

Queensland



HEALTH LEGISLATION AMENDMENT ACT 1999

Act No. 61 of 1999

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Queensland



Health Legislation Amendment Act 1999

Act No. 61 of 1999

**An Act to amend the *Health Services Act 1991*, *Medical Act 1939* and
*Tobacco Products (Prevention of Supply to Children) Act 1998***

[Assented to 29 November 1999]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Health Legislation Amendment Act 1999*.

Commencement

2.(1) Part 2, division 3 commences on the day the *Private Health Facilities Act 1999*, part 6 commences.

- (2) Part 4 commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF HEALTH SERVICES ACT 1991

Division 1—Preliminary

Act amended in pt 2

3. This part amends the *Health Services Act 1991*.

Division 2—Amendments for quality assurance committees

Amendment of s 31 (Approved quality assurance committees)

- 4.(1) Section 31(1), ‘specified committee’—

omit, insert—

‘specified quality assurance committee’.

(2) Section 31(2)—

omit, insert—

‘(2) A quality assurance committee may be established by 1 or more of the following—

- (a) an entity of the State that provides a public sector health service;
- (b) the chief executive;
- (c) the holder of a licence to use a private hospital under the *Health Act 1937*, part 3, division 4;
- (d) a professional association, society, college or other entity whose functions relate to the provision of health services or to the providers of health services.’.

(3) Section 31(3)(a)—

omit, insert—

- ‘(a) if the committee is established by an entity other than an individual—that the committee is established under a resolution or in accordance with the rules or official procedures of the entity; and’.

(4) Section 31(3)(b), ‘including the review of clinical practices and privileges,’—

omit.

Amendment of s 33 (Disclosure etc. of information)

5. Section 33(b)(i), ‘a body’—

omit, insert—

‘an entity’.

Amendment of s 36 (Personal liability of members etc.)

6. Section 36(3)—

omit, insert—

‘(3) If the members of a committee incur costs in defending proceedings relating to a liability against which the members are protected under this section, the members are to be indemnified by—

- (a) if the committee was established by an entity mentioned in section 31(2)(a) or (b)—the State; or
- (b) otherwise—the entity that established the committee.

‘(4) For subsection (3), if a committee is established by more than 1 entity, a particular member of the committee is to be indemnified by—

- (a) if the member was appointed by an entity mentioned in section 31(2)(a) or (b)—the State; or
- (b) otherwise—the entity that appointed the member.’.

Amendment of s 63 (Confidentiality)

7. Section 63(2), at the end—

insert—

- ‘(j) to the giving of information to a committee declared under section 31(1) to be an approved quality assurance committee, or to a person authorised by the committee to receive the information, to enable the committee to perform its functions.’.

Division 3—Amendments consequential on commencement of Private Health Facilities Act 1999

Amendment of s 31 (Approved quality assurance committees)

8. Section 31(2)(c)—

omit, insert—

- ‘(c) the licensee of a private health facility under the *Private Health Facilities Act 1999*.’.

Replacement of pt 9, div 2 hdg

9. Part 9, division 2, heading—

omit, insert—

‘Division 2—Transitional provisions for Health Legislation Amendment Act (No. 2) 1996’.

Insertion of new pt 9, div 3

10. After section 79—

insert—

‘Division 3—Transitional provision for Health Legislation Amendment Act 1999

‘Committees continue to be approved quality assurance committees

‘80.(1) This section applies to a committee under part 4, division 2, in existence immediately before the commencement of this section if—

- (a) the committee was established by the holder of a licence to use a private hospital under the *Health Act 1937*, part 3, division 4; or
- (b) the committee was established by a number of entities including the holder of a licence mentioned in paragraph (a).

‘(2) After the commencement of this section the committee continues to be a committee under part 4, division 2.’.

PART 3—AMENDMENT OF MEDICAL ACT 1939**Act amended in pt 3**

11. This part amends the *Medical Act 1939*.

Amendment of s 17C (Conditional registration at the discretion of the board)

12.(1) Section 17C(d), after ‘unmet area of need’—

insert—

‘, decided under subsection (2),’.

(2) Section 17C—

insert—

‘(h) Qualifications in general practice

- A person may be registered if—
 - (i) the person has qualifications in the general practice of medicine conferred by the Royal Australian College of General Practitioners or another body prescribed under a regulation; and
 - (ii) registration is to enable the person to practise in general practice.

‘**(2)** For subsection (1)(d), the Minister may decide there is an unmet area of need relating to a medical service if the Minister considers there are insufficient medical practitioners practising in the State or part of the State to provide the service at a level that meets the needs of people living in the State or the part of the State.

‘**(3)** The Minister must give the board written notice of the decision.’.

**PART 4—AMENDMENT OF TOBACCO PRODUCTS
(PREVENTION OF SUPPLY TO CHILDREN) ACT
1998**

Act amended in pt 4

13. This part amends the *Tobacco Products (Prevention of Supply to Children) Act 1998*.

Amendment of title

14. Title, after ‘**tobacco**’—

insert—

‘and other smoking’.

Amendment of s 1 (Short title)

15. Section 1, after ‘*Tobacco*’—

insert—

‘and Other Smoking’.

Amendment of s 3 (Main object of Act and its achievement)

16. Section 3(2), ‘*tobacco*’—

omit, insert—

‘smoking’.

Replacement of pt 2 hdg

17. Part 2, heading—

omit, insert—

‘PART 2—SUPPLY OF SMOKING PRODUCTS’.

Replacement of pt 2, div 1 hdg

18. Part 2, division 1, heading—

omit, insert—

‘Division 1—Suppliers and employees’.

Replacement of s 8 (Application of div 1)

19. Section 8—

omit, insert—

‘Application of div 1

‘8. This division does not apply to the supply of smoking products from coin-operated vending machines.’.

Amendment of s 9 (Meaning of “prevention measures” for div 1)

20.(1) Section 9, ‘tobacco product supplier’—

omit, insert—

‘supplier’.

(2) Section 9, ‘tobacco products’—

omit, insert—

‘smoking products’.

(3) Section 9, ‘tobacco product to’—

omit, insert—

‘smoking product to’.

Amendment of s 10 (Individual supplier must not supply tobacco products to children)

21.(1) Section 10, heading, ‘**tobacco products**’—

omit, insert—

‘smoking products’.

(2) Section 10(1), ‘tobacco product supplier’—

omit, insert—

‘supplier’.

(3) Section 10(1), ‘a tobacco product’—

omit, insert—

‘a smoking product’.

Amendment of s 11 (Supplier must ensure employees do not supply tobacco products to children)

22.(1) Section 11, heading, ‘**tobacco products**’—

omit, insert—

‘**smoking products**’.

(2) Section 11(1) and (2), ‘tobacco product supplier’—

omit, insert—

‘supplier’.

(3) Section 11(1), ‘a tobacco product’—

omit, insert—

‘a smoking product’.

Amendment of s 12 (When employee of supplier liable)

23.(1) Section 12(1) and (2), ‘tobacco product supplier’—

omit, insert—

‘supplier’.

(2) Section 12(2), ‘a tobacco product’—

omit, insert—

‘a smoking product’.

Amendment of s 13 (Suppliers may be prohibited from selling tobacco products)

24.(1) Section 13, ‘tobacco products’—

omit, insert—

‘smoking products’.

(2) Section 13(1)(a), ‘tobacco product’—

omit.

Replacement of pt 2, div 3 hdg and s 18

25. Part 2, division 3, heading and section 18—

omit, insert—

‘Division 3—Supply of herbal cigarettes and loose smoking blends from coin-operated vending machines

‘Prohibition on use of vending machine to supply herbal cigarettes and loose smoking blends

‘18.(1) A person in possession of a coin-operated vending machine must not use the machine to supply herbal cigarettes or a loose smoking blend to another person.

Maximum penalty—

- (a) for a first offence—13 penalty units; and
- (b) for a second or later offence—26 penalty units.

‘(2) In this section—

“possession”, of a coin-operated vending machine, includes having control of the machine.

‘Division 3A—Supply of smoking products by adults to children

‘Application of div 3A

‘18A. This division does not apply to—

- (a) the supply of smoking products by—
 - (i) suppliers; or
 - (ii) employees of suppliers in the ordinary course of their employment; or
- (b) the supply of smoking products from coin-operated vending machines.’.

Amendment of s 19 (Supply prohibited)

26. Section 19(1) and (2), ‘tobacco’—
omit, insert—
‘smoking’.

Amendment of s 20 (Tobacco products suppliers must display prohibition signs)

27.(1) Section 20, heading, ‘**Tobacco products suppliers**’—
omit, insert—
‘**Supplier of tobacco products**’.

(2) Section 20(1), ‘tobacco product’—
omit.

Replacement of pt 2, div 5 hdg

28. Part 2, division 5, heading—
omit, insert—
‘*Division 5—Minimum saleable quantities of smoking products*’.

Amendment of s 22 (Cigarettes must be sold in packages)

29.(1) Section 22, heading, after ‘**Cigarettes**’—
insert—
‘**and herbal cigarettes**’.

(2) Section 22(1) and (2), ‘tobacco product’—
omit.

(3) Section 22(1) and (2), after ‘cigarettes’—
insert—
‘or herbal cigarettes’.

Amendment of s 23 (Prepackaged loose tobacco must not be sold under certain quantity)

30. Section 23, ‘tobacco product’—
omit.

Insertion of new s 23A

31. Part 2, division 5, after section 23—
insert—

‘Prepackaged loose smoking blend must not be sold under certain quantity

‘23A. A supplier must not sell prepackaged loose smoking blend in quantities of less than 15 g.

Maximum penalty—1 penalty unit.’.

Amendment of s 25 (Liability of person for conduct of representatives)

32. Section 25(1), after ‘23’—
insert—
‘, 23A’.

Amendment of s 33 (Entry of places by authorised persons)

33. Section 33(2)(b), ‘tobacco product’—
omit.

Amendment of s 39 (Power to require evidence of age, name and address of person observed being supplied a tobacco product)

34. Section 39, ‘tobacco product’—
omit, insert—
‘smoking product’.

Amendment of s 40 (Power to seize tobacco product)

35. Section 40, ‘tobacco product’—

omit, insert—

‘smoking product’.

Replacement of s 51 (Evidence of thing labelled as tobacco product)

36. Section 51—

omit, insert—

‘Evidence of thing labelled as smoking product

‘**51.(1)** Evidence that a thing is labelled as a tobacco product, or labelled in a way a reasonable person would take to be labelled as a tobacco product, is evidence the thing is or contains a tobacco product.

‘**(2)** Evidence that a thing is labelled as a herbal cigarette, or labelled in a way a reasonable person would take to be labelled as a herbal cigarette, is evidence the thing is or contains a herbal cigarette.

‘**(3)** Evidence that a thing is labelled as a loose smoking blend, or labelled in a way a reasonable person would take to be labelled as a loose smoking blend, is evidence the thing is or contains a loose smoking blend.’.

Amendment of sch (Dictionary)

37.(1) Schedule, definitions “package” and “tobacco product supplier”—

omit.

(2) Schedule—

insert—

‘**“herbal cigarette”** means a preparation for smoking that—

- (a) is made from a herb or other plant, or a blend of herbs or other plants, whether or not the herb, plant or blend is mixed with another substance; and
- (b) is enclosed in paper, bark, leaf or something else; and
- (c) does not contain tobacco.

“loose smoking blend” means a preparation for smoking that does not contain tobacco and is made from a herb or other plant, or a blend of herbs or other plants, and is prepared for retail sale, but does not include a herbal cigarette.

“package” means—

- (a) for cigarettes—a package containing cigarettes packed by the manufacturer, or importer, of the cigarettes; and
- (b) for herbal cigarettes—a package containing herbal cigarettes packed by the manufacturer, or importer, of the herbal cigarettes.

“prepackaged loose smoking blend” means a loose smoking blend that is packaged for retail sale.

“smoking product” means a tobacco product, herbal cigarette or loose smoking blend.

“supplier” means a person who, as part of a business activity, supplies smoking products to the public, but does not include a person who supplies smoking products to the public as an employee of another person.’.