



Queensland

Public Health and Other Legislation (COVID-19 Management) Amendment Act 2022

Act No. 25 of 2022

An Act to amend the Corrective Services Act 2006, the Public Health Act 2005 and the State Penalties Enforcement Regulation 2014 for particular purposes

[Assented to 31 October 2022]



Queensland

Public Health and Other Legislation (COVID-19 Management) Amendment Act 2022

Contents

		Page
Part 1	Preliminary	
1	Short title	3
2	Commencement	3
Part 2	Amendment of Corrective Services Act 2006	
3	Act amended	3
4	Amendment of ch 6, pt 15A, hdg (COVID-19 emergency provisions)	4
5	Replacement of s 351A (Definition for part)	4
	351A Application of part	4
6	Amendment of s 351C (Modification of s 268 (Declaration of emergency))	4
7	Amendment of s 351E (Expiry of part)	5
Part 3	Amendment of Public Health Act 2005	
8	Act amended	5
9	Insertion of new ch 3, pt 5A	5
	Part 5A Public health directions for COVID-19	
	Division 1 Preliminary	
	142A Application of part	5
	142B Definitions for part	5
	142C Meaning of justification statement	6
	142D Relationship with other provisions of Act	7
	Division 2 Public health directions	
	142E Power to give public health direction	7
	142F Public health direction may include related requirements	9
	142G How public health direction is given	11
	142H Requirement to prepare and publish justification statement	

Contents

	and inform affected persons	12
142I	When public health direction takes effect and expires	12
142J	When public health direction must be revoked	12
142K	Offence to contravene public health direction	13
142L	Application of particular provisions to public health direction	13
142M	Chief health officer may not delegate particular functions or powers	14
Division 3	Enforcement of public health directions	
142N	Power to enter places	14
142O	Power to seize evidence at places	15
142P	Dealing with seized things	15
142Q	Enforcement by authorised person	15
Division 4	Compensation	
142R	No entitlement to compensation	16
Division 5	Expiry of part	
142S	Expiry	17
10	Amendment of s 315 (Definitions for ch 8)	17
11	Insertion of new ch 12, pt 9	17
Part 9	Transitional provisions for Public Health and Other Legislation (COVID-19 Management) Amendment Act 2022	
515	Application of part	17
516	Proceedings for particular offence	18
517	Continued application of s 142R	18
12	Amendment of sch 2 (Dictionary)	18
Part 4	Amendment of State Penalties Enforcement Regulation 2014	
13	Regulation amended	19
14	Amendment of sch 1 (Infringement notice offences and fines for nominated laws)	19
Part 5	Other amendments	
15	Act amended	20
Schedule 1	Other amendments	21
Part 1	Amendments commencing on 1 November 2022	
	Public Health Act 2005	21
Part 2	Amendment commencing on 1 November 2023	
	Public Health Act 2005	22

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Public Health and Other Legislation (COVID-19 Management) Amendment Act 2022*.

2 Commencement

(1) Parts 3, 4 and 5 and schedule 1, part 1 commence on 1 November 2022, immediately after the commencement of the following provisions—

- (a) the *Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020*, part 11, division 3;
- (b) the *Justice and Other Legislation (COVID-19 Emergency Response) Amendment Act 2020*, part 16, division 3;
- (c) the *Public Health and Other Legislation (Extension of Expiring Provisions) Amendment Act 2021*, part 4, division 3.

(2) Schedule 1, part 2 commences on 1 November 2023.

Part 2 Amendment of Corrective Services Act 2006

3 Act amended

This part amends the *Corrective Services Act 2006*.

[s 4]

4 Amendment of ch 6, pt 15A, hdg (COVID-19 emergency provisions)

Chapter 6, part 15A, heading, ‘emergency’—
omit.

5 Replacement of s 351A (Definition for part)

Section 351A—
omit, insert—

351A Application of part

This part applies if COVID-19 is a controlled notifiable condition under the *Public Health Act 2005*.

6 Amendment of s 351C (Modification of s 268 (Declaration of emergency))

(1) Section 351C, from ‘For’ to ‘section 268 applies’—
omit, insert—

Section 268 applies

(2) Section 351C(c), inserted subsection (3)—
omit, insert—

(3) Unless it is sooner revoked by the chief executive or another declaration is made to take effect, the declaration lapses at the earlier of the following times—

(a) when the stated period ends;

(b) when COVID-19 ceases to be a controlled notifiable condition under the *Public Health Act 2005*.

7 Amendment of s 351E (Expiry of part)

Section 351E, ‘the COVID-19 public health legislation expiry day’—

omit, insert—

31 October 2023

Part 3 Amendment of Public Health Act 2005

8 Act amended

This part amends the *Public Health Act 2005*.

Note—

See also the amendments in schedule 1.

9 Insertion of new ch 3, pt 5A

Chapter 3—

insert—

Part 5A Public health directions for COVID-19

Division 1 Preliminary

142A Application of part

This part applies if COVID-19 is a controlled notifiable condition.

142B Definitions for part

In this part—

isolation period see section 142E(1)(b).

[s 9]

justification statement, for a public health direction, see section 142C.

operator, of a place, means the person who has the day-to-day operation and control of the place.

public health direction see section 142E(1).

quarantine period see section 142E(1)(c).

worker, at a place, includes—

- (a) a person performing work at the place for which the person is to be paid—
 - (i) whether or not the person is an employee; and
 - (ii) whether the person is to be paid by the operator of the place or another person; and
- (b) a person performing work at the place for which the person is not to be paid.

Examples for paragraph (b)—

- a person undertaking a vocational placement, internship or work experience at the place for which the person is not to be paid
- a person providing entertainment, or delivering a program, at the place for which the person is not to be paid

142C Meaning of *justification statement*

- (1) A ***justification statement***, for a public health direction, is a document that—
 - (a) gives a summary of the chief health officer's reasons for giving the direction; and
 - (b) states—
 - (i) whether, in the chief health officer's opinion, the direction is compatible

with human rights and, if so, how it is compatible; and

- (ii) if, in the opinion of the chief health officer, a part of the direction is not compatible with human rights, the nature and extent of the incompatibility.

- (2) In this section—

compatible with human rights has the meaning given by the *Human Rights Act 2019*, section 8.

142D Relationship with other provisions of Act

- (1) Except as provided by section 142R, this part does not limit the operation of another provision of this Act.
- (2) Also, the operation of this part is not limited by another provision of this Act.

Division 2 Public health directions

142E Power to give public health direction

- (1) The chief health officer may, under this division, give any of the following directions (each a *public health direction*)—
- (a) a direction that persons must wear or carry a face mask in stated circumstances;
- (b) a direction that persons who test positive for COVID-19 must, for a stated period starting on a stated day (the *isolation period*)—
- (i) stay at or in a stated place; and
- (ii) otherwise avoid contact with stated persons;

[s 9]

- (c) a direction that persons who are symptomatic and have had contact of a stated type (including, for example, of a stated duration) with a person who has tested positive for COVID-19 must, for a stated period starting on a stated day (the *quarantine period*)—
 - (i) stay at or in a stated place; and
 - (ii) otherwise avoid contact with stated persons;
 - (d) a direction that workers at stated places must not enter or remain at the places unless they have been vaccinated against COVID-19 in a stated way.
- (2) A public health direction under subsection (1)(b) or (c)—
- (a) may provide for persons to be subject to more than 1 isolation period or more than 1 quarantine period; but
 - (b) must state a period of not more than 7 days for each isolation period or quarantine period for which the direction provides.
- (3) A public health direction may be given only if the chief health officer reasonably believes—
- (a) the direction is necessary to prevent or respond to a serious risk to the public health system, or to the community, as a direct or indirect result of COVID-19; or
 - (b) the direction gives effect to—
 - (i) a decision or agreement of the National Cabinet relating to the coordination of a national response to COVID-19; or
 - (ii) the advice or a recommendation of a COVID-19 advisory body relating to

the public health response to
COVID-19.

(4) In this section—

COVID-19 advisory body means an expert body that provides advice, or recommendations, relating to the public health response to COVID-19 to—

- (a) the National Cabinet; or
- (b) the Minister of the Commonwealth who administers the Commonwealth department that deals with public health.

Examples of a COVID-19 advisory body—

- the Australian Health Protection Principal Committee
- the Australian Technical Advisory Group on Immunisation

National Cabinet means the committee comprising the Prime Minister and the Premier or Chief Minister of each State known as the National Cabinet or, if the name of the committee changes, however described.

symptomatic, in relation to a person, means having symptoms consistent with the person having COVID-19.

142F Public health direction may include related requirements

- (1) A public health direction may include stated requirements that are related to, and support the effectiveness of, the direction.
- (2) Without limiting subsection (1), a public health direction may include a requirement mentioned in subsection (3), (4) or (5).
- (3) A public health direction given under section 142E(1)(a) may include a requirement that the

[s 9]

operators of stated places must take stated steps in relation to compliance with the direction by persons at the places.

- (4) A public health direction given under section 142E(1)(b) or (c) may include the following requirements—
- (a) a requirement that persons permitted under the direction to leave the stated place during the isolation period or quarantine period must travel in a stated way, for example, using private transport;
 - (b) a requirement that persons must not, for a stated period after the end of the isolation period or quarantine period, enter stated places at which vulnerable persons are present.
- (5) A public health direction given under section 142E(1)(d) may include the following requirements—
- (a) a requirement that stated workers at stated places must produce documentary evidence of their vaccination status to the operators of the places and, on request by an authorised person, to the authorised person for inspection;
 - (b) a requirement that the operators of the stated places must—
 - (i) take stated steps in relation to compliance with the direction by workers at the places; and
 - (ii) keep a record of the vaccination status of all workers attending the places, including the type of documentary evidence produced by the workers under paragraph (a); and

-
- (iii) on request by an authorised person, produce the record to the authorised person for inspection.
 - (6) Section 142E(3) does not apply in relation to the inclusion in a public health direction of a requirement under this section.
 - (7) In this section—
 - vaccination status*, of a worker—
 - (a) means details of whether the worker has had any vaccinations against COVID-19; and
 - (b) includes—
 - (i) if the worker has had 1 or more vaccinations against COVID-19—details of the type and date of each vaccination; and
 - (ii) if the worker has a medical contraindication to vaccination against COVID-19, whether of a permanent or temporary nature—details of the contraindication.

142G How public health direction is given

- (1) A public health direction is given by notice published on the department’s website or in the gazette.
- (2) If a public health direction is published on the department’s website and in the gazette, the direction is given when it is first published.
- (3) A public health direction must state that a person commits an offence against section 142K if the person contravenes the direction without reasonable excuse.

[s 9]

142H Requirement to prepare and publish justification statement and inform affected persons

- (1) The chief health officer must, within 5 days after giving a public health direction—
 - (a) prepare a justification statement for the direction; and
 - (b) publish the justification statement on the department's website.
- (2) The chief health officer must also, as soon as reasonably practicable after giving a public health direction, take reasonable steps to ensure persons likely to be directly affected by the direction are made aware of the giving of the direction.
- (3) A failure to comply with subsection (1) or (2) does not affect the validity of the public health direction.

142I When public health direction takes effect and expires

- (1) A public health direction takes effect—
 - (a) when the direction is given; or
 - (b) if the direction states a later day or time—on the later day or at the later time.
- (2) Unless it is sooner revoked, a public health direction expires on the day that is 90 days after the day it takes effect under subsection (1).

142J When public health direction must be revoked

- (1) This section applies if the chief health officer reasonably believes a public health direction no longer satisfies any of the matters mentioned in section 142E(3)(a) or (b)(i) or (ii).
- (2) The chief health officer must, as soon as

reasonably practicable after forming the belief,
revoke the public health direction.

142K Offence to contravene public health direction

A person must not contravene a public health direction unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

142L Application of particular provisions to public health direction

- (1) The *Statutory Instruments Act 1992*, sections 49, 50 and 51 apply in relation to a public health direction as if the direction were subordinate legislation.
- (2) However, despite the *Statutory Instruments Act 1992*, section 49(1), a public health direction must be tabled in the Legislative Assembly within 21 days after the day the direction is given.
- (3) Also, the *Parliament of Queensland Act 2001*, section 93(1)(a) and (c) applies in relation to a public health direction as if the direction were subordinate legislation.
- (4) Further, the *Human Rights Act 2019*, sections 41(3) and (4) and 42 apply in relation to a public health direction as if—
 - (a) the direction were subordinate legislation; and
 - (b) the reference in section 41(3) of that Act to the human rights certificate prepared under that section were a reference to the justification statement for the direction prepared under section 142H(1) of this Act; and

[s 9]

- (c) the reference in section 41(4) of that Act to the human rights certificate were a reference to the justification statement.

142M Chief health officer may not delegate particular functions or powers

- (1) The chief health officer may not delegate the chief health officer's functions or powers under this division, other than the function under section 142H(2).
- (2) This section applies despite the *Hospital and Health Boards Act 2011*, section 53AC.

Division 3 Enforcement of public health directions

142N Power to enter places

- (1) This section applies if an authorised person reasonably suspects a person is, or may be, contravening a public health direction at a place.
- (2) The authorised person may, without a warrant or the consent of the occupier of the place, enter the place to—
 - (a) check whether the public health direction is being contravened; or
 - (b) enforce compliance with the public health direction.
- (3) Before entering the place, the authorised person must, if reasonably practicable, tell the occupier of the place that—
 - (a) the authorised person proposes to enter the place; and

-
- (b) the entry is authorised under the Act without a warrant or the consent of the occupier.
 - (4) This section does not authorise entry to—
 - (a) a place, or a part of a place, that is used as a dwelling; or
 - (b) a part of a place where a person is—
 - (i) undergoing a procedure conducted by a health practitioner; or
 - (ii) consulting a health practitioner.

Note—

See also chapter 9, part 2, divisions 1 and 2 in relation to the powers of authorised persons to enter places and section 399 in relation to the general powers of authorised persons after entering places.

142O Power to seize evidence at places

An authorised person who enters a place under section 142N may seize a thing at the place only if the authorised person reasonably believes the thing is evidence of an offence against section 142K.

142P Dealing with seized things

- (1) This section applies if an authorised person seizes a thing under section 142O.
- (2) Chapter 9, part 2, division 8 applies in relation to the thing as if the authorised person had seized it under section 403.

142Q Enforcement by authorised person

- (1) This section applies if an authorised person—
 - (a) finds a person contravening a public health direction given under section 142E(1)(b) or

[s 9]

- (c) by failing to stay at or in a stated place;
or
 - (b) finds a worker at a place contravening a public health direction given under section 142E(1)(d) by entering or remaining at the place without having been vaccinated against COVID-19 in the way stated in the direction.
- (2) The authorised person may enforce the public health direction with the help, and using the force, that is reasonable in the circumstances.
- (3) However, before enforcing the public health direction under subsection (2), the authorised person must give the person or worker an opportunity to voluntarily comply with the direction, including by—
- (a) for a contravention mentioned in subsection (1)(a)—directing the person to go to, and stay at or in, the stated place; and
 - (b) for a contravention mentioned in subsection (1)(b)—directing the worker to leave the place.

Division 4 Compensation

142R No entitlement to compensation

- (1) This section applies if a person suffers loss or damage because of the exercise, or purported exercise, of—
- (a) a power under division 2 or 3; or
 - (b) a power under chapter 9, part 2, if the power was exercised, or purportedly exercised, to monitor or enforce compliance with a public health direction.

- (2) The person is not entitled to be paid any compensation for the loss or damage.
- (3) Subsection (2) applies despite section 422.
- (4) In this section—
loss includes expense.

Division 5 Expiry of part

142S Expiry

This part expires on 31 October 2023.

10 Amendment of s 315 (Definitions for ch 8)

Section 315, definition *public health direction*—
omit.

11 Insertion of new ch 12, pt 9

Chapter 12—
insert—

Part 9 Transitional provisions for Public Health and Other Legislation (COVID-19 Management) Amendment Act 2022

515 Application of part

This part applies on the expiry of chapter 3, part 5A.

[s 12]

516 Proceedings for particular offence

- (1) This section applies in relation to an offence against former section 142K committed by a person before the expiry of chapter 3, part 5A.
- (2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be convicted of and punished for the offence, as if chapter 3, part 5A had not expired.
- (3) Subsection (2) applies despite the Criminal Code, section 11.
- (4) In this section—
former section 142K means section 142K as in force from time to time before the expiry of chapter 3, part 5A.

517 Continued application of s 142R

Section 142R as in force immediately before the expiry of chapter 3, part 5A continues to apply as if that part had not expired.

12 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

isolation period, for chapter 3, part 5A, see section 142E(1)(b).

justification statement, for a public health direction, for chapter 3, part 5A, see section 142C.

operator, of a place, for chapter 3, part 5A, see section 142B.

public health direction, for chapter 3, part 5A, see section 142E(1).

quarantine period, for chapter 3, part 5A, see section 142E(1)(c).

worker, at a place, for chapter 3, part 5A, see section 142B.

Part 4 Amendment of State Penalties Enforcement Regulation 2014

13 Regulation amended

This part amends the *State Penalties Enforcement Regulation 2014*.

14 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)

- (1) Schedule 1, entry for *Public Health Act 2005*, entries for sections 362D and 362J—

omit.

- (2) Schedule 1, entry for *Public Health Act 2005*—

insert—

s 142K for a contravention of a public health direction—

- | | | |
|--|----|----|
| (a) by failing to wear or carry a mask | 1½ | - |
| (b) in any other circumstances | 10 | 50 |

- (3) Schedule 1, entry for *Public Health Act 2005*, administering authority for an infringement notice offence entry, paragraph (b), ‘, 362D or 362J’—

omit.

[s 15]

- (4) Schedule 1, entry for *Public Health Act 2005*, authorised person for service of infringement notices entry, paragraph (a), ‘, 362D or 362J’—

omit.

- (5) Schedule 1, entry for *Public Health Act 2005*, authorised person for service of infringement notices entry, paragraph (b), after ‘section 23(4),’—

insert—

142K,

Part 5 Other amendments

15 Act amended

Schedule 1 amends the Act it mentions.

Schedule 1 Other amendments

section 15

Part 1 Amendments commencing on 1 November 2022

Public Health Act 2005

1 Section 62—

insert—

controlled notifiable condition see section 63.

notifiable condition see section 64.

2 Section 323, heading, after ‘Extending’—

insert—

or further extending

3 Particular references to omission

Each of the following provisions is amended by omitting ‘omission’ and inserting ‘expiry’—

- chapter 12, part 8, division 1A, heading
- section 507B(1)
- section 507C
- section 507D
- section 507E.

4 Section 507D(3), ‘been omitted’—

omit, insert—

expired

**Part 2 Amendment commencing on 1
November 2023**

Public Health Act 2005

1 Schedule 2, definitions *isolation period, justification statement, operator, public health direction, quarantine period and worker—*

omit.

© State of Queensland 2022