



Queensland

Mental Health and Other Legislation Amendment Act 2007

Act No. 54 of 2007



Queensland

Mental Health and Other Legislation Amendment Act 2007

Contents

		Page
Part 1	Preliminary	
1	Short title	8
2	Commencement	8
Part 2	Amendment of Mental Health Act 2000	
3	Act amended in pt 2 and schedule	8
4	Amendment of s 70 (Giving information about detention)	8
5	Amendment of s 124 (Preparing treatment plan)	9
6	Amendment of s 129 (Authorising limited community treatment)	9
7	Amendment of s 203 (Decisions on review)	10
8	Insertion of new s 203A	10
	203A Tribunal may order examination etc.	10
9	Omission of ch 6, pt 5 (Notification orders)	10
10	Amendment of s 235 (Definition for ch 7)	11
11	Insertion of new s 235A	11
	235A References to director of public prosecutions	11
12	Insertion of new s 237A	11
	237A Copies of particular documents may be requested from commissioner of the police service or director of public prosecutions.	11
13	Amendment of s 239 (Reports on examination)	13
14	Insertion of new s 239A	13
	239A Obtaining another psychiatrist's report.	13
15	Amendment of s 240 (Director to refer patient's mental condition to Mental Health Court or Attorney-General)	14
16	Amendment of s 241 (Director may defer reference)	15
17	Amendment of s 242 (Reference to Mental Health Court or Attorney-General)	15

Mental Health and Other Legislation Amendment Act No. 54, 2007
2007

18	Insertion of new s 245B	16
	245B Definition for pt 3	16
19	Amendment of s 247 (Attorney-General's powers on reference) .	16
20	Amendment of s 249 (How reference to Mental Health Court is made)	16
21	Insertion of new s 252A	17
	252A Continuation of proceedings.	17
22	Amendment of s 253 (When patient ceases to be classified patient)	17
23	Amendment of s 264 (Notices of reference).	18
24	Insertion of new s 305A	18
	305A Meaning of special notification forensic patient	18
25	Insertion of new s 309A	18
	309A Policies and practice guidelines about treatment and care of forensic patients etc.	19
26	Renumbering of s 318A (Definition of patient for pt 1)	19
27	Insertion of new ch 7A	19
	Chapter 7A Classified patient information orders and forensic patient information orders	
	Part 1 Classified patient information orders	
	Division 1 Interpretation	
	318A Definitions for pt 1.	20
	318B Reference to person for whom a classified patient information order is made.	20
	Division 2 Making of classified patient information orders	
	318C Director may make classified patient information order	20
	318D Application by minor	23
	318E Restriction on making classified patient information order	23
	318F Patient to be given opportunity to make submission .	24
	318G Notice of decision on application	24
	318H Nominee to receive classified patient information . . .	25
	Division 3 Revocation of classified patient information orders	
	318I Mandatory revocation.	26
	318J Discretionary revocation.	26
	318K Notice of revocation	27
	Division 4 Miscellaneous	

Mental Health and Other Legislation Amendment Act No. 54, 2007
2007

	318L	Disclosure of confidential information.	27
	Part 2	Forensic patient information orders	
	Division 1	Interpretation	
	318M	Definitions for pt 2.	28
	318N	Reference to person for whom a forensic patient information order is made.	28
	Division 2	Making of forensic patient information orders	
	318O	Tribunal may make forensic patient information order	28
	318P	Application by minor.	31
	318Q	Application by person who is not an eligible person. .	31
	318R	Deciding application.	32
	318S	Restrictions on making forensic patient information order	32
	318T	Tribunal may impose conditions.	33
	318U	Notice of decision on application.	33
	318V	Nominee to receive forensic patient information	34
	Division 3	Changing conditions of forensic patient information orders	
	318W	Changing conditions—tribunal acting on own initiative	35
	318X	Changing conditions—application by relevant person	37
	Division 4	Revocation of forensic patient information orders	
	318Y	Mandatory revocation.	39
	318Z	Discretionary revocation.	40
	318ZA	Notice of revocation.	40
	Division 5	Miscellaneous	
	318ZB	Disclosure of confidential information.	41
28		Amendment of s 458 (Confidentiality orders).	42
29		Amendment of s 463 (Tribunal may adjourn hearings).	43
30		Amendment of s 464 (Submission and consideration of material submitted by victim or concerned person etc.)	43
31		Replacement of s 465 (Reasons for decision about material submitted by victim or concerned person)	43
	465	Reasons for decision about material submitted by victim or concerned person etc.	44
32		Amendment of s 489 (Functions).	45
33		Insertion of new s 493A	45

Mental Health and Other Legislation Amendment Act No. 54, 2007
2007

	493A	Policies and practice guidelines about treatment and care of patients, other than forensic patients	45
34		Insertion of new s 498A	46
	498A	Administrator's obligation to ensure policies and practice guidelines are given effect	46
35		Insertion of new ch 16, pt 4	46
	Part 4	Transitional provisions for Mental Health and Other Legislation Amendment Act 2007	
	594	Definitions for pt 4.	46
	595	Notification order about a forensic patient	47
	596	Existing application for a notification order about a forensic patient.	47
	597	Existing application to change conditions of notification order about a forensic patient.	47
	598	Existing application to revoke notification order about a forensic patient	48
	599	Outstanding references to Attorney-General	48
	600	Material submitted to tribunal by victim or concerned person etc.	48
	601	Reasons etc. for tribunal's decision before the commencement	49
36		Amendment of sch 2 (Dictionary)	49
	Part 3	Amendment of Coroners Act 2003	
37		Act amended in pt 3	51
38		Amendment of s 25 (Autopsy reports)	51
	Part 4	Amendment of Food Act 2006	
39		Act amended in pt 4	51
40		Insertion of new ss 297 and 298	51
	297	Application of requirements about food safety supervisor and food safety program to existing licensees	52
	298	No offence committed against food safety supervisor or food safety program provisions before 1 July 2008	52
	Part 5	Amendment of Health Quality and Complaints Commission Act 2006	
41		Act amended in pt 5	52
42		Amendment of s 93 (Conciliation of investigated health service complaint).	53
	Part 6	Amendment of Health Services Act 1991	
43		Act amended in pt 6	53

Mental Health and Other Legislation Amendment Act No. 54, 2007
2007

44	Amendment of s 2 (Definitions)	53
45	Amendment of s 28N (Appointment of members)	53
46	Amendment of s 37 (Further responsibilities of committees)	54
47	Amendment of s 51 (Prohibition of smoking)	54
48	Replacement of s 57C (Function of chief health officer)	54
	57C Functions of chief health officer	54
Part 7	Amendment of Health Services Amendment Act 2006	
49	Act amended in pt 7	55
50	Omission of s 22 (Amendment of s 57C of the Health Services Act 1991)	55
Part 8	Amendment of Medical Practitioners Registration Act 2001	
51	Act amended in pt 8	55
52	Amendment of s 270 (Provision of certain professional services by interstate practitioners)	55
Part 9	Amendment of Nursing Act 1992	
53	Act amended in pt 9	56
54	Insertion of new s 42A	56
	42A Minister's power to give directions	56
Part 10	Amendment of Public Health Act 2005	
55	Act amended in pt 10	57
56	Amendment of s 149 (Meaning of health care facility)	57
57	Amendment of s 153 (Obligation of owner for ICMP)	57
58	Amendment of s 154 (Obligation of owner/operator for ICMP)	58
Part 11	Amendment of Tobacco and Other Smoking Products Act 1998	
59	Act amended in pt 11	58
60	Amendment of s 15A (Person in charge of tobacco product vending machine in bar area or gaming machine area must instruct employees)	58
61	Amendment of s 26S (No smoking sign)	59
62	Amendment of schedule (Dictionary)	59
Schedule	Consequential amendments of Mental Health Act 2000	60



Queensland

Mental Health and Other Legislation Amendment Act 2007

Act No. 54 of 2007

An Act to amend the *Mental Health Act 2000* and other Acts administered by the Minister for Health, and for related purposes

[Assented to 9 November 2007]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Mental Health and Other Legislation Amendment Act 2007*.

2 Commencement

- (1) Part 4 commences on 23 February 2008.
- (2) Part 2 and the schedule commence on a day to be fixed by proclamation.

Part 2 Amendment of Mental Health Act 2000

3 Act amended in pt 2 and schedule

This part and the schedule amend the *Mental Health Act 2000*.

4 Amendment of s 70 (Giving information about detention)

Section 70—

insert—

- ‘(4) Also, the director may give written notice of the patient’s detention as a classified patient to any person who the director reasonably believes may apply, under section 318C, for a classified patient information order about the patient.’.

5 Amendment of s 124 (Preparing treatment plan)

Section 124—

insert—

- ‘(1A) Also, for a forensic patient, the patient’s treatment plan must include a risk management plan for the patient.
- ‘(5) The treatment plan must be prepared having regard to any relevant policies and practice guidelines about the treatment and care of patients issued by the director under this Act.’.

6 Amendment of s 129 (Authorising limited community treatment)

(1) Section 129(3)—

omit, insert—

- ‘(3) The director must not give an approval under subsection (2)(b) unless the director is satisfied there is not an unacceptable risk of one of the following events happening if the treatment were undertaken in the community—
 - (a) the patient would not return to the authorised mental health service when required;
 - (b) the patient would commit an offence while away from the health service;
 - (c) the patient would endanger the safety or welfare of the patient or others.’.
- (2) Section 129—

insert—
- ‘(5) An approval under subsection (2)(b) may be given subject to the reasonable conditions the director decides.
- ‘(6) The director may withdraw an approval under subsection (2)(b) if—
 - (a) the director is reasonably satisfied an event mentioned in subsection (3) has happened in relation to the patient;or

(b) the director is satisfied there is an unacceptable risk of an event mentioned in subsection (3) happening in relation to the patient.

‘(7) In deciding whether to withdraw an approval under subsection (2)(b) on the ground mentioned in subsection (6)(b), the director must have regard to the matters mentioned in subsection (4).’.

7 Amendment of s 203 (Decisions on review)

Section 203(7), ‘section 204’—

omit, insert—

‘sections 203A and 204’.

8 Insertion of new s 203A

After section 203—

insert—

‘203A Tribunal may order examination etc.

‘(1) This section applies if the patient is a special notification forensic patient.

‘(2) The tribunal may order the patient to submit to an examination by a stated psychiatrist who is not an authorised psychiatrist for the patient’s treating health service.

‘(3) The order must state the matters on which the stated psychiatrist must report on to the tribunal.

‘(4) The stated psychiatrist must give a written report on the examination to the tribunal.

‘(5) The tribunal must not revoke the forensic order for the patient unless the tribunal has obtained a report mentioned in subsection (4) in relation to the patient.’.

9 Omission of ch 6, pt 5 (Notification orders)

Chapter 6, part 5—

omit.

10 Amendment of s 235 (Definition for ch 7)

- (1) Section 235, heading, ‘Definition’—

omit, insert—

‘Definitions’.

- (2) Section 235—

insert—

‘original psychiatrist’s report see section 239.’.

11 Insertion of new s 235A

Chapter 7, part 1—

insert—

‘235A References to director of public prosecutions

‘A reference in this chapter to the director of public prosecutions includes a person who is authorised in writing by the director of public prosecutions to exercise the director of public prosecutions’ powers under this chapter.’.

12 Insertion of new s 237A

Chapter 7, part 2, division 1—

insert—

‘237A Copies of particular documents may be requested from commissioner of the police service or director of public prosecutions

- ‘(1) At any time after receiving a notice under section 237(2), the administrator may ask the commissioner of the police service or director of public prosecutions to give the administrator copies of the documents relating to the offence mentioned in schedule 2, definition *brief of evidence*, paragraph (a)(i), (ii), (iii), (v), (vi) and (vii).
- ‘(2) The commissioner of the police service or director of public prosecutions must as soon as practicable comply with the request.

- ‘(3) Subsection (2) does not apply to information contained in a document if the commissioner of the police service or director of public prosecutions reasonably considers that—
- (a) giving the information could reasonably be expected to—
 - (i) prejudice the investigation of a contravention or possible contravention of a law in a particular case; or
 - (ii) prejudice an investigation under the *Coroners Act 2003*; or
 - (iii) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of a law, to be ascertained; or
 - (iv) endanger a person’s life or physical safety; or
 - (v) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; and
 - (b) it would not be in the public interest to give the information.
- ‘(4) Also, subsection (2) does not apply to—
- (a) information, contained in a document, that is sensitive evidence; or
 - (b) information, contained in a document, that another Act or law would prevent the prosecution from giving to an accused person, or a lawyer acting for an accused person, during a proceeding for an offence;
 - (c) information, contained in a document, that—
 - (i) identifies witnesses to the alleged commission of the offence; or
 - (ii) consists of contact details for the witnesses.
- ‘(5) The duty imposed on the commissioner of the police service or director of public prosecutions to comply with the request applies only to documents in the possession of the

commissioner or director of public prosecutions or to which the commissioner or director of public prosecutions has access.

- ‘(6) In complying with the request, the commissioner of the police service or director of public prosecutions may obliterate from a copy of a document given to the administrator any information mentioned in subsection (3) or (4).

Example—

If a document includes the name of a witness to the alleged commission of the offence, or information from which the witness could be identified, the commissioner of the police service or director of public prosecutions may obliterate the name or information from a copy of the document given to the administrator.

- ‘(7) In this section—

sensitive evidence see the Criminal Code, section 590AF.’.

13 Amendment of s 239 (Reports on examination)

- (1) Section 239, heading—

omit, insert—

‘239 Administrator to give report to director’.

- (2) Section 239, after ‘report’—

insert—

‘(the *original psychiatrist’s report*)’.

14 Insertion of new s 239A

After section 239—

insert—

‘239A Obtaining another psychiatrist’s report

‘After considering the original psychiatrist’s report, the director may arrange for the patient to be examined by another psychiatrist, and obtain a report from the other psychiatrist on the examination.’.

15 Amendment of s 240 (Director to refer patient's mental condition to Mental Health Court or Attorney-General)

- (1) Section 240, 'Attorney-General'—
omit, insert—
'director of public prosecutions'.
- (2) Section 240(1), 'psychiatrist's report'—
omit, insert—
'original psychiatrist's report and any report obtained under section 239A in relation to the patient'.
- (3) Section 240(2), from 'subsection (1)' to 'report.'—
omit, insert—
'subsection (1) by the later of the following—
 - (a) 14 days after receiving the original psychiatrist's report;
 - (b) if a report is obtained under section 239A in relation to the patient—14 days after receiving the report.'
- (4) Section 240(4)—
omit, insert—
'(4) If the patient is charged with an indictable offence, the director may refer the matter to the director of public prosecutions only—
 - (a) if the director (of mental health) is satisfied the offence is not of a serious nature, having regard to any damage, injury or loss caused; or
 - (b) if the director (of mental health) is satisfied the offence is of a serious nature, having regard to any damage, injury or loss caused, and reasonably believes the patient—
 - (i) is fit for trial; and
 - (ii) was not of unsound mind when the alleged offence was allegedly committed.'

16 Amendment of s 241 (Director may defer reference)

- (1) Section 241, ‘Attorney-General’—

omit, insert—

‘director of public prosecutions’.

- (2) Section 241—

insert—

- ‘(1A) If, before the end of the period mentioned in subsection (1), the director still reasonably believes the patient is unfit for trial but is likely to be fit for trial in less than 2 months, the director may again defer referring the matter for the period that ends 2 months after making this decision to defer.’.

- (3) Section 241(3), after ‘period’—

insert—

‘mentioned in subsection (1) or (1A)’.

17 Amendment of s 242 (Reference to Mental Health Court or Attorney-General)

- (1) Section 242, ‘Attorney-General’—

omit, insert—

‘director of public prosecutions’.

- (2) Section 242(2), from ‘by’—

omit, insert—

‘by—

- (a) a copy of the original psychiatrist’s report; and
(b) if a report is obtained under section 239A in relation to the patient—a copy of the report.’.

- (3) Section 242—

insert—

- ‘(2A) If the reference is to the director of public prosecutions, the notice must also be accompanied by the assessment of the

matter by the director (of mental health), including any recommendation of the director (of mental health).’.

18 Insertion of new s 245B

Chapter 7, part 3—

insert—

‘245B Definition for pt 3

‘In this part—

psychiatrist’s report means—

- (a) the original psychiatrist’s report; and
- (b) if a report is obtained under section 239A in relation to the patient—the report.’.

19 Amendment of s 247 (Attorney-General’s powers on reference)

- (1) Section 247, heading, ‘Attorney-General’s’—

omit, insert—

‘**Director of public prosecutions**’.

- (2) Section 247, ‘Attorney-General’—

omit, insert—

‘director of public prosecutions’.

- (3) Section 247(1), from ‘on’ to ‘director’—

omit, insert—

‘, the assessment of the matter mentioned in section 242(2A)’.

20 Amendment of s 249 (How reference to Mental Health Court is made)

Section 249(2), from ‘on’ to ‘person’—

omit.

21 Insertion of new s 252A

After section 252—

insert—

‘252A Continuation of proceedings

- ‘(1) If the patient is a classified patient and, under section 247(1), the director of public prosecutions decides proceedings against the patient for the offence are to be continued, the patient must be brought before the court in which the proceedings for the offence are to continue within 7 days after the decision to be dealt with according to law.
- ‘(2) For subsection (1), a health practitioner or police officer may take the person to appear before the court.
- ‘(3) A health practitioner may exercise the power under subsection (2) with the help, and using the force, that is reasonable in the circumstances.
- ‘(4) The patient may be detained in the patient’s treating health service until the patient is taken to appear before the court.
- ‘(5) The custody of the patient by the administrator of the health service ends when the patient appears before the court.’

22 Amendment of s 253 (When patient ceases to be classified patient)

- (1) Section 253(1), ‘continued or’—

omit.

- (2) Section 253—

insert—

- ‘(1A) If the patient is a classified patient and, under section 247(1), the director of public prosecutions decides proceedings against the patient for the offence are to be continued, the patient ceases to be a classified patient when the patient appears before the court in which the proceedings for the offence are to continue.’

- (3) Section 253(2), ‘subsection (1) does’—
omit, insert—
‘subsections (1) and (1A) do’.

23 Amendment of s 264 (Notices of reference)

Section 264—

insert—

- ‘(1A) The director may give written notice of the reference to a victim of the alleged offence to which the reference relates.’.

24 Insertion of new s 305A

Chapter 7, part 7, division 2, subdivision 4—

insert—

‘305A Meaning of *special notification forensic patient*

‘A forensic patient is a *special notification forensic patient* if the offence leading to the making of the forensic order for the patient is an offence against one of the following provisions of the Criminal Code—

- section 300
- section 306
- section 328A(4), but only if the commission of the offence involved the death of another person
- section 349
- section 351.¹’.

25 Insertion of new s 309A

Chapter 7, part 7—

insert—

1 Criminal Code, sections 300 (Unlawful homicide), 306 (Attempt to murder), 328A (Dangerous operation of a vehicle), 349 (Rape) and 351 (Assault with intent to commit rape)

‘309A Policies and practice guidelines about treatment and care of forensic patients etc.

- ‘(1) The director must issue policies and practice guidelines about the treatment and care of a forensic patient.
- ‘(2) Without limiting subsection (1), the director must issue policies and practice guidelines about the treatment and care of a special notification forensic patient.
- ‘(3) The director may amend the policies and practice guidelines issued or amended under this section.
- ‘(4) If a policy or practice guideline is inconsistent with this Act, the policy or practice guideline is invalid to the extent of the inconsistency.’.

26 Renumbering of s 318A (Definition of *patient* for pt 1)

Section 318A—

renumber as section 318ZC.

27 Insertion of new ch 7A

After section 318—

insert—

‘Chapter 7A Classified patient information orders and forensic patient information orders

‘Part 1 Classified patient information orders

‘Division 1 Interpretation

‘318A Definitions for pt 1

‘In this part—

applicant’s nominee see section 318C(4).

classified patient information see section 318C(1).

‘318B Reference to person for whom a classified patient information order is made

‘In this part, a reference to a person for whom a classified patient information order is made is a reference to a person who has successfully applied under section 318C(1) for the order.

‘Division 2 Making of classified patient information orders

‘318C Director may make classified patient information order

- ‘(1) Subject to this division, the director may, on application made to the director by an eligible person, make an order (a *classified patient information order*) about a classified patient that the eligible person may be given notice of any of

the following information (the *classified patient information*)—

- (a) the fact that the patient is detained in an authorised mental health service as a classified patient;
 - (b) the fact that an approval has been given, under section 129(2)(b), for limited community treatment for the patient;
 - (c) any conditions on which the approval mentioned in paragraph (b) has been given that are relevant to the safety of—
 - (i) the applicant; or
 - (ii) if the applicant is a parent or guardian of a direct victim of an alleged offence allegedly committed by the patient—the direct victim;
 - (d) the fact that the approval mentioned in paragraph (b) has been withdrawn under section 129(6);
 - (e) the fact that the patient is absent without approval, or is no longer absent without approval, under this or another Act, if the fact of the absence is relevant to—
 - (i) the applicant; or
 - (ii) if the applicant is a parent or guardian of a direct victim of an alleged offence allegedly committed by the patient—the direct victim;
 - (f) the fact that the patient has ceased to be a classified patient, the reason for the cessation, and the date of the cessation;
 - (g) the fact that the patient has been transferred from one authorised mental health service to another authorised mental health service under section 166, and the date of the transfer.
- ‘(2) If a classified patient information order is made about the classified patient, the classified patient information given under subsection (1) to the person for whom the order is made must not include any of the following information—

- (a) the name or address of the in-patient facility at which the patient is being detained under this Act;
 - (b) if an approval has been given, under section 129(2)(b), for limited community treatment for the patient and, under the approval, the patient is residing at a place other than the patient's treating health service—the name or address of the place, or the name or contact details of any other person residing at the place;
 - (c) the name or contact details of any relative of the patient;
 - (d) information about the treatment or care of the patient at the patient's treating health service.
- ‘(3) The application must—
- (a) be made in the approved form; and
 - (b) be accompanied by a declaration signed by the applicant stating that the applicant will not disclose, for public dissemination, any classified patient information relating to the classified patient disclosed to the applicant under this part.
- ‘(4) The application may be accompanied by a document nominating a person (the *applicant's nominee*) to receive the classified patient information for the applicant.
- ‘(5) For a nomination under subsection (4) to be effective, the nomination must be accompanied by a declaration signed by the nominee stating that the nominee will not disclose, for public dissemination, any classified patient information relating to the classified patient disclosed to the nominee under this part.
- ‘(6) In this section—
- eligible person* means—
- (a) a direct victim of an alleged offence allegedly committed by the classified patient; or
 - (b) if a direct victim of an alleged offence allegedly committed by the classified patient is a minor or has a legal incapacity—the direct victim's parent or guardian; or

- (c) if a direct victim of an alleged offence allegedly committed by the classified patient has died as a result of the offence—an immediate family member of the direct victim; or
- (d) a person who, immediately before the patient becoming a classified patient, was an eligible person in relation to the patient under the *Corrective Services Act 2006*.

‘318D Application by minor

- ‘(1) Subject to section 318E, if the application is made by a minor, the director may make a classified patient information order about the classified patient if the director reasonably believes it is in the minor’s best interests for the order to be made.
- ‘(2) The director must consult with a parent or guardian of the minor in deciding what is in the minor’s best interests.
- ‘(3) Subsection (2) does not apply if—
 - (a) the director is satisfied it would be inappropriate in all the circumstances to consult with a parent or guardian of the minor; or
 - (b) the applicant has made the application on behalf of a child of the applicant.

‘318E Restriction on making classified patient information order

‘The director must refuse to grant the application if the director reasonably believes disclosure of classified patient information to the applicant or applicant’s nominee is likely to—

- (a) cause serious harm to the classified patient’s health; or
- (b) put the safety of the patient or someone else at serious risk.

‘318F Patient to be given opportunity to make submission

- ‘(1) Before deciding the application, the director must give the classified patient a reasonable opportunity to make a submission to the director about the matters mentioned in section 318E.
- ‘(2) However, the director is not required to comply with subsection (1) if the director reasonably believes that the patient being aware that the application has been made is likely to—
 - (a) have an adverse effect on the health of the applicant or patient; or
 - (b) put the safety of the applicant, patient or someone else at risk.

‘318G Notice of decision on application

- ‘(1) Within 21 days after deciding the application, the director must give a written notice of the decision to each of the following persons—
 - (a) the applicant;
 - (b) the classified patient;
 - (c) the patient’s allied person;
 - (d) if the patient is a minor—a parent of the minor or the minor’s guardian;
 - (e) if the director reasonably believes the patient has a personal attorney—the attorney;
 - (f) if the director reasonably believes the patient has a personal guardian—the guardian;
 - (g) the administrator of the patient’s treating health service.
- ‘(2) However, the director is not required to comply with subsection (1) in relation to the persons mentioned in subsection (1)(b) to (f) if the director reasonably believes that complying with the subsections is likely to—
 - (a) have an adverse effect on the health of the applicant or patient; or

- (b) put the safety of the applicant, patient or someone else at risk.
- ‘(3) If the director decides to refuse to grant the application, the director must within 21 days also give the applicant written notice of the director’s reasons for the decision.
- ‘(4) For subsections (1) and (3), if requested by the applicant, the director must give the notices under the subsections to the applicant’s nominee instead of the applicant.
- ‘(5) If the classified patient asks the director for the reasons for the director’s decision to grant or refuse to grant the application, the director must within 21 days give written notice of the reasons to the patient.
- ‘(6) However, the director is not required to comply with subsection (5) if the director reasonably believes that complying with the subsection is likely to—
 - (a) have an adverse effect on the health of the applicant or patient; or
 - (b) put the safety of the applicant, patient or someone else at risk.

‘318H Nominee to receive classified patient information

- ‘(1) At any time after a classified patient information order is made about a classified patient, the person (the *relevant person*) for whom the order is made may give the director a document nominating a person to receive classified patient information relating to the patient for the relevant person.
- ‘(2) For a nomination under subsection (1) to be effective, the nomination must be accompanied by a declaration signed by the nominee stating that the nominee will not disclose, for public dissemination, any classified patient information relating to the classified patient disclosed to the nominee under this part.
- ‘(3) A nomination under this section supersedes any other nomination made by the relevant person under this section or section 318C(4).

‘Division 3 Revocation of classified patient information orders

‘318I Mandatory revocation

‘The director must revoke a classified patient information order about a classified patient if—

- (a) the patient ceases to be a classified patient; or
- (b) the patient dies, and the director becomes aware of the death; or
- (c) the person (the *relevant person*) for whom the order is made dies, and the director becomes aware of the death; or
- (d) the relevant person asks the director to revoke the order; or
- (e) the director reasonably believes disclosure of classified patient information relating to the patient to the relevant person, or any person nominated under section 318C(4) or 318H(1) to receive the information for the relevant person, is likely to—
 - (i) cause serious harm to the patient’s health; or
 - (ii) put the safety of the patient or someone else at serious risk.

‘318J Discretionary revocation

‘(1) The director may revoke a classified patient information order about a classified patient.

‘(2) However, before revoking the order, the director must—

- (a) give the person (the *relevant person*) for whom the order is made a written notice stating the grounds on which the order is proposed to be revoked; and
- (b) give the relevant person a reasonable opportunity to make a submission to the director about why the order should not be revoked.

‘318K Notice of revocation

- ‘(1) If, under section 318I or 318J, the director revokes a classified patient information order about a classified patient, the director must within 7 days give each of the following persons written notice of the revocation and the grounds for the revocation—
- (a) the person for whom the order is made;
 - (b) the patient;
 - (c) the patient’s allied person;
 - (d) if the patient is a minor—a parent of the minor or the minor’s guardian;
 - (e) if the director reasonably believes the patient has a personal attorney—the attorney;
 - (f) if the director reasonably believes the patient has a personal guardian—the guardian;
 - (g) any person nominated under section 318C(4) or 318H(1) to receive the classified patient information under the order for the person mentioned in paragraph (a);
 - (h) the administrator of the patient’s treating health service.
- ‘(2) However, the director is not required to comply with subsection (1) in relation to the persons mentioned in subsection (1)(b) to (f) if the director did not, under section 318G(1), notify the persons of the decision made on the application for the classified patient information order.

‘Division 4 Miscellaneous

‘318L Disclosure of confidential information

‘For the *Health Services Act 1991*, section 62B,² the disclosure of information under a classified patient information order is a disclosure permitted by an Act.

2 *Health Services Act 1991*, section 62B (Disclosure required or permitted by law)

‘Part 2 Forensic patient information orders

‘Division 1 Interpretation

‘318M Definitions for pt 2

‘In this part—

applicant’s nominee see section 318O(4).

eligible person see section 318O(7).

forensic patient information see section 318O(1).

‘318N Reference to person for whom a forensic patient information order is made

‘In this part, a reference to a person for whom a forensic patient information order is made is a reference to a person who has successfully applied under section 318O(1) for the order.

‘Division 2 Making of forensic patient information orders

‘318O Tribunal may make forensic patient information order

‘(1) Subject to this division, the tribunal may, on application made to it by a person, make an order (a *forensic patient information order*) about a forensic patient that the person be given notice of the following information (the *forensic patient information*)—

- (a) when a review for the patient is to be carried out;
- (b) the revocation or confirmation, under section 203(1), of the forensic order for the patient;
- (c) the fact that an approval has been given, under this Act, for the patient to move out of Queensland;

- (d) the fact that the patient has been transferred from one authorised mental health service to another authorised mental health service under section 166, and the date of the transfer;
 - (e) the fact that the patient has been transferred, under an interstate agreement, to another State;
 - (f) the fact that an order has been made, under this Act, that the patient have limited community treatment;
 - (g) the fact that an order has been made, under this Act, approving limited community treatment for the patient;
 - (h) any conditions on which an order mentioned in paragraph (f) or (g) has been made, if the director decides the conditions are relevant to the safety of—
 - (i) the applicant; or
 - (ii) if the applicant is a parent or guardian of a direct victim of an alleged offence allegedly committed by the patient—the direct victim;
 - (i) the fact that an order has been made, under this Act, revoking an order or approval for limited community treatment for the patient;
 - (j) the fact that the patient is absent without approval, or is no longer absent without approval, under this or another Act, if the director decides the fact of the absence is relevant to—
 - (i) the applicant; or
 - (ii) if the applicant is a parent or guardian of a direct victim of an alleged offence allegedly committed by the patient—the direct victim;
 - (k) the fact that the patient ceases to be a forensic patient, the reason for the cessation, and the date of the cessation.
- (2) If a forensic patient information order is made about the forensic patient, the forensic patient information given under subsection (1) to the person for whom the order is made must not include any of the following information—

- (a) the name or address of the in-patient facility at which the patient is being detained under this Act;
 - (b) if an order has been made or an approval has been given, under this Act, for limited community treatment for the patient and, under the order or approval, the patient is residing at a place other than the patient's treating health service—the name or address of the place, or the name or contact details of any other person residing at the place;
 - (c) the name or contact details of any relative of the patient;
 - (d) information about the treatment or care of the patient at the patient's treating health service.
- '(3) The application must—
- (a) be made in the approved form; and
 - (b) be accompanied by a declaration signed by the applicant stating that the applicant will not disclose, for public dissemination, any forensic patient information relating to the forensic patient disclosed to the applicant under this part.
- '(4) The application may be accompanied by a document nominating a person (the *applicant's nominee*) to receive the forensic patient information for the applicant.
- '(5) For a nomination under subsection (4) to be effective, the nomination must be accompanied by a declaration signed by the nominee stating that the nominee will not disclose, for public dissemination, any forensic patient information relating to the forensic patient disclosed to the nominee under this part.
- '(6) Subject to section 318S, the tribunal must grant the application if it is made by an eligible person.
- '(7) In this section—
- eligible person* means—
- (a) a direct victim of an alleged offence allegedly committed by the forensic patient; or

- (b) if a direct victim of an alleged offence allegedly committed by the forensic patient is a minor or has a legal incapacity—the direct victim’s parent or guardian; or
- (c) if a direct victim of an alleged offence allegedly committed by the forensic patient has died as a result of the offence—an immediate family member of the direct victim.

‘318P Application by minor

- ‘(1) Subsection (2) applies if the application is made by a minor, whether the minor is an eligible person or not an eligible person.
- ‘(2) The tribunal may make a forensic patient information order about the forensic patient if the tribunal reasonably believes it is in the minor’s best interests for the order to be made.
- ‘(3) The tribunal must consult with a parent or guardian of the minor in deciding what is in the minor’s best interests.
- ‘(4) Subsection (3) does not apply if—
 - (a) the tribunal is satisfied it would be inappropriate in all the circumstances to consult with a parent or guardian of the minor; or
 - (b) the applicant has made the application on behalf of a child of the applicant.
- ‘(5) This section applies subject to sections 318Q and 318S.

‘318Q Application by person who is not an eligible person

- ‘(1) This section applies if the application is made by a person who is not an eligible person.
- ‘(2) Subject to section 318S, the tribunal must not make a forensic patient information order about the forensic patient unless the tribunal is satisfied the applicant has a sufficient personal interest in being given notice of forensic patient information about the patient.

- ‘(3) Without limiting subsection (2), the tribunal must consider the following matters in deciding whether the applicant has a sufficient personal interest in being given notice of forensic patient information about the forensic patient—
- (a) whether the patient represents a risk to the safety of the person for whom the order is to be made;
 - (b) whether it is likely the patient will come into contact with the person;
 - (c) the nature and seriousness of the offence that led to the patient becoming a forensic patient;
 - (d) whether the applicant is a relative of the patient;
 - (e) other matters the tribunal considers appropriate.

‘318R Deciding application

‘The application may be decided by—

- (a) the tribunal constituted by the president on written material and submissions, without the applicant or forensic patient attending a hearing of the application; or
- (b) the tribunal during a review carried out for the forensic patient or at a hearing conducted for the application.

‘318S Restrictions on making forensic patient information order

- ‘(1) The tribunal must refuse to grant the application if—
- (a) the tribunal is satisfied it is frivolous or vexatious; or
 - (b) the tribunal reasonably believes disclosure of forensic patient information to the applicant or applicant’s nominee is likely to—
 - (i) cause serious harm to the forensic patient’s health; or
 - (ii) put the safety of the patient or someone else at serious risk.

- ‘(2) The tribunal may also refuse to grant the application if a forensic patient information order previously made for the applicant was revoked on a ground mentioned in section 318Z(1)(b) or (c).
- ‘(3) However, before refusing to grant the application under subsection (2), the tribunal must give the applicant a reasonable opportunity to make a submission to the tribunal about why the tribunal should not refuse to grant the application.

‘318T Tribunal may impose conditions

‘The tribunal may impose the conditions on the forensic patient information order it considers appropriate.

Note—

The non-compliance by the person for whom the order is made with any conditions imposed, under this section or division 3, on the order is a ground for the revocation of the order under section 318Z(1).

‘318U Notice of decision on application

- ‘(1) If the tribunal decides to make a forensic patient information order about the forensic patient, the tribunal must within 7 days give a written notice of the decision to the persons mentioned in subsection (5).
- ‘(2) The director must, within 21 days after receiving a notice under subsection (1), give a copy of the notice to the applicant.
- ‘(3) If the tribunal decides to refuse to grant the application, the tribunal must within 7 days give the persons mentioned in subsection (5) a written notice stating the decision and the tribunal’s reasons for the decision.
- ‘(4) The director must, within 21 days after receiving a notice under subsection (3), give a copy of the notice to the applicant.
- ‘(5) For subsections (1) and (3), the persons are—
 - (a) the director; and

- (b) the forensic patient; and
 - (c) the patient's allied person; and
 - (d) if the patient is a minor or has a legal incapacity—a parent of the minor or the minor's guardian; and
 - (e) if the director reasonably believes the patient has a personal attorney—the attorney; and
 - (f) if the director reasonably believes the patient has a personal guardian—the guardian; and
 - (g) the administrator of the patient's treating health service; and
 - (h) the Attorney-General; and
 - (i) the chief executive for justice.
- '(6) For subsections (2) and (4), if requested by the applicant, the director must give copies of the notices under the subsections to the applicant's nominee instead of the applicant.
- '(7) The requirements under subsections (1) and (3) to give the notices under the subsections to the forensic patient are subject to a confidentiality order of the tribunal.
- '(8) If subsection (7) applies, the tribunal must not give the information covered by the confidentiality order to the forensic patient's allied person.

'318V Nominee to receive forensic patient information

- '(1) At any time after a forensic patient information order is made about a forensic patient, the person (the *relevant person*) for whom the order is made may give the director a document nominating a person to receive forensic patient information relating to the patient for the relevant person.
- '(2) For a nomination under subsection (1) to be effective, the nomination must be accompanied by a declaration signed by the nominee stating that the nominee will not disclose, for public dissemination, any forensic patient information relating to the forensic patient disclosed to the nominee under this part.

- ‘(3) A nomination under this section supersedes any other nomination made by the relevant person under this section or section 318O(4).

‘Division 3 **Changing conditions of forensic patient information orders**

‘318W Changing conditions—tribunal acting on own initiative

- ‘(1) If the tribunal has made a forensic patient information order about a forensic patient, the tribunal may decide to change the conditions of the order imposed under section 318T or this division.
- ‘(2) Before deciding to change the conditions, the tribunal must first give each relevant person a written notice (a *notice of intention*) stating the following—
- (a) the proposed decision;
 - (b) the grounds for the proposed decision;
 - (c) an invitation to the person to make submissions to the tribunal within a reasonable time about why the proposed decision should not be made.
- ‘(3) However, for the person for whom the forensic patient information order is made, a notice of intention must be given by the tribunal to the director, who must then give it to the person.
- ‘(4) If subsection (3) applies, the tribunal is taken to have given the notice of intention to the person for whom the forensic patient information order is made.
- ‘(5) If, after giving each relevant person a notice of intention and taking into account any submissions made under subsection 2(c), the tribunal decides to change the conditions, the tribunal must within 7 days give a written notice of the decision to—
- (a) the director; and
 - (b) the forensic patient; and

- (c) the patient's allied person; and
 - (d) if the patient is a minor or has a legal incapacity—a parent of the minor or the minor's guardian; and
 - (e) if the director reasonably believes the patient has a personal attorney—the attorney; and
 - (f) if the director reasonably believes the patient has a personal guardian—the guardian; and
 - (g) the administrator of the patient's treating health service; and
 - (h) the Attorney-General; and
 - (i) the chief executive for justice.
- '(6) The director must, within 21 days after receiving a notice under subsection (5), give a copy of the notice to—
- (a) the person for whom the forensic patient information order is made; and
 - (b) any person nominated under section 318O(4) or 318V(1) to receive the forensic patient information under the forensic patient information order for the person mentioned in paragraph (a).
- '(7) The change in the conditions takes effect on the day the director complies with subsection (6).
- '(8) If, after giving each relevant person a notice of intention and taking into account any submissions made under subsection 2(c), the tribunal decides not to change the conditions, the tribunal must within 7 days give a written notice of the decision to each relevant person.
- '(9) However, for the person for whom the forensic patient information order is made, the notice mentioned in subsection (8) must be given by the tribunal to the director, who must then give it to the person.
- '(10) The requirements under subsections (2), (5) and (8) to give the notices under the subsections to the forensic patient are subject to any confidentiality order of the tribunal mentioned in section 318U(7).

- ‘(11) If subsection (10) applies, the tribunal must not give the information covered by the confidentiality order to the forensic patient’s allied person.
- ‘(12) In this section—
- relevant person*** means each of the following—
- (a) the person for whom the forensic patient information order is made;
 - (b) the director;
 - (c) the forensic patient;
 - (d) the patient’s allied person.

‘318X Changing conditions—application by relevant person

- (1) If the tribunal has made a forensic patient information order about a forensic patient, a relevant person may apply in writing to the tribunal to change the conditions of the order imposed under section 318T or this division.
- ‘(2) Before deciding the application, the tribunal must first give each relevant person, other than the applicant, the following—
 - (a) a copy of the application;
 - (b) an invitation to the person to make submissions to the tribunal within a reasonable time about the application.
- ‘(3) However, for the person for whom the forensic patient information order is made, the documents mentioned in subsection (2) must be given by the tribunal to the director, who must then give them to the person.
- ‘(4) If subsection (3) applies, the tribunal is taken to have given the documents mentioned in subsection (2) to the person for whom the forensic patient information order is made.
- ‘(5) If, after complying with subsection (2) and taking into account any submissions made under subsection (2)(b), the tribunal decides to grant the application, the tribunal must within 7 days give a written notice of the decision to—
 - (a) the director; and
 - (b) the forensic patient; and

- (c) the patient's allied person; and
 - (d) if the patient is a minor or has a legal incapacity—a parent of the minor or the minor's guardian; and
 - (e) if the president reasonably believes the patient has a personal attorney—the attorney; and
 - (f) if the president reasonably believes the patient has a personal guardian—the guardian; and
 - (g) the administrator of the patient's treating health service; and
 - (h) the Attorney-General; and
 - (i) the chief executive for justice.
- '(6) The director must, within 21 days after receiving a notice under subsection (5), give a copy of the notice to—
- (a) the person for whom the forensic patient information order is made; and
 - (b) any person nominated under section 318O(4) or 318V(1) to receive the forensic patient information under the forensic patient information order for the person mentioned in paragraph (a).
- '(7) The change in the conditions takes effect on the day the director complies with subsection (6).
- '(8) If, after complying with subsection (2) and taking into account any submissions made under subsection 2(b), the tribunal decides to refuse to grant the application, the tribunal must within 7 days give a written notice of the decision to each relevant person.
- '(9) However, for the person for whom the forensic patient information order is made, the notice mentioned in subsection (8) must be given by the tribunal to the director, who must then give it to the person.
- '(10) If the application is made by a relevant person, other than the forensic patient, the requirements under subsections (2), (5) and (8) to give the documents or notices under the subsections to the patient are subject to any confidentiality order of the tribunal mentioned in section 318U(7).

‘(11) If subsection (10) applies, the tribunal must not give the information covered by the confidentiality order to the forensic patient’s allied person.

‘(12) In this section—

relevant person means each of the following—

- (a) the person for whom the forensic patient information order is made;
- (b) the director;
- (c) the forensic patient;
- (d) the forensic patient’s allied person.

‘Division 4 **Revocation of forensic patient information orders**

‘318Y **Mandatory revocation**

‘The tribunal must revoke a forensic patient information order about a forensic patient if—

- (a) the patient ceases to be a forensic patient; or
- (b) the patient dies, and the president becomes aware of the death; or
- (c) the person (the ***relevant person***) for whom the order is made dies, and the president becomes aware of the death; or
- (d) the relevant person asks the president to revoke the order; or
- (e) the president reasonably believes disclosure of forensic patient information relating to the patient to the relevant person, or any person nominated under section 318O(4) or 318V(1) to receive the information under the order for the relevant person, is likely to—
 - (i) cause serious harm to the patient’s health; or
 - (ii) put the safety of the patient or someone else at serious risk; or

- (f) the patient has, under an interstate agreement, been transferred to another State.

‘318Z Discretionary revocation

- ‘(1) The tribunal may revoke a forensic patient information order about a forensic patient if—
 - (a) the tribunal is unable, after making reasonable efforts, to locate—
 - (i) the person (the *relevant person*) for whom the order is made; and
 - (ii) any person (the *relevant person’s nominee*) nominated under section 318O(4) or 318V(1) to receive the forensic patient information under the order for the relevant person; or
 - (b) the relevant person or relevant person’s nominee has disclosed, for public dissemination, any forensic patient information relating to the patient disclosed to the applicant or nominee under this part; or
 - (c) the relevant person has not complied with a condition imposed on the order under section 318T or division 3.
- ‘(2) However, before revoking a forensic patient information order on a ground mentioned in subsection (1)(b) or (c), the tribunal must give the relevant person a reasonable opportunity to make a submission to the tribunal about why the order should not be revoked.

‘318ZA Notice of revocation

- ‘(1) If, under section 318Y or 318Z, the tribunal revokes a forensic patient information order about a forensic patient, the tribunal must within 7 days give written notice of the revocation and the grounds for the revocation to—
 - (a) the director; and
 - (b) the forensic patient; and
 - (c) the patient’s allied person; and

- (d) if the patient is a minor—a parent of the minor or the minor’s guardian; and
 - (e) if the president reasonably believes the patient has a personal attorney—the attorney; and
 - (f) if the president reasonably believes the patient has a personal guardian—the guardian; and
 - (g) the administrator of the patient’s treating health service; and
 - (h) the Attorney-General; and
 - (i) the chief executive for justice.
- ‘(2) The director must, within 21 days after receiving a notice under subsection (1), give a copy of the notice to—
- (a) the person for whom the forensic patient information order is made; and
 - (b) any person nominated under section 318O(4) or 318V(1) to receive the forensic patient information under the forensic patient information order for the person mentioned in paragraph (a).
- ‘(3) The requirement under subsection (1) to give the notice under the subsection to the forensic patient is subject to any confidentiality order of the tribunal mentioned in section 318U(7).
- ‘(4) If subsection (3) applies, the tribunal must not give the information covered by the confidentiality order to the forensic patient’s allied person.

‘Division 5 Miscellaneous

‘318ZB Disclosure of confidential information

‘For the *Health Services Act 1991*, section 62B,³ the disclosure of information under a forensic patient information order is a disclosure permitted by an Act.’.

³ *Health Services Act 1991*, section 62B (Disclosure required or permitted by law)

28 Amendment of s 458 (Confidentiality orders)

(1) Section 458(1) and (2)—

omit, insert—

‘(1) The tribunal may, by order (a ***confidentiality order***), prohibit or restrict the disclosure of any of the following to the person the subject of a proceeding—

- (a) information given before it;
- (b) matters contained in documents filed with, or received by, it;
- (c) the reasons for its decision on the proceeding;
- (d) the reasons for taking or not taking into account material submitted under section 464(1).

‘(2) However, the tribunal may make a confidentiality order under subsection (1) only if it is satisfied the disclosure would—

- (a) cause serious harm to the health of the person; or
- (b) put the safety of the person or someone else at serious risk.

‘(2A) The tribunal may, by order (also a ***confidentiality order***), prohibit or restrict the disclosure of any of the following to the patient the subject of an application for a forensic patient information order—

- (a) the identity of the applicant;
- (b) the existence of the application;
- (c) information given before it;
- (d) matters contained in documents filed with, or received by, it;
- (e) the reasons for its decision on the application.

‘(2B) However, the tribunal may make a confidentiality order under subsection (2) only if it is satisfied the disclosure would—

- (a) have an adverse effect on the health of the applicant or patient; or
- (b) put the safety of the applicant, patient or someone else at risk.

- ‘(2C) For subsection (2A), if the applicant applies for the confidentiality order, the order may be made by—
- (a) the tribunal constituted by the president on written material and submissions, without the applicant or patient attending a hearing of the application for the order; or
 - (b) the tribunal at a hearing conducted for the application for the order.’.
- (2) Section 458(3), after ‘confidentiality order’—
insert—
‘under subsection (1)’.

29 Amendment of s 463 (Tribunal may adjourn hearings)

Section 463(b), ‘but less than 61 days’—
omit.

30 Amendment of s 464 (Submission and consideration of material submitted by victim or concerned person etc.)

Section 464—
insert—

- ‘(1D) The material must be sworn.
- ‘(5) The submission may be accompanied by a document nominating someone else to receive the information mentioned in section 465(2) for the person making the submission.’.

31 Replacement of s 465 (Reasons for decision about material submitted by victim or concerned person)

Section 465—
omit, insert—

‘465 Reasons for decision about material submitted by victim or concerned person etc.

- ‘(1) This section applies if, under section 464(1), a person (the *relevant person*) submits material to the tribunal for a proceeding.
- ‘(2) Subject to subsections (3) and (4), the tribunal must, as soon as practicable after making its decision in the proceeding, give the relevant person the following information (the *relevant information*)—
- (a) the reasons for—
 - (i) taking the material into account; or
 - (ii) refusing to take the material into account;
 - (b) if the material was taken into account—a statement about how it was taken into account.
- ‘(3) If a forensic patient information order about a forensic patient has been made for the relevant person and the relevant person has not, under section 464(5), nominated someone else to receive the relevant information for the person—
- (a) the tribunal must, as soon as practicable after making its decision in the proceeding, give the information to the director; and
 - (b) the director must, as soon as practicable after receiving the information, give the information to the relevant person.
- ‘(4) If, under section 464(5), the relevant person has nominated someone else to receive the relevant information for the person, the tribunal must give the information to the nominee instead of the person.
- ‘(5) The relevant information given under subsection (2) must not include the following information about the patient to whom the proceeding relates—
- (a) the name or address of the in-patient facility at which the patient is being detained under this Act;
 - (b) if an order has been made or an approval has been given, under this Act, for limited community treatment for the

patient and, under the order or approval, the patient is residing at a place other than the patient's treating health service—the name or address of the place, or the name or contact details of any other person residing at the place;

- (c) the name or contact details of any relative of the patient;
 - (d) information about the treatment or care of the patient at the patient's treating health service.
- '(6) If asked by a party to the proceeding, the tribunal must as soon as practicable after making its decision in the proceeding give the party the relevant information.
- '(7) However, a confidentiality order of the tribunal may displace the requirement under subsection (6) to give the relevant information to the person the subject of the proceeding.'

32 Amendment of s 489 (Functions)

Section 489(1)—

insert—

'(ca) monitoring and auditing compliance with this Act;'

33 Insertion of new s 493A

Chapter 13, part 1, division 1—

insert—

'493A Policies and practice guidelines about treatment and care of patients, other than forensic patients

- '(1) The director may issue policies and practice guidelines about the treatment and care of a patient, other than a forensic patient.

Note—

Under section 309A, the director must issue policies and practice guidelines about the treatment and care of a forensic patient.

- '(2) If a policy or practice guideline is inconsistent with this Act, the policy or practice guideline is invalid to the extent of the inconsistency.

‘(3) In this section—

issue, a policy or practice guideline, includes amend the policy or practice guideline.’.

34 Insertion of new s 498A

Chapter 13, part 2—

insert—

‘498A Administrator’s obligation to ensure policies and practice guidelines are given effect

‘The administrator of an authorised mental health service must ensure any relevant policies and practice guidelines about the treatment and care of patients issued by the director under this Act are given effect.’.

35 Insertion of new ch 16, pt 4

After section 593—

insert—

‘Part 4 Transitional provisions for Mental Health and Other Legislation Amendment Act 2007

‘594 Definitions for pt 4

‘In this part—

commencement means commencement of this section.

post-amended Act means this Act as in force immediately after the commencement.

pre-amended Act means this Act as in force before the commencement.

‘595 Notification order about a forensic patient

- ‘(1) This section applies if a notification order for a person about a forensic patient—
 - (a) was made under section 221 of the pre-amended Act; and
 - (b) was in force immediately before the commencement.
- ‘(2) A forensic patient information order is taken to have been made, under section 318O, for the person about the forensic patient.
- ‘(3) If the notification order was, immediately before the commencement, subject to a condition, the forensic patient information order is taken to be subject to the condition.
- ‘(4) A confidentiality order made under section 458 of the pre-amended Act in relation to the notification order is taken to have been made in relation to the forensic patient information order.

‘596 Existing application for a notification order about a forensic patient

- ‘(1) An application for a notification order about a forensic patient made under section 221 of the pre-amended Act and not decided at the commencement must be decided under this Act.
- ‘(2) The application is taken to be an application for a forensic patient information order about the forensic patient.
- ‘(3) Section 318O(3)(b) does not apply to the application.

‘597 Existing application to change conditions of notification order about a forensic patient

- ‘(1) An application to change the conditions of a notification order about a forensic patient made under section 228(1) of the pre-amended Act and not decided at the commencement must be decided under this Act.

- ‘(2) The application is taken to be an application, under section 318X(1), to change the conditions of a forensic patient information order about the forensic patient.

‘598 Existing application to revoke notification order about a forensic patient

- ‘(1) This section applies to an application to revoke a notification order about a forensic patient made under section 228(1) of the pre-amended Act and not decided at the commencement.
- ‘(2) The application must be decided under the pre-amended Act, as if the post-amended Act had not commenced.

‘599 Outstanding references to Attorney-General

- ‘(1) This section applies if—
- (a) the director has, under chapter 7, part 2, division 2 of the pre-amended Act, referred the matter of a patient’s mental condition relating to an offence with which the patient is charged to the Attorney-General; and
 - (b) the Attorney-General has not at the commencement made a decision, under section 247(1) of the pre-amended Act, on the reference.
- ‘(2) The reference is taken to be a reference, under chapter 7, part 2, division 2, to the director of public prosecutions.
- ‘(3) Section 247(1) of the pre-amended Act continues to apply to the patient as if—
- (a) the post-amended Act had not commenced; and
 - (b) the reference to the Attorney-General in that provision is a reference to the director of public prosecutions.

‘600 Material submitted to tribunal by victim or concerned person etc.

- ‘(1) This section applies if—
- (a) under section 464(1) of the pre-amended Act, a victim of the alleged offence to which a proceeding before the

tribunal relates or a concerned person submits material to the tribunal; and

(b) at the commencement, the tribunal has not made its decision in the proceeding.

‘(2) Section 464(1D) does not apply to the person who submitted the material.

‘(3) Section 465(2) and (3) of the pre-amended Act continue to apply to the person who submitted the material, as if the post-amended Act had not commenced.

‘601 Reasons etc. for tribunal’s decision before the commencement

‘(1) This section applies if—

(a) under section 464(1) of the pre-amended Act, a victim of the alleged offence to which a proceeding before the tribunal relates or a concerned person submits material to the tribunal; and

(b) the tribunal has made its decision in the proceeding before the commencement.

‘(2) Section 465(2) and (3) of the pre-amended Act continue to apply to the person who submitted the material, as if the post-amended Act had not commenced.’.

36 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *commencement*, *director of public prosecutions*, *notification order*, *post-amended Act* and *pre-amended Act*—

omit.

(2) Schedule 2—

insert—

‘*applicant’s nominee*—

(a) for chapter 7A, part 1—see section 318A; or

(b) for chapter 7A, part 2—see section 318M.

change, a condition, includes impose a condition.

classified patient information, for chapter 7A, part 1, see section 318A.

classified patient information order see section 318C(1).

commencement—

- (a) for chapter 16, part 3—see section 589; or
- (b) for chapter 16, part 4—see section 594.

director of public prosecutions means the Director of Public Prosecutions, or a deputy director of public prosecutions, appointed under the *Director of Public Prosecutions Act 1984*.

eligible person, for chapter 7A, part 2, see section 318M.

forensic patient information, for chapter 7A, part 2, see section 318M.

forensic patient information order see section 318O(1).

original psychiatrist's report, for chapter 7, see section 235.

post-amended Act—

- (a) for chapter 16, part 3—see section 589; or
- (b) for chapter 16, part 4—see section 594.

pre-amended Act—

- (a) for chapter 16, part 3—see section 589; or
- (b) for chapter 16, part 4—see section 594.

psychiatrist's report, for chapter 7, part 3, see section 245B.

special notification forensic patient see section 305A.'.

- (3) Schedule 2, definition *patient*, paragraph (a), '318A'—
omit, insert—
'318ZC'.
- (4) Schedule 2, definition *proceeding*, paragraph (b), 'Patient Review Tribunal'—

omit, insert—
'tribunal'.

Part 3 Amendment of Coroners Act 2003

37 Act amended in pt 3

This part amends the *Coroners Act 2003*.

38 Amendment of s 25 (Autopsy reports)

(1) Section 25(3)(b), ' , or health service employee,'—

omit, insert—

' , health service employee or health executive,'.

(2) Section 25(5)—

insert—

'*health executive* means a health executive under the *Health Services Act 1991*.'

Part 4 Amendment of Food Act 2006

39 Act amended in pt 4

This part amends the *Food Act 2006*.

40 Insertion of new ss 297 and 298

Chapter 12, part 2, division 3—

insert—

‘297 Application of requirements about food safety supervisor and food safety program to existing licensees

- ‘(1) This section applies to a person who is a licensee immediately before the commencement.
- ‘(2) Sections 86(1) and 88(1)⁴ apply to the person as if the requirement to comply with the sections within 30 days after the licence is issued under section 60(1) were a requirement for the person to comply with the sections by 1 July 2008.
- ‘(3) The person is not liable for an offence against section 99(1) committed before 1 July 2008.

‘298 No offence committed against food safety supervisor or food safety program provisions before 1 July 2008

- ‘(1) This section applies to a licensee to whom section 297 does not apply.
- ‘(2) The licensee is not liable for an offence against a provision of chapter 3, part 7, division 2 or chapter 4⁵ committed before 1 July 2008.’.

Part 5 Amendment of Health Quality and Complaints Commission Act 2006

41 Act amended in pt 5

This part amends the *Health Quality and Complaints Commission Act 2006*.

4 Sections 86 (Licensee to have food safety supervisor) and 88 (Licensee to advise local government about food safety supervisor)

5 Chapter 3 (Licences for particular food businesses), part 7 (Other provisions about licences and licensees), division 2 (Food safety supervisors) or chapter 4 (Food safety programs)

42 Amendment of s 93 (Conciliation of investigated health service complaint)

Section 93(2), ‘commissioner’—

omit, insert—

‘commission’.

Part 6 Amendment of Health Services Act 1991

43 Act amended in pt 6

This part amends the *Health Services Act 1991*.

44 Amendment of s 2 (Definitions)

Section 2, definition *designated smoking area*—

omit.

45 Amendment of s 28N (Appointment of members)

(1) Section 28N(2) to (4)—

renumber as section 28N(3) to (5).

(2) Section 28N—

insert—

‘(2) However, a council may consist of more than 8, but not more than 10, members appointed by the Minister if the Minister is satisfied that having more than 8 members will substantially improve the council’s ability to perform its functions.’.

46 Amendment of s 37 (Further responsibilities of committees)

Section 37(1)(d), ‘chief health officer’—

omit, insert—

‘chief executive’.

47 Amendment of s 51 (Prohibition of smoking)

(1) Section 51(1) and (2)(b), ‘designated smoking area’—

omit, insert—

‘nominated smoking place’.

(2) Section 51(4), from ‘designate’ to ‘area’—

omit, insert—

‘nominate a prohibited place as a smoking place’.

(3) Section 51(5)—

insert—

‘nominated smoking place means a place nominated as a smoking place by the chief executive, and designated as such by signs erected by the chief executive.’.

48 Replacement of s 57C (Function of chief health officer)

Section 57C—

omit, insert—

‘57C Functions of chief health officer

‘The functions of the chief health officer are—

(a) providing high level medical advice to the chief executive and the Minister on health issues, including policy and legislative matters associated with the health and safety of the Queensland public; and

(b) performing other functions given to the chief health officer under another Act.’.

- (h) preferring a charge against a person and referring it to the tribunal.
- ‘(4) The council must comply with the direction.
- ‘(5) The council’s annual report for a financial year, under the *Financial Administration and Audit Act 1977*, must include copies of all directions given to it in the financial year.
- ‘(6) However, the council must exclude from the copies all information likely to identify a registered nurse, enrolled nurse, or person authorised to practise midwifery or nursing, to whom the direction relates.’.

Part 10 Amendment of Public Health Act 2005

55 Act amended in pt 10

This part amends the *Public Health Act 2005*.

56 Amendment of s 149 (Meaning of *health care facility*)

Section 149(3)—

omit.

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

Section 153—

insert—

- ‘(3) Subsection (2) does not apply if the facility is a health care facility, or of a type of health care facility, prescribed under a regulation.
- ‘(4) However, a health care facility, or a type of health care facility, may be prescribed under subsection (3) only if the chief executive is satisfied the infection risks associated with the provision of a declared health service at the facility or a

facility of that type can be prevented or minimised without an ICMP for the facility.’.

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

Section 154—

insert—

‘(3) Subsection (2) does not apply if the facility is a health care facility, or of a type of health care facility, prescribed under a regulation.

‘(4) However, a health care facility, or a type of health care facility, may be prescribed under subsection (3) only if the chief executive is satisfied the infection risks associated with the provision of a declared health service at the facility or a facility of that type can be prevented or minimised without an ICMP for the facility.’.

Part 11 Amendment of Tobacco and Other Smoking Products Act 1998

59 Act amended in pt 11

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

60 Amendment of s 15A (Person in charge of tobacco product vending machine in bar area or gaming machine area must instruct employees)

Section 15A, ‘20 penalty units’—

omit, insert—

‘40 penalty units’.

61 Amendment of s 26S (No smoking sign)

Section 26S—

insert—

‘(2) In this section—

no smoking sign means a sign—

- (a) indicating that smoking is not permitted; and
- (b) complying with the requirements prescribed under a regulation.’.

62 Amendment of schedule (Dictionary)

(1) Schedule, definition *quit smoking sign*, after ‘smoking’—

insert—

‘complying with the requirements prescribed under a regulation’.

(2) Schedule, definition *tobacconist*, paragraph (a), after ‘products’—

insert—

‘by retail’.

Schedule Consequential amendments of Mental Health Act 2000

section 3

- 1 Chapter 6, heading, ‘, notification orders’—**
omit.
- 2 Sections 78(1)(a)(ii), 243(1)(a), 246, 248, 250(1), 251, 252
and 253(1), ‘Attorney-General’—**
omit, insert—
‘director of public prosecutions’.
- 3 Chapter 7, part 3, heading, ‘Attorney-General’—**
omit, insert—
‘director of public prosecutions’.
- 4 Section 248, ‘Attorney-General’s’—**
omit, insert—
‘director of public prosecutions’.
- 5 Section 250(1)(b)—**
omit, insert—
‘(b) any complainant; and’.
- 6 Sections 228C(1), 318(1)(b), 437(e), 447(1), 453 and 481(b)
and schedule, definition *hearing*, ‘notification’—**
omit, insert—
‘forensic patient information’.

Schedule (continued)

7 Section 527, ‘notification’—

omit, insert—

‘classified patient information order or forensic patient information’.

8 Section 447(1), note, ‘222’—

omit, insert—

‘318N’.