief executive must establish and keep a register under this Act to record identifying and clinical information about women.

‘(2) The chief executive may keep the register in a form the chief executive considers appropriate, including an electronic form.

‘(3) The register is to be known as the Pap Smear Register.

‘Purposes of register

‘100FD. The purposes for establishing the register are as follows—

- (a) to establish mechanisms to advise a woman who has an abnormal Pap smear result about appropriate medical investigation and intervention;
- (b) to establish mechanisms to advise a woman to have the procedure to obtain another Pap smear because her previous Pap smear is technically unsatisfactory and cannot be assessed, including, for example, due to poor fixation of the smear;
- (c) to supply a woman’s registered screening history to the director of, or a nominated person at, the pathology laboratory, where a Pap smear or histological sample obtained from the woman is being tested, to help the director or person interpret the smear or sample and make clinical management recommendations;
- (d) to supply a woman’s registered screening history to a health practitioner to help the practitioner in advising the woman about options for clinical management;
- (e) to use information in the register for sending notices to certain women about Pap smears, or the results of Pap smear tests or histology tests;
- (f) to enhance access by pathology laboratories to information to help in assessing the proportion of correct predictions of detected lesions made by the pathology laboratory;
- (g) to supply data to help—

- (i) in monitoring changing disease trends; and
- (ii) in studying the efficacy of the management and treatment of abnormal Pap smears; and
- (iii) in monitoring and evaluating the effectiveness of cervical screening programs; and
- (iv) in increasing public awareness of cancer of the cervix;
- (h) to help in formulating strategies to encourage all women to participate in regular Pap smear testing, and, in particular—
 - (i) women who have not had a procedure to obtain a Pap smear; and
 - (ii) women who, according to their registered screening histories, are overdue for their next procedure to obtain a Pap smear.

‘Women may elect to withhold, remove or change information on register

‘100FE.(1) Clinical and identifying information about a woman is to be included in the register unless the woman elects for it not to be included.

‘(2) The process stated in subdivision 3 is designed to achieve a balance between maximising participation and ensuring women are informed about their right to elect not to have their clinical and identifying information included in the register.¹⁰

‘(3) However, a woman may, in writing, ask for—

- (a) her registered screening history to be removed from the register; or
- (b) her identifying information to be changed.¹¹

¹⁰ Subdivision 3 (Duties of persons involved in obtaining and testing Pap smears and histological samples)

¹¹ See sections 100FM (Duty of chief executive to remove registered screening history) and 100FN (Duty of chief executive to change identifying information).

Subdivision 3—Duties of persons involved in obtaining and testing Pap smears and histological samples

Definition for sdiv 3

100FF. In this subdivision—

“provider” means—

- (a) a medical practitioner who intends to perform a procedure to obtain a Pap smear or histological sample from a woman; or
- (b) another person who intends to perform a procedure to obtain a Pap smear from a woman.

Initial duty of person obtaining Pap smear or histological sample

100FG. A provider must be satisfied, on reasonable grounds, the woman has been informed about each of the following—

- (a) the existence and purposes of the register;
- (b) the identifying and clinical information about the woman that may be recorded in the register;
- (c) that the woman may elect for her identifying and clinical information not to be automatically included in the register.

Duty if woman elects for her identifying and clinical information not to be included on register

100FH.(1) This section applies if—

- (a) a provider’s health records do not indicate the woman has previously elected not to have her identifying and clinical information automatically included in the register; and
- (b) the woman tells the provider she does not want her identifying and clinical information to be automatically included.

(2) The provider must make a notation in the provider’s health records—

- (a) about the woman’s decision; and

- (b) that the woman's identifying and clinical information must not be given to the chief executive.

'(3) Also, the provider must ensure each request by the provider for a Pap smear test or histology test for the woman includes a notation that the woman's identifying and clinical information must not be given to the chief executive.

'Provider's duty if woman previously elected for information not to be included on register

'100FL.(1) This section applies to a provider if the provider's health records indicate the woman has previously elected not to have her identifying and clinical information automatically included in the register.

'(2) The provider must ask the woman whether she wants to reconsider her decision.

'(3) If the woman reconsiders her decision and tells the provider she now wants her identifying and clinical information to be automatically included in the register, the provider must make a notation in the provider's health records—

- (a) about the woman's decision; and
- (b) that the woman's identifying and clinical information must be given to the chief executive.

'(4) If the woman reconsiders her decision and tells the provider she still does not want her identifying and clinical information to be automatically included in the register, the provider must ensure each request by the provider for a Pap smear test or histology test for the woman includes a notation that the woman's identifying and clinical information must not be given to the chief executive.

'Duty of director to provide information

'100FJ.(1) The director of a pathology laboratory, who receives a request to test a Pap smear or histological sample obtained from a woman, must give the woman's identifying and clinical information, as required under a regulation, to the chief executive.

'(2) The director must give the information to the chief executive no later

than 4 weeks after the results of the tests are given to the person who asked for the test.

‘(3) However, if the request for the test of the Pap smear or histological sample includes a notation that the woman’s identifying and clinical information must not be given to the chief executive, the director must not give the information to the chief executive.

‘Subdivision 4—Duties of chief executive concerning registered screening histories and authority to send reminder notices

‘Duty of chief executive on receipt of information

‘100FK.(1) This section applies if the chief executive receives identifying and clinical information under this division for a woman about whom there is no registered screening history.

‘(2) After the identifying and clinical information is included in the register, the chief executive must send the woman a notice stating that the information has been included in the register.

‘(3) The notice must also state—

- (a) the woman may have her registered screening history removed from the register; and
- (b) the woman may have her identifying information changed if she considers the information is incorrect; and
- (c) the way the woman may have her registered screening history removed or her identifying information changed.

‘Chief executive may send reminder notices to certain women

‘100FL. The chief executive may send a written notice to a woman who, according to her registered screening history, may—

- (a) be overdue for the procedure for obtaining her next Pap smear; or
- (b) need to have the procedure for obtaining a Pap smear repeated because her previous Pap smear is technically unsatisfactory and cannot be assessed; or

- (c) require appropriate medical investigation and intervention because of an abnormal Pap smear result.

‘Duty of chief executive to remove registered screening history

‘**100FM.(1)** This section applies if a woman, in writing, asks the chief executive to remove her registered screening history from the register.

‘**(2)** As soon as is practicable after 6 weeks from receiving the request, the chief executive must remove the woman’s history from the register, unless the woman withdraws her request before the period ends.

‘**(3)** If the woman’s request states or otherwise indicates that her registered screening history was included in the register when, under this division, it should not have been included, the chief executive must remove the history from the register as soon as is practicable after receiving the request.

‘Duty of chief executive to change identifying information

‘**100FN.** If a woman, in writing, asks the chief executive to change her identifying information because she considers the information is incorrect, the chief executive must comply with the request as soon as is practicable after its receipt.

‘Subdivision 5—Confidentiality of, and access to, registered screening histories of women

‘Confidentiality of all information in register

‘**100FO.(1)** This section applies to the chief executive and each of the following persons involved in keeping the register or exercising powers involving the register, whether under a delegation from the chief executive or otherwise—

- (a) a health service employee;
- (b) a public service employee within the department.

‘**(2)** A person to whom this section applies must not, whether directly or indirectly—

- (a) disclose confidential information gained by the person under this division, unless the disclosure is made under a disclosure section; or
- (b) make use of confidential information gained by the person under this division, unless the information is used for this division.

Maximum penalty—50 penalty units.

‘(3) The *Health Services Act 1991*, section 63, does not apply to a person to whom this section applies in relation to a woman’s registered screening history.¹²

‘Disclosures about woman’s registered screening history

‘100FP.(1) This section applies to a person to whom section 100FO applies.

‘(2) If the person receives a written request from a woman for her registered screening history, the person must give the woman a copy of her history.

‘(3) Also, the person may disclose confidential information if—

- (a) the woman to whom the confidential information relates gives her written consent for the disclosure; or
- (b) the disclosure is made in a form the person reasonably believes does not identify any woman; or
- (c) the disclosure is authorised or permitted under an Act or is required by law.

‘(4) Further, the person may disclose confidential information to the following—

- (a) a health service employee, or public service employee within the department, who is involved in maintaining the accuracy, completeness or integrity of the data making up the register;

¹² Section 100FO(2) protects information gained under this division by providing for an offence for disclosing or making use of confidential information. As a specific offence is created under subsection (2), subsection (3) provides that the more general provision in the *Health Services Act 1991*, section 63 (Confidentiality) does not apply.

- (b) a person authorised to conduct scientific research and studies under section 154M;¹³
- (c) the Commonwealth, another State or an entity of the Commonwealth or other State if the disclosure—
 - (i) is decided by the chief executive to be in the public interest; and
 - (ii) is required to be made, or may be made, under an agreement that—
 - (A) is between the State and the Commonwealth, the other State or the entity; and
 - (B) is prescribed under a regulation for this subsection.

‘(5) The Commonwealth, another State or an entity, that receives confidential information under subsection (4)—

- (a) must not give it to anyone else; and
- (b) must ensure the information is used only for the purpose for which it was given under the agreement.

‘Access to register by health practitioners

‘**100FQ.(1)** This section applies if a health practitioner asks the chief executive to give the health practitioner a woman’s registered screening history.

‘(2) The chief executive may give the health practitioner a woman’s registered screening history if the chief executive is satisfied, on reasonable grounds—

- (a) the woman is a patient of the health practitioner; and
- (b) the registered screening history may help the health practitioner make—
 - (i) a clinical diagnosis about the woman; or
 - (ii) decisions about clinical management for the woman; or

¹³ Section 154M (Authority to conduct scientific research and studies)

(iii) decisions about the timing for performing a procedure for obtaining another Pap smear from the woman.

‘(3) Subsection (2) does not authorise—

- (a) the disclosure of a woman’s address to a health practitioner; or
- (b) the disclosure of information identifying another health practitioner or a pathology laboratory, without the written consent of the other health practitioner or the director of the pathology laboratory, identified in the disclosure.

‘Access to register by directors of, and nominated persons at, pathology laboratories

‘100FR.(1) The director of a pathology laboratory may nominate, by written notice to the chief executive, a person or persons employed at the laboratory to whom a woman’s registered screening history may be given for the laboratory.

‘(2) Subsection (3) applies if—

- (a) a Pap smear or histological sample from a woman has been sent to a pathology laboratory for testing; and
- (b) the director of, or a nominated person at, the pathology laboratory asks the chief executive to give the director or nominated person the woman’s registered screening history.

‘(3) The chief executive may give the director or nominated person the woman’s registered screening history if the chief executive is satisfied, on reasonable grounds—

- (a) the director or person is interpreting results of the Pap smear test or histology test and making recommendations about clinical management for the woman; or
- (b) the pathology laboratory has tested a Pap smear or histological sample for the woman and the director or person is assessing the performance of the pathology laboratory in accurately assessing the proportion of correct predictions of detected lesions, including, for example, for quality assurance purposes.

‘(4) Subsection (3) does not authorise—

- (a) the disclosure of a woman's address to the director of, or a nominated person at, a pathology laboratory; or
- (b) the disclosure of information identifying a particular health practitioner or another pathology laboratory, without the written consent of the health practitioner, or the director of the other pathology laboratory, identified in the disclosure.

'Unauthorised access to registered screening histories

'100FS. A person must not knowingly obtain, or attempt to obtain, from the register or any of the following persons confidential information the person is not authorised under this division to obtain—

- (a) the chief executive;
- (b) a health service employee, or a public service employee within the department, involved in keeping the register or exercising powers involving the register, whether under a delegation from the chief executive or otherwise.

Maximum penalty—50 penalty units.

'Health practitioners, directors and nominated persons to keep registered screening histories confidential

'100FT.(1) This section applies to a person to whom confidential information is given under section 100FQ or 100FR.¹⁴

'(2) The person must not, whether directly or indirectly, disclose the confidential information given to the person, unless the disclosure is made under subsection (3) or (4).

Maximum penalty—50 penalty units.

'(3) A health practitioner may disclose a woman's registered screening history to any of the following persons—

- (a) the woman;
- (b) another health practitioner to whom the health practitioner has

¹⁴ Sections 100FQ (Access to register by health practitioners) and 100FR (Access to register by directors of, and nominated persons at, pathology laboratories)

referred, or intends to refer, the woman or with whom the health practitioner considers it necessary or desirable to discuss the woman's history for the clinical management for the woman.

‘(4) The director of, or a nominated person at, a pathology laboratory may disclose a woman's registered screening history to any of the following persons—

- (a) the woman;
- (b) the person who performed the procedure to obtain the Pap smear or histological sample;
- (c) a medical practitioner that the director or nominated person is satisfied, on reasonable grounds, is involved in the clinical management for the woman;
- (d) another person employed at the pathology laboratory involved in—
 - (i) the interpretation of Pap smear tests or histology tests, to the extent the director or nominated person considers it necessary or desirable to discuss the history with the other person; or
 - (ii) assessing the performance of the laboratory in accurately assessing the proportion of correct predictions of detected lesions, including, for example, for quality assurance purposes.

‘Chief executive to monitor access to information

‘100FU.(1) The chief executive must cause processes to be put into place to monitor access to the registered screening history of women by—

- (a) health practitioners; and
- (b) the directors of, and nominated persons at, pathology laboratories.

‘(2) The processes for a health practitioner must allow the chief executive to decide—

- (a) whether the health practitioner is accessing only the registered screening history for women for whom the health practitioner is making—

- (i) clinical diagnoses; or
 - (ii) decisions about clinical management; or
 - (iii) decisions about the timing for performing procedures for obtaining Pap smears; and
- (b) whether someone else is accessing a woman's registered screening history other than the woman's health practitioner.
- ‘(3) The processes for a pathology laboratory must allow the chief executive to decide—
- (a) whether the director of, or nominated persons at, a pathology laboratory are accessing only the registered screening histories of women for whom the pathology laboratory—
 - (i) is testing Pap smears or histological samples, interpreting the results of the Pap smear tests or histology tests and making recommendations about clinical management for the women; or
 - (ii) tested Pap smears or histological samples and the director or nominated persons are assessing the performance of the pathology laboratory in accurately assessing the proportion of correct predictions of detected lesions, including, for example, for quality assurance purposes; and
 - (b) whether someone is accessing the registered screening history of women, other than the director of, or a nominated person at, the pathology laboratory.

‘Subdivision 6—Agreements and arrangements about confidential information, and designation of certain persons

‘Agreements for sending out notices under ss 100FK and 100FL

‘100FV.(1) The chief executive may enter into a written agreement with a person (the “contractor”) for the contractor to send out notices under

section 100FK or 100FL¹⁵ for the chief executive.

‘(2) The chief executive may disclose confidential information to the contractor to the extent it is necessary for the contractor to perform the contractor’s functions under the agreement.

‘(3) For sending out a notice under section 100FK or 100FL—

- (a) the contractor may disclose confidential information to the contractor’s employees and the persons to whom the notices are sent; and
- (b) the contractor’s employees may disclose confidential information to the persons to whom the notices are sent.

‘(4) A contractor, or an employee of the contractor, in receipt of confidential information must not disclose it to another person, or use the information, other than for sending out notices as mentioned in subsection (3).

Maximum penalty for subsection (4)—50 penalty units.

‘Arrangements about transfer of information

‘**100FW.(1)** The chief executive may arrange for the transfer of confidential information for inclusion in the register required to be established under section 100D.¹⁶

‘(2) A person does not commit an offence against section 100FO merely because the person does something under the arrangement.¹⁷

‘Chief executive may designate certain persons as health practitioners

‘**100FX.** The chief executive may, by gazette notice, designate a person who performs procedures to obtain Pap smears as a health practitioner for this division.

¹⁵ Sections 100FK (Duty of chief executive on receipt of information) and 100FL (Chief executive may send reminder notices to certain women)

¹⁶ Section 100D (Register)

¹⁷ Section 100FO (Confidentiality of all information in register)

Example—

An enrolled nurse working in a remote area.’.

Amendment of s 180 (Regulation making power)

12.(1) Section 180(2)(e)—

renumber as section 180(2)(f).

(2) Section 180(2)—

insert—

‘(e) the information to be given to the chief executive for entering in the Pap Smear Register and the timing for giving the information;’.

Replacement of pt 7 (Transitional provisions)

13. Part 7—

omit, insert—

‘PART 7—TRANSITIONAL PROVISIONS FOR THE HEALTH AND OTHER LEGISLATION AMENDMENT ACT 1998

‘Chief health officer may transfer documents to chief executive

‘182.(1) This section applies to a document that, before the commencement of this section—

- (a) was filed with, served on or otherwise given to the chief health officer; or
- (b) the chief health officer was required to prepare or keep under this Act or another Act; or
- (c) was created by or for, or otherwise possessed or controlled by, the chief health officer because the document was necessary or convenient for, or incidental to, performing functions or exercising powers under this Act or another Act by the chief health officer.

‘(2) The chief health officer may make the document available to the chief executive.

‘(3) If the chief health officer makes a document available to the chief executive under subsection (2), the chief health officer does not contravene a provision of this Act or another Act that—

- (a) states the chief health officer must not publish or disclose the document or the information in the document, other than as prescribed in this Act or the other Act; or
- (b) states the chief health officer must not use the document for a purpose other than a purpose allowed under this Act or the other Act.

‘Preservation of certain evidentiary matters

‘**183.(1)** This section applies to a provision of this Act or another Act, that, as in force immediately before the commencement of the *Health and Other Legislation Amendment Act 1998*, section 14(1), (the “**commencement**”) provided it was not necessary to prove—

- (a) the appointment of the chief health officer; or
- (b) a signature purporting to be the chief health officer’s signature.

‘(2) The provision, as in force immediately before the commencement, continues to apply in a proceeding in relation to a matter that arose before the commencement.’.

PART 3—AMENDMENTS OF OTHER ACTS

Acts amended in schedules

14.(1) Schedule 1 amends the Acts mentioned in it.

(2) Schedule 2 amends the Acts mentioned in it.¹⁸

¹⁸ The Acts mentioned in schedule 1 change certain references from ‘chief health officer’ and include some minor consequential amendments. The Acts mentioned in schedule 2 are amended for other reasons.

SCHEDULE 1

AMENDMENTS TO CHANGE REFERENCES TO 'CHIEF HEALTH OFFICER' AND MINOR CONSEQUENTIAL AMENDMENTS

section 14(1)

CHILDREN'S SERVICES ACT 1965

1. Section 8—

insert—

‘**“chief executive (health)”** means the chief executive of the department in which the *Health Services Act 1991* is administered.’.

2. Sections 104(2) and (2A) and 144(1A), ‘chief health officer’—

omit, insert—

‘chief executive (health)’.

CRIMINAL LAW AMENDMENT ACT 1945

1. Section 18(8A) from ‘chief health officer’ to ‘administered’—

omit, insert—

‘chief executive of the department in which the *Health Services Act 1991* is administered’.

SCHEDULE 1 (continued)

DRUGS MISUSE ACT 1986

1. Section 52A(2)(b), ‘by the chief health officer’—
omit.

EVIDENCE ACT 1977

1. Schedule 1, item 6—
omit.
2. Schedule 1, items 7 to 18—
renumber as schedule 1, items 6 to 17.

**FLUORIDATION OF PUBLIC WATER SUPPLIES
ACT 1963**

1. Section 2, definition “chief health officer”—
omit.
2. Section 6(3)(f), ‘chief health officer’—
omit, insert—
‘chief executive’.

SCHEDULE 1 (continued)

FOOD ACT 1981

1. Sections 8, 20, 21, 24, 26, 28A(1), 33(8), 36, 37, 39A, 40, 45(1)(b), 52(6), 53(1), 54(e), 55(1), 56, 57 and the schedule, sections 3, 4, 13(i) and 26, ‘chief health officer’—

omit, insert—

‘chief executive’.

2. Section 25, heading, ‘chief health officer’—

omit, insert—

‘Minister’.

3. Section 25, from ‘In a case’ to ‘in writing’—

omit, insert—

‘If, after seeking advice from the chief executive and the chief health officer, the Minister considers there is a case of emergency or sudden necessity, the Minister, by written order’.

4. Section 25(a)(ii) and (b), ‘chief health officer’—

omit, insert—

‘Minister’.

5. Section 39A(1), ‘chief health officer’s’—

omit, insert—

‘chief executive’s’.

SCHEDULE 1 (continued)

HEALTH ACT 1937

1. Sections 9, 10, 15A, 16, 17(4), 18 to 20, 22, 24, 27B to 27D, 32A to 36, 38 to 40, 47 to 49, 76K(2) and (5), 76L(16)(a), 100H, 100I, 109, 110(2), 113(2), 124(2)(f), 124A, 129H, 130B to 130H, 131F, 131L, 131O, 131P, 131R to 131V, 131WB(1), 131WF(1), 132(1), 136(3), 137(a), 147, 150(1) and (2), 151(1) and (4), 152(i), (l) and (za), 165, 170, 173 and 177, ‘chief health officer’—

omit, insert—

‘chief executive’.

2. Part 2, division 2, heading—

omit.

3. Section 15(1), ‘chief health officer may’—

omit, insert—

‘Minister may’.

4. Section 15(1), ‘chief health officer thinks’—

omit, insert—

‘Minister thinks’.

5. Section 15(1), ‘chief health officer’s’—

omit, insert—

‘chief executive’s’.

SCHEDULE 1 (continued)

6. Section 15(1), ‘chief health officer shall’—*omit, insert—*

‘chief executive must’.

7. Section 15(2), from ‘chief health officer may’ to ‘of this Act’—*omit, insert—*

‘chief executive may make orders as to the costs of an inspection, investigation or inquiry under subsection (1)’.

8. Section 15(4), ‘chief health officer’—*omit, insert—*

‘Minister’.

9. Section 15—*insert—*

‘(5) Before the Minister causes an inspection, investigation or inquiry to be made under subsection (1), the Minister must seek advice from the chief executive and the chief health officer.’.

10. Section 17, heading, ‘of chief health officer to act’—*omit.***11. Section 17(1), from ‘In any emergency’ to ‘and shall’—***omit, insert—*

‘If the Minister, after seeking advice from the chief executive and the chief health officer, considers there is an emergency, the Minister may, and must’.

SCHEDULE 1 (continued)

12. Section 17(1), from ‘chief health officer shall deem’ to ‘chief health officer’s judgment’—

omit, insert—

‘Minister considers necessary or expedient or as are in the Minister’s opinion’.

13. Section 17(1), ‘upon the chief health officer or upon’—

omit, insert—

‘on the Minister, the chief executive, the chief health officer or’.

14. Section 17(2) and (3), ‘chief health officer’—

omit, insert—

‘Minister’.

15. Section 17(2), ‘chief health officer’s’—

omit, insert—

‘Minister’s’.

16. Sections 47(7), 49(2), 110(1), 131R(2), 131S and 150(1), ‘chief health officer’s’—

omit, insert—

‘chief executive’s’.

17. Section 129H, heading, ‘Chief health officer’—

omit, insert—

‘Chief executive’.

SCHEDULE 1 (continued)

18. Section 158(1), before ‘chief health officer’—

insert—

‘Minister, the chief executive, the’.

19. Sections 160(1), from ‘chief health officer and’ to ‘have power to’—

omit, insert—

‘chief executive, the chief health officer, the local government and an officer of the department or local government may’.

20. Section 164(5)—

omit, insert—

‘(5) A document may be served on the chief executive by delivering it to the chief executive or an officer appointed by the chief executive for the purpose, or by forwarding it by post in a prepaid letter addressed to the chief executive.

‘(5A) A document may be served on the chief health officer by delivering it to the chief health officer or an officer appointed by the chief health officer for the purpose, or by forwarding it by post in a prepaid letter addressed to the chief health officer.

‘(5B) A document may be served on a local government by delivering it to the chief executive officer of the local government, or by forwarding it by post in a prepaid letter addressed to the local government.’.

21. Section 167(1) and (5), ‘chief health officer’—

omit, insert—

‘chief executive, the chief health officer’.

SCHEDULE 1 (continued)

22. Sections 167(2), ‘or the chief health officer’—*omit, insert—*

‘, the chief executive, the chief health officer’.

23. Section 178(b), from ‘signature’ to ‘shall’—*omit, insert—*

‘signatures of the chief executive and chief health officer must’.

24. Sections 178(e), ‘chief health officer’—*omit, insert—*

‘chief executive or the chief health officer’.

**HEALTH PRACTITIONERS (SPECIAL EVENTS
EXEMPTION) ACT 1998****1. Section 10(b), 12 and 13(2), ‘chief health officer’—***omit, insert—*

‘chief executive’.

MENTAL HEALTH ACT 1974**1. Section 5(1), definition “chief executive”—***omit.***2. Sections 7, 8, 11(2), 13(1) and (2)(a), 50(1), 53(2)(a), (3) and (4) and 65(b), ‘chief health officer’—**

SCHEDULE 1 (continued)

omit, insert—

‘chief executive’.

3. Sections 8, 11(2) and 53(2)(b), ‘chief health officer’s’—

omit, insert—

‘chief executive’s’.

4. Section 9, heading—

omit, insert—

‘Minister’.

5. Section 9, ‘chief health officer’—

omit, insert—

‘Minister’.

6. Section 9(1), from ‘, and shall make’ to ‘by this Act’—

omit.

7. Section 9—

insert—

‘(3) Before the Minister makes, or causes to be made, an inspection, investigation or inquiry under subsection (1), the Minister must seek advice from the chief executive and the chief health officer.’.

8. Section 10(2), from ‘upon the chief health officer’—

omit, insert—

‘on the Minister, under section 9(1), for visiting and inspecting hospitals.’.

SCHEDULE 1 (continued)

9. Section 28A—*insert—*

‘**“chief executive (justice)”** means the chief executive of the department in which the Criminal Code is administered.’.

10. Sections 29A(5) and (6), 29B(2), 29C(4), 30(5), 31(5) and (9), 31A(1)(c)(i), 33(4)(a), 38(3), (11)(a) and (13)(a) and 39(3), ‘chief executive’—*omit, insert—*

‘chief executive (justice)’.

11. Part 8, heading—*omit, insert—***‘PART 8—TRANSITIONAL PROVISIONS**

‘Division 1—Provisions for Act before commencement of Health and Other Legislation Amendment Act 1998’.

12. After section 79—*insert—*

‘Division 2—Provision for Health and Other Legislation Amendment Act 1998

‘Chief executive’s first report under s 8 to include a report by chief health officer for period when chief health officer administering Act

‘80. The report the chief executive must first give the Minister under section 8 must include a report by the chief health officer about the chief health officer’s administration of this Act since the end of the period

SCHEDULE 1 (continued)

covered by the report that was the last report under the section before it was amended by the *Health and Other Legislation Amendment Act 1998*.’.

PHARMACY ACT 1976

- 1. Section 32(2)(b), ‘chief health officer, Department of Health’—**
omit, insert—
‘chief executive’.

RACING AND BETTING ACT 1980

- 1. Section 228(3), from ‘Chief Health Officer’ to ‘Health Act 1937’—**
omit, insert—
‘chief executive (health)’.
- 2. Section 228(3), ‘Chief Health Officer’s records’—**
insert—
‘records of the chief executive (health)’.
- 3. Section 228—**
insert—
‘(4) In subsection (3)—
‘**“chief executive (health)”** means the chief executive of the department in which the *Health Act 1937* is administered.’.

SCHEDULE 1 (continued)

RADIOACTIVE SUBSTANCES ACT 1958**1. Sections 8(6), 10(5), 12(1) and (2), 32A and 33(1A)(n), ‘chief health officer’—**

omit, insert—

‘chief executive’.

TRANSPLANTATION AND ANATOMY ACT 1979**1. Section 6(1)—**

omit.

2. Section 6(2) and (3)—

renumber as section 6(1) and (2).

WORKCOVER QUEENSLAND ACT 1996**1. Section 448(2)(a) ‘chief health officer’ to ‘Health Act 1937’—**

omit, insert—

‘chief executive of the department in which the *Health Services Act 1991* is administered’.

SCHEDULE 2**AMENDMENTS OF ACTS FOR OTHER PURPOSES**

section 14(2)

**DENTAL TECHNICIANS AND DENTAL
PROSTHETISTS ACT 1991****1. Section 55(1), ‘(other than the by-laws)’—***omit.***2. Section 55(2)—***omit, insert—*

‘(2) The penalty of 17 penalty units mentioned in subsection (1) does not apply for a contravention of a by-law.’.

HEALTH ACT 1937**1. Section 5(1), definition “drug”, ‘Therapeutic Goods Act 1993
(Cwlth)’—***omit, insert—**‘Therapeutic Goods Act 1989 (Cwlth)’.***2. Section 100F(b) and (c) ‘furnished’—***omit, insert—**‘given’.*

SCHEDULE 2 (continued)

3. Section 140A(2), ‘subsection (3)’—

omit, insert—

‘subsection (1)’.

4. Section 152(u), (v), (y) and (z), ‘Therapeutic Goods Act 1993 (Cwlth)’—

omit, insert—

‘Therapeutic Goods Act 1989 (Cwlth)’.

HEALTH SERVICES ACT 1991**1. Part 7—**

omit.

MEDICAL ACT 1939**1. Section 40(2), ‘section 14(2)’—**

omit, insert—

‘section 14A(1)’.

NURSING ACT 1992**1. Section 4, definitions “nurse education”, “nursing practice” and “nursing qualifications”, ‘psychiatric’—**

omit, insert—

‘mental health’.

SCHEDULE 2 (continued)

2. Section 50(1), ‘2 months’—

omit, insert—

‘21 days’.

3. Section 50(1), ‘written’—

omit.

4. Section 76(1)(b) and (2) and 77(2), ‘psychiatric’—

omit, insert—

‘mental health’.

5. Section 78(4)—

omit, insert—

‘(4) The council may give accreditation to a nursing course in a form it considers appropriate, including full accreditation or accreditation that is subject to conditions.’.

6. Section 78(9), ‘or enrolment’—

omit, insert—

‘, enrolment, or endorsement to practise in an area of nursing,’.

7. Part 9, before section 149—

insert—

‘Division 1—Provisions consequential on passing of Nursing Act 1992’.

8. After section 150—

insert—

SCHEDULE 2 (continued)

‘Division 2—Provisions for the Health and Other Legislation Amendment Act 1998**‘Existing time for notification of change of particulars to continue etc.**

‘**151.(1)** This section applies to a person who, immediately before the commencement of this section, was required to give notice about the change of either of the following within 2 months of the change—

- (a) a particular entered in the register or roll;
- (b) a particular given to the council to gain entry or remain in the register or roll.

‘**(2)** Despite section 50, the person still has the same time to give notice to the council about the change that the person had before the commencement.

‘**(3)** However, the person need not give notice of the change in writing.

‘Endorsement to practise as psychiatric nurse

‘**152.(1)** This section applies to an annual licence certificate issued before the commencement of this section and endorsed to show an authorisation to practise as a psychiatric nurse.

‘**(2)** This certificate is taken to be endorsed to show an authorisation to practise as a mental health nurse.’.

SPEECH PATHOLOGISTS ACT 1979**1. Section 37—**

insert—

‘**(3)** A by-law must be approved by the Governor in Council.¹⁹’.

¹⁹ A by-law is subordinate legislation (see the *Statutory Instruments Act 1992*, sections 7, 8(b)(i) and 9(1)(a)).

