

Queensland



**HEALTH AND OTHER
LEGISLATION AMENDMENT
BILL 2003**

Queensland



**HEALTH AND OTHER LEGISLATION
AMENDMENT BILL 2003**

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	8
2	Commencement	8
PART 2—AMENDMENT OF FREEDOM OF INFORMATION ACT 1992		
3	Act amended in pt 2	8
4	Amendment of s 11 (Act not to apply to certain bodies etc.)	8
PART 3—AMENDMENT OF HEALTH ACT 1937		
5	Act amended in pt 3	9
6	Amendment of s 5 (Interpretation)	9
7	Insertion of new s 6	9
6	Definition for div 1	9
8	Insertion of new s 18B	9
18B	Chief executive may inform boards about particular matters	9
9	Amendment of s 153Y (Dealing with certain things)	10
10	Amendment of s 153ZD (Analysis)	10
PART 4—AMENDMENT OF HEALTH PRACTITIONERS (PROFESSIONAL STANDARDS) ACT 1999		
11	Act amended in pt 4	10
12	Amendment of s 176 (Pre-hearing conference)	10
13	Amendment of s 188 (Questions to be decided by majority of panel)	11
14	Amendment of s 217 (Directions conference)	11
15	Insertion of new s 227A	11
227A	Procedure if tribunal member unable to hear matter	11

16	Amendment of s 259 (Practice directions)	11
PART 5—AMENDMENT OF HEALTH RIGHTS COMMISSION ACT 1991		
17	Act amended in pt 5.	12
18	Amendment of s 3 (Definitions)	12
19	Amendment of s 59 (Who may complain)	12
20	Amendment of s 60 (Complaints about persons who are no longer registered providers)	12
21	Amendment of s 61 (Representative complaints)	12
22	Amendment of s 64 (Complainant to reveal identity)	13
23	Amendment of s 65 (Further information from complainant)	14
24	Amendment of s 66 (Commissioner may require affidavit)	14
25	Amendment of s 67 (Commissioner to immediately assess all health service complaints)	14
26	Amendment of s 79 (Decisions not to take action)	14
27	Insertion of new pt 10 hdg.	14
28	Insertion of new s 151	15
	151 Validating provision for Health and Other Legislation Amendment Act 2003	15
PART 6—AMENDMENT OF HEALTH SERVICES ACT 1991		
29	Act amended in pt 6.	15
30	Amendment of s 2 (Definitions)	15
31	Amendment of s 30 (Definitions)	16
32	Replacement of ss 33 and 34.	16
	33 Disclosure etc. of information	16
	34 Information not to be given in evidence	16
33	Amendment of s 36 (Personal liability of members etc.)	17
34	Amendment of s 37 (Further responsibilities of committees)	18
35	Amendment of s 57 (Duty of confidentiality of officials)	18
36	Amendment of s 63 (Confidentiality)	18
PART 7—AMENDMENT OF HOSPITALS FOUNDATIONS ACT 1982		
37	Act amended in pt 7.	19
38	Amendment of s 18 (Members of body corporate)	20

39	Omission of s 19 (Minister's nomination from panel of names)	20
40	Replacement of ss 21 and 22	20
21	Term of appointment	20
PART 8—AMENDMENT OF MEDICAL PRACTITIONERS REGISTRATION ACT 2001		
41	Act amended in pt 8	20
42	Amendment of s 111 (Eligibility)	21
43	Insertion of new s 121A	21
	121A Condition of practice under supervision	21
44	Insertion of new s 141A	21
	141A Condition of practice under supervision	21
45	Insertion of new pt 3, div 10A	22
	<i>Division 10A—Non-practising registrations</i>	
	<i>Subdivision 1—Eligibility for non-practising registration</i>	
	150B Eligibility	22
	<i>Subdivision 2—Applications for non-practising registration</i>	
	150C Application of div 2	22
	150D Suitability of proposed non-practising registrant	23
	150E Board's powers before deciding applications	24
	150F Failure to decide application	24
	150G Forms of certificates of non-practising registration	24
	150H Standard condition	25
	<i>Subdivision 3—Cancellation of non-practising registrations</i>	
	150I Application of div 6	25
	150J Grounds for cancellation	25
46	Amendment of s 157 (Taking of restricted titles etc.)	26
47	Insertion of new s 180A	26
	180A Protection from liability	26
48	Amendment of s 254 (Register to be kept)	27
49	Amendment of s 256 (Records)	27
50	Amendment of s 264 (How board may deal with health records)	28
51	Amendment of s 272 (Protection for persons supervising registrants undertaking prescribed internship or supervised practice program)	28

Health and Other Legislation Amendment Bill 2003

52	Amendment of sch 1 (Decisions for which information notices must be given)	29
53	Amendment of sch 3 (Dictionary).....	29
	PART 9—AMENDMENT OF PEST MANAGEMENT ACT 2001	
54	Act amended in pt 9.	30
55	Insertion of new s 5A	30
	5A Meaning of “fumigant”	30
56	Amendment of s 54 (Notice of change in circumstances).....	31
57	Amendment of s 96 (Dealing with certain things)	31
58	Amendment of s 101 (Analysis)	31
59	Amendment of s 111 (Hearing procedures)	31
60	Amendment of sch 3 (Dictionary).....	31
	PART 10—AMENDMENT OF PRIVATE HEALTH FACILITIES ACT 1999	
61	Act amended in pt 10.	32
62	Amendment of s 12 (Chief health officer may make standards).....	32
63	Amendment of s 143A (Authority holder to notify chief executive of certain events)	32
64	Insertion of new pt 13	33
	PART 13—VALIDATING PROVISION	
	165 Validation of notices under s 12(3)	33
	PART 11—AMENDMENT OF RADIATION SAFETY ACT 1999	
65	Act amended in pt 11.	33
66	Amendment of s 16 (Making of radiation safety standards).....	33
	PART 12—AMENDMENT OF ACTS	
67	Other amendments of Acts	34
	SCHEDULE	35
	AMENDMENTS OF ACTS	
	DENTAL PRACTITIONERS REGISTRATION ACT 2001	35
	DENTAL TECHNICIANS AND DENTAL PROSTHETISTS REGISTRATION ACT 2001	35
	FOOD ACT 1981	35
	HEALTH PRACTITIONERS (PROFESSIONAL STANDARDS) ACT 1999	36

HEALTH PRACTITIONERS (SPECIAL EVENTS EXEMPTION) ACT 1998	36
MEDICAL RADIATION TECHNOLOGISTS REGISTRATION ACT 2001	36
MENTAL HEALTH ACT 2000	37
PHARMACISTS REGISTRATION ACT 2001	37
PODIATRISTS REGISTRATION ACT 2001	38
PSYCHOLOGISTS REGISTRATION ACT 2001	38
TOBACCO AND OTHER SMOKING PRODUCTS ACT 1998	39

2003

A BILL

FOR

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

The Parliament of Queensland enacts— 1

PART 1—PRELIMINARY 2

Clause 1 Short title 3

This Act may be cited as the *Health and Other Legislation Amendment Act 2003*. 4
5

Clause 2 Commencement 6

Section 67 and the schedule, in relation to the amendment of the *Pharmacists Registration Act 2001*, are taken to have commenced on 1 February 2002. 7
8
9

PART 2—AMENDMENT OF FREEDOM OF INFORMATION ACT 1992 10
11

Clause 3 Act amended in pt 2 12

This part amends the *Freedom of Information Act 1992*. 13

Clause 4 Amendment of s 11 (Act not to apply to certain bodies etc.) 14

Section 11(1)— 15

insert— 16

‘(pa)a committee declared to be an approved quality assurance committee under the *Health Services Act 1991*, section 31(1); or’. 17
18
19

PART 3—AMENDMENT OF HEALTH ACT 1937

		1
Clause 5	Act amended in pt 3	2
	This part amends the <i>Health Act 1937</i> .	3
Clause 6	Amendment of s 5 (Interpretation)	4
	Section 5(1)—	5
	<i>insert—</i>	6
	‘ “nurse” , for part 2, division 1, see section 6.’	7
Clause 7	Insertion of new s 6	8
	Part 2, division 1, before section 7—	9
	<i>insert—</i>	10
	‘6 Definition for div 1	11
	‘In this division—	12
	“nurse” means a nurse, midwife, or other person authorised to practise nursing, under the <i>Nursing Act 1992</i> .’	13 14
Clause 8	Insertion of new s 18B	15
	Part 2, division 1, after section 18A—	16
	<i>insert—</i>	17
	‘18B Chief executive may inform boards about particular matters	18
	‘(1) This section applies if the chief executive reasonably believes—	19
	(a) a registrant, nurse or veterinary surgeon has committed an offence against this Act; or	20 21
	(b) a ground exists for the chief executive to suspend or cancel, or impose or vary conditions on, an approval or authority held by a registrant, nurse or veterinary surgeon under the <i>Health (Drugs and Poisons) Regulation 1996</i> .	22 23 24 25
	‘(2) The chief executive may give information about the belief, including the grounds for the belief—	26 27

	(a) for a registrant—to the registrant’s board; or	1
	(b) for a nurse—to the Queensland Nursing Council; or	2
	(c) for a veterinary surgeon—to the Veterinary Surgeons Board of Queensland.’	3 4
Clause 9	Amendment of s 153Y (Dealing with certain things)	5
	Section 153Y(1), from ‘or seizes’ to ‘analyst,’—	6
	<i>omit.</i>	7
Clause 10	Amendment of s 153ZD (Analysis)	8
	Section 153ZD(1), from ‘takes’ to ‘analysis,’—	9
	<i>omit, insert—</i>	10
	‘, under section 151(3)(c), ¹ takes a thing for analysis’.	11
	PART 4—AMENDMENT OF HEALTH PRACTITIONERS (PROFESSIONAL STANDARDS) ACT 1999	12 13
Clause 11	Act amended in pt 4	14
	This part amends the <i>Health Practitioners (Professional Standards) Act 1999</i> .	15 16
Clause 12	Amendment of s 176 (Pre-hearing conference)	17
	Section 176(6), after ‘may’—	18
	<i>insert—</i>	19
	‘, using any form of communication,’.	20

1 Section 151 (General powers after entering place)

Clause 13	Amendment of s 188 (Questions to be decided by majority of panel)	1
		2
	Section 188—	3
	<i>insert—</i>	4
	‘(2) A vote on the question may be taken using any form of communication.’.	5
		6
Clause 14	Amendment of s 217 (Directions conference)	7
	Section 217—	8
	<i>insert—</i>	9
	‘(8) For this section, the tribunal’s powers may be exercised also by a tribunal member, other than the constituting member for the matter or proceeding.’.	10
		11
		12
Clause 15	Insertion of new s 227A	13
	After section 227—	14
	<i>insert—</i>	15
	‘227A Procedure if tribunal member unable to hear matter	16
	‘(1) This section applies if—	17
	(a) the tribunal has not started to hear a disciplinary matter; and	18
	(b) the constituting member for the matter ceases to be qualified to be a tribunal member or, for another reason, is unable to hear the matter.	19
		20
		21
	‘(2) The tribunal’s chairperson must choose another tribunal member to hear the matter.’.	22
		23
Clause 16	Amendment of s 259 (Practice directions)	24
	Section 259(3)—	25
	<i>omit, insert—</i>	26
	‘(3) Subject to directions issued under subsection (2), the constituting member for a disciplinary matter, or another tribunal member, may issue directions about the matter.’.	27
		28
		29

**PART 5—AMENDMENT OF HEALTH RIGHTS
COMMISSION ACT 1991**

		1
		2
Clause 17	Act amended in pt 5	3
	This part amends the <i>Health Rights Commission Act 1991</i> .	4
Clause 18	Amendment of s 3 (Definitions)	5
	Section 3(1), definition “complainant”—	6
	<i>omit, insert—</i>	7
	‘ “complainant” means—	8
	(a) a person who makes a health service complaint; or	9
	(b) a person substituted, under section 61(5), for a person mentioned in paragraph (a).’.	10 11
Clause 19	Amendment of s 59 (Who may complain)	12
	Section 59(1)(b), ‘61’—	13
	<i>omit, insert—</i>	14
	‘61(1), (3) or (4)’.	15
Clause 20	Amendment of s 60 (Complaints about persons who are no longer registered providers)	16 17
	Section 60(3)—	18
	<i>omit, insert—</i>	19
	‘(3) This Act applies, with any necessary changes, to the person about whom the complaint was made as if a reference to a registered provider included the person.’.	20 21 22
Clause 21	Amendment of s 61 (Representative complaints)	23
	(1) Section 61(1), ‘subsection (3)’—	24
	<i>omit, insert—</i>	25
	‘subsections (3) to (5)’.	26

Health and Other Legislation Amendment Bill 2003

(2) Section 61(3)—	1
<i>omit, insert—</i>	2
‘(3) Any of the following persons may make a health service complaint on behalf of a user who has impaired capacity for a matter within the meaning of the <i>Guardianship and Administration Act 2000</i> —	3 4 5
(a) an attorney for the user under an enduring power of attorney, or advance health directive, under the <i>Powers of Attorney Act 1998</i> ;	6 7
(b) a statutory health attorney under the <i>Powers of Attorney Act 1998</i> ;	8 9
(c) a guardian for the user under the <i>Guardianship and Administration Act 2000</i> ;	10 11
(d) the adult guardian under the <i>Guardianship and Administration Act 2000</i> .	12 13
‘(4) Also, a health service complaint may be made by a person on behalf of a user, after the user’s death, if the commissioner is satisfied the person has a sufficient interest.	14 15 16
‘(5) A person may be substituted as the complainant for a health service complaint if—	17 18
(a) the original complainant dies; and	19
(b) the commissioner is satisfied the person has a sufficient interest.’.	20
Clause 22 Amendment of s 64 (Complainant to reveal identity)	21
(1) Section 64(1), ‘person who makes a health service complaint’—	22
<i>omit, insert—</i>	23
‘complainant’.	24
(2) Section 64, ‘person’s’—	25
<i>omit, insert—</i>	26
‘complainant’s’.	27
(3) Section 64(2), ‘person’—	28
<i>omit, insert—</i>	29
‘complainant’.	30

Health and Other Legislation Amendment Bill 2003

Clause 23	Amendment of s 65 (Further information from complainant)	1
	Section 65, ‘person who makes a health service complaint’—	2
	<i>omit, insert—</i>	3
	‘complainant’.	4
Clause 24	Amendment of s 66 (Commissioner may require affidavit)	5
	Section 66, ‘provided by the complainant’—	6
	<i>omit, insert—</i>	7
	‘provided by a complainant’.	8
Clause 25	Amendment of s 67 (Commissioner to immediately assess all health service complaints)	9
	Section 67(2)(d), ‘user’—	10
	<i>omit, insert—</i>	11
	‘complainant’.	12
Clause 26	Amendment of s 79 (Decisions not to take action)	13
	Section 79(5)(b), ‘complainant’—	14
	<i>omit, insert—</i>	15
	‘person who made the complaint’.	16
Clause 27	Insertion of new pt 10 hdg	17
	After section 148—	18
	<i>insert—</i>	19
	‘PART 10—TRANSITIONAL AND OTHER PROVISIONS’.	20
		21
		22

Clause 28	Insertion of new s 151	1
	After section 150—	2
	<i>insert—</i>	3
	‘151 Validating provision for Health and Other Legislation Amendment Act 2003	4 5
	‘(1) This section applies if, before the commencement of this section—	6
	(a) a health service complaint was made, or was purported to be made, to the commissioner by a person acting on behalf of a user, after the user’s death; or	7 8 9
	(b) a person was substituted, or was purported to be substituted, as the complainant for a health service complaint, after the original complainant died.	10 11 12
	‘(2) The complaint is taken to be, and always to have been, as valid as if it were made, after the commencement, under section 61(4) or (5). ² ’.	13 14

PART 6—AMENDMENT OF HEALTH SERVICES ACT 1991

15
16

Clause 29	Act amended in pt 6	17
	This part amends the <i>Health Services Act 1991</i> .	18
Clause 30	Amendment of s 2 (Definitions)	19
	Section 2—	20
	<i>insert—</i>	21
	‘ “committee” , for part 4, division 2, see section 30.	22
	“relevant person” , for part 4, division 2, see section 30.’.	23

2 Section 61 (Representative complaints)

Clause 31	Amendment of s 30 (Definitions)	1
	Section 30—	2
	<i>insert—</i>	3
	‘ “relevant person” , for a committee, means a person authorised by the committee to receive information to enable the committee to perform its functions.’.	4 5 6
Clause 32	Replacement of ss 33 and 34	7
	Sections 33 and 34—	8
	<i>omit, insert—</i>	9
	‘33 Disclosure etc. of information	10
	‘(1) A person who is or was a member of a committee must not make a record of, or divulge or communicate to someone else, information acquired by the person as a member of the committee, other than—	11 12 13
	(a) for the purpose of exercising the functions of a member of the committee; or	14 15
	(b) under a regulation made, or direction given, under section 37. ³	16
	Maximum penalty—50 penalty units.	17
	‘(2) Also, a person who is or was a relevant person for a committee must not make a record of, or divulge or communicate to someone else, information acquired by the person as a relevant person for the committee, other than for the purpose of enabling the committee to perform its functions.	18 19 20 21 22
	Maximum penalty—50 penalty units.	23
	‘34 Information not to be given in evidence	24
	‘(1) A person who is or was a member of a committee, or relevant person for a committee, is neither competent nor compellable—	25 26
	(a) to produce, in compliance with a requirement under an Act, or legal process, any document in the person’s possession or under	27 28

3 Section 37 (Further responsibilities of committees)

Health and Other Legislation Amendment Bill 2003

the person's control created by, at the request of, or solely for the
purpose of, the committee; or

- (b) to divulge or communicate, in compliance with a requirement
under an Act, or legal process, information that came to the
person's notice as a member of the committee or relevant person
for the committee.

'(2) Subsection (1) does not apply to a requirement made in proceedings
about an act or omission by the person or committee.'

Clause 33 Amendment of s 36 (Personal liability of members etc.)

(1) Section 36(1), ', a member of a committee'—
omit.

(2) Section 36(1), 'such a member'—
omit, insert—

'the committee'.

(3) Section 36(2), ', a member of the committee'—
omit.

(4) Section 36, after 'direction'—
insert—

'or at the request'.

(5) Section 36(3), 'the members of a committee incur'—
omit, insert—

'a committee, or a person acting under the direction or at the request of a
committee, incurs'.

(6) Section 36(3), 'members are'—
'committee or person is'.

(7) Section 36—
insert—

'(5) For subsections (1) to (3)—

"committee" includes all or each of the members of the committee.'

Clause 34	Amendment of s 37 (Further responsibilities of committees)	1
	(1) Section 37(1), from ‘The’ to ‘respect to’—	2
	<i>omit, insert—</i>	3
	‘A regulation may make provision for’.	4
	(2) Section 37(1)(d)—	5
	<i>omit, insert—</i>	6
	‘(d) requiring committees to give specified information to the chief health officer.’.	7
		8
	(3) Section 37—	9
	<i>insert—</i>	10
	‘(3) In this section—	11
	“chief health officer” means the chief health officer under the <i>Health Act 1937</i> .’.	12
		13
Clause 35	Amendment of s 57 (Duty of confidentiality of officials)	14
	Section 57—	15
	<i>insert—</i>	16
	‘(4) Also, a person may disclose the information to someone else if—	17
	(a) the disclosure is to—	18
	(i) the chief executive; or	19
	(ii) another officer, employee or agent of the department who is authorised in writing by the chief executive to receive the information; and	20
		21
		22
	(b) the purpose of the giving and receipt of the information is to give the information under section 63(2)(gb).’.	23
		24
Clause 36	Amendment of s 63 (Confidentiality)	25
	(1) Section 63(2)—	26
	<i>insert—</i>	27
	‘(ga)to the giving of information to the chief executive to allow the chief executive to act under paragraph (gb); or	28
		29

Health and Other Legislation Amendment Bill 2003

- (gb) to the giving of information to another person if the chief executive considers the giving of the information is in the public interest and the information is—
- (i) given by the chief executive; or
 - (ii) given, with the chief executive’s written authority, by an officer, employee or agent of the department; or’.
- (2) Section 63—
- insert—*
- ‘(4A) Subsection (4) does not apply if—
- (a) the information is given to—
 - (i) the chief executive; or
 - (ii) another officer, employee or agent of the department who is authorised in writing by the chief executive to receive the information; and
 - (b) the purpose of the giving and receipt of the information is to give the information under subsection (2)(gb).
- ‘(4B) In the department’s annual report for a financial year under the *Financial Administration and Audit Act 1977*, the chief executive must include details of—
- (a) the nature of any information given, under subsection (2)(gb), during the financial year; and
 - (b) the purpose for which the information was given.
- ‘(4C) However, the details mentioned in subsection (4B) must not identify, directly or indirectly, the person to whom the information relates.’.

**PART 7—AMENDMENT OF HOSPITALS
FOUNDATIONS ACT 1982**

Clause 37 Act amended in pt 7

This part amends the *Hospitals Foundations Act 1982*.

Clause 38	Amendment of s 18 (Members of body corporate)	1
	(1) Section 18(2)—	2
	<i>omit.</i>	3
	(2) Section 18(3)(d), from ‘in’ to ‘19’—	4
	<i>omit, insert—</i>	5
	‘under subsection (4) who, in the Minister’s opinion, have an interest in, and are able to help in achieving, the body corporate’s objects’.	6 7
	(3) Section 18(4)—	8
	<i>omit, insert—</i>	9
	‘(4) For nominating persons for appointment as members of a body corporate, the Minister must consult with entities the Minister considers have an interest in the body corporate’s purposes or objects.’.	10 11 12
Clause 39	Omission of s 19 (Minister’s nomination from panel of names)	13
	Section 19—	14
	<i>omit.</i>	15
Clause 40	Replacement of ss 21 and 22	16
	Sections 21 and 22—	17
	<i>omit, insert—</i>	18
	‘21 Term of appointment	19
	‘An appointed member must be appointed for a term of not more than 5 years.’.	20 21
	PART 8—AMENDMENT OF MEDICAL PRACTITIONERS REGISTRATION ACT 2001	22 23
Clause 41	Act amended in pt 8	24
	This part amends the <i>Medical Practitioners Registration Act 2001</i> .	25

Clause 42	Amendment of s 111 (Eligibility)	1
	Section 111(2), ‘a general registrant’—	2
	<i>omit, insert—</i>	3
	‘qualified for general registration under section 44’.	4
Clause 43	Insertion of new s 121A	5
	After section 121—	6
	<i>insert—</i>	7
	‘121A Condition of practice under supervision	8
	‘(1) This section applies if, under section 121(1), a person is registered as a specialist registrant on condition the registrant carry out the registrant’s practice under supervision.	9 10 11
	‘(2) The board may ask a person involved in the supervision to give information to the board about the supervised practice.’.	12 13
Clause 44	Insertion of new s 141A	14
	After section 141—	15
	<i>insert—</i>	16
	‘141A Condition of practice under supervision	17
	‘(1) This section applies if, under section 141(1), a person is registered as a special purpose registrant on condition the registrant carry out the registrant’s practice under supervision.	18 19 20
	‘(2) The board may ask a person involved in the supervision to give information to the board about the supervised practice.’.	21 22

Clause 45	Insertion of new pt 3, div 10A	1
	After part 3, division 10—	2
	<i>insert—</i>	3
	<i>‘Division 10A—Non-practising registrations</i>	4
	<i>‘Subdivision 1—Eligibility for non-practising registration</i>	5
	‘150B Eligibility	6
	‘A person is eligible for non-practising registration if—	7
	(a) the person—	8
	(i) is a registrant; or	9
	(ii) has been registered under this Act or the repealed Act or is,	10
	or has been, registered under a corresponding law; and	11
	(b) the person is a suitable person to be a non-practising registrant.	12
	<i>‘Subdivision 2—Applications for non-practising registration</i>	13
	‘150C Application of div 2	14
	‘For a person being registered as a non-practising registrant, division 2, ⁴	15
	other than sections 42(1)(c)(i) and (iii), (2) and (3), 43 to 50, and 53 to 60,	16
	applies as if—	17
	(a) an application for general registration were an application for	18
	non-practising registration; and	19
	(b) an applicant for general registration were an applicant for	20
	non-practising registration; and	21
	(c) a general registration were a non-practising registration; and	22
	(d) a general registrant were a non-practising registrant; and	23
	(e) a certificate of general registration were a certificate of	24
	non-practising registration.	25

4 Division 2 (Applications for general registration)

‘150D Suitability of proposed non-practising registrant

‘(1) In deciding whether an applicant for non-practising registration is a suitable person to be a non-practising registrant, the board may have regard to each of the following—

- (a) any conviction of the applicant for an indictable offence;
- (b) any conviction of the applicant for an offence against the repealed Act, this Act, the *Health Practitioners (Professional Standards) Act 1999* or a corresponding law;
- (c) any conviction of the applicant for an offence, relating to the practice of the profession—
 - (i) against the *Health Act 1937* or the *Fair Trading Act 1989*; or
 - (ii) against another law applying, or that applied, in the State, the Commonwealth, another State or a foreign country;
- (d) if the applicant is, or has been, registered under this Act, has been registered under the repealed Act or is, or has been, registered under a corresponding law, and the registration was affected—
 - (i) by the imposition of a condition—the nature of the condition and the reason for its imposition; or
 - (ii) by its suspension or cancellation—the reason for its suspension or cancellation; or
 - (iii) in another way—the way it was affected and the reason for it being affected;
- (e) any other issue relevant to the applicant’s suitability to be a non-practising registrant.

‘(2) In subsection (1), mention of a conviction does not include a conviction that is not part of the applicant’s criminal history.

‘(3) The board may ask the commissioner of the police service for a written report about the applicant’s criminal history.

‘(4) If asked by the board, the commissioner of the police service must give the board a written report about the criminal history of the applicant, including the criminal history in the commissioner’s possession or to which the commissioner has access.

‘(5) In this section—

“**criminal history**”, of an applicant, means the applicant’s criminal history as defined under the *Criminal Law (Rehabilitation of Offenders)*

<i>Act 1986</i> , other than convictions for which the rehabilitation period has expired, and has not been revived, under that Act.	1 2
‘150E Board’s powers before deciding applications	3
‘(1) Before deciding an application for non-practising registration, the board—	4 5
(a) may investigate the applicant; and	6
(b) may, by notice given to the applicant, require the applicant to give the board, within a reasonable time of at least 30 days stated in the notice, further information or a document the board reasonably requires to decide the application.	7 8 9 10
‘(2) The board may require the information or document mentioned in subsection (1)(b) to be verified by a statutory declaration.	11 12
‘(3) The applicant is taken to have withdrawn the application if, within the stated time, the applicant does not comply with a requirement under subsection (1)(b).	13 14 15
‘(4) A notice under subsection (1)(b) must be given to the applicant within 60 days after the board receives the application.	16 17
‘150F Failure to decide application	18
‘(1) Subject to subsections (2) and (3), if the board fails to decide the application within 60 days after its receipt, the failure is taken to be a decision by the board to refuse to register the applicant as a non-practising registrant.	19 20 21 22
‘(2) Subsection (3) applies if the board has, under section 150E(1)(b), required the applicant to give the board further information or a document.	23 24
‘(3) The board is taken to have decided to refuse to register the applicant as a non-practising registrant if it fails to decide the application by the day that is 60 days after the board receives the further information or document.	25 26 27
‘150G Forms of certificates of non-practising registration	28
‘(1) A certificate of non-practising registration must be in the approved form.	29 30

‘(2) The approved form must provide for the inclusion of the following—	1 2
(a) the registrant’s name;	3
(b) the condition of registration mentioned in section 150H.	4
‘150H Standard condition	5
‘(1) A non-practising registration is subject to the condition that the registrant does not practise the profession.	6 7
‘(2) The registrant must not contravene the condition.	8
Maximum penalty—100 penalty units.	9
<i>‘Subdivision 3—Cancellation of non-practising registrations</i>	10
‘150I Application of div 6	11
‘For cancelling a non-practising registration, division 6, other than section 84, ⁵ applies as if—	12 13
(a) a general registration were a non-practising registration; and	14
(b) a certificate of general registration were a certificate of non-practising registration.	15 16
‘150J Grounds for cancellation	17
‘Each of the following is a ground for cancelling a non-practising registration—	18 19
(a) the registrant has been convicted of an indictable offence;	20
(b) the registrant has been convicted of an offence against this Act, the <i>Health Practitioners (Professional Standards) Act 1999</i> or a corresponding law;	21 22 23
(c) the registrant has contravened the condition of registration mentioned in section 150H;	24 25

5 Division 6 (Cancellation of general registrations), section 84 (Grounds for cancellation)

- (d) the registrant was registered because of a materially false or misleading representation or declaration.’. 1
2

Clause 46	Amendment of s 157 (Taking of restricted titles etc.)	3
	Section 157(8)—	4
	<i>omit, insert—</i>	5
	‘(8) However, a non-practising registrant may take or use—	6
	(a) the title ‘doctor’; or	7
	(b) a title, name, initial, symbol, word or description that, having regard to the circumstances in which it is taken or used, indicates or could be reasonably understood to indicate a medical qualification held by the registrant.	8 9 10 11
	‘(9) In this section—	12
	“ medical practitioner ” is not limited by the meaning of the term in the dictionary in schedule 3.	13 14
	“ registrant ” does not include a non-practising registrant.’.	15
Clause 47	Insertion of new s 180A	16
	After section 180—	17
	<i>insert—</i>	18
	‘180A Protection from liability	19
	‘(1) This section applies if a body, honestly and on reasonable grounds, gives advice, or makes a recommendation, to the board under section 180(2)(d).	20 21 22
	‘(2) A discloser is not liable, civilly, criminally or under an administrative process, for disclosing information contained in the advice or recommendation.	23 24 25
	‘(3) Without limiting subsection (2)—	26
	(a) in a proceeding for defamation, the discloser has a defence of absolute privilege for publishing the disclosed information; and	27 28
	(b) if the discloser would otherwise be required to maintain confidentiality about the disclosed information under an Act or oath, or a rule of law or practice, the discloser—	29 30 31

- (i) does not contravene the Act, oath, or rule of law or practice by disclosing the information; and 1
2
- (ii) is not liable to disciplinary action for disclosing the information. 3
4

‘(4) In this section— 5

“discloser” means any of the following— 6

- (a) a body that gives advice, or makes a recommendation, under section 180(2)(d); 7
8
- (b) all the members of that body; 9
- (c) each of the members of that body.’. 10

Clause 48 Amendment of s 254 (Register to be kept) 11

(1) Section 254(3)(c), after ‘provisional general registrant,’— 12

insert— 13

‘non-practising registrant,’. 14

(2) Section 254(4)— 15

renumber as section 254(5). 16

(3) Section 254— 17

insert— 18

‘(4) Subsection (3)(g) does not apply to a non-practising registrant.’. 19

Clause 49 Amendment of s 256 (Records) 20

(1) Section 256(2)— 21

renumber as section 256(3). 22

(2) Section 256— 23

insert— 24

‘(2) Subsection (1)(c) does not apply to the condition of non-practising registration mentioned in section 150H.’. 25
26

Clause 50	Amendment of s 264 (How board may deal with health records)	1
	Section 264(2)(b), after ‘Act’—	2
	<i>insert</i> —	3
	‘, other than a non-practising registrant,’.	4
Clause 51	Amendment of s 272 (Protection for persons supervising registrants undertaking prescribed internship or supervised practice program)	5
	(1) Section 272, heading—	6
	<i>omit, insert</i> —	7
	‘272 Protection for persons involved in supervising registrants’.	8
	(2) Section 272(1)—	9
	<i>omit, insert</i> —	10
	‘(1) This section applies to a person who, honestly and on reasonable grounds, gives information to the board—	11
	(a) about a registrant in the person’s capacity as the registrant’s internship nominee or supervisor for an internship or supervised practice program; or	12
	(b) in response to a request made under section 121A(2) or 141A(2). ⁶ .	13
		14
		15
		16
		17
		18
		19

6 Section 121A (Condition of practice under supervision) or 141A (Condition of practice under supervision)

Clause 52	Amendment of sch 1 (Decisions for which information notices must be given)	1 2
	Schedule 1—	3
	<i>insert—</i>	4
	‘51, as applied by section 150C	Deciding to refuse to register an applicant for non-practising registration as a non-practising registrant
	88, as applied by section 150I	Deciding to cancel a non-practising registration’.
 Clause 53	 Amendment of sch 3 (Dictionary)	 5
	(1) Schedule 3, definitions “show cause notice” and “show cause period”—	6 7
	<i>omit.</i>	8
	(2) Schedule 3—	9
	<i>insert—</i>	10
	‘ “certificate of non-practising registration” means a certificate of non-practising registration issued under part 3, division 10A.	11 12
	“non-practising registrant” means a person registered, under part 3, division 10A, as a non-practising registrant.	13 14
	“non-practising registration” means registration of a person as a non-practising registrant under part 3, division 10A.	15 16
	“show cause notice” —	17
	(a) for part 3, division 6—see section 85(1); or	18
	(b) for part 5, division 4—see section 191(1).	19
	“show cause period” —	20
	(a) for part 3, division 6—see section 85(2)(d); or	21
	(b) for part 5, division 4—see section 191(2)(d).’.	22

(3) Schedule 3, definition “certificate of registration”, after ‘provisional general registration,’—	1
	2
<i>insert—</i>	3
‘certificate of non-practising registration,’.	4

PART 9—AMENDMENT OF PEST MANAGEMENT ACT 2001	5
	6

Clause 54 Act amended in pt 9	7
This part amends the <i>Pest Management Act 2001</i> .	8

Clause 55 Insertion of new s 5A	9
Part 1, division 1, after section 5—	10
<i>insert—</i>	11
‘5A Meaning of “fumigant”	12
‘(1) A “fumigant” is a substance that—	13
(a) is capable of producing a gas or vapour; and	14
(b) is ordinarily used to do any of the following when in a gaseous or vaporous state—	15
(i) kill a pest;	16
(ii) sterilise grain or seed to prevent germination;	17
(iii) perform another function prescribed under a regulation for this subparagraph.	18
(c) perform another function prescribed under a regulation for this subparagraph.	19
(c) perform another function prescribed under a regulation for this subparagraph.	20
‘(2) However, a substance is not a fumigant if it is—	21
(a) ordinarily used for household use; and	22
(b) ordinarily available for purchase in a retail store where groceries are sold; and	23
(b) ordinarily available for purchase in a retail store where groceries are sold; and	24
(c) packaged in a way it is ordinarily available for purchase in a store mentioned in paragraph (b).	25
(c) packaged in a way it is ordinarily available for purchase in a store mentioned in paragraph (b).	26

Health and Other Legislation Amendment Bill 2003

	<i>Example of a substance for subsection (2)—</i>	1
	Naphthalene packaged as mothballs.’	2
Clause 56	Amendment of s 54 (Notice of change in circumstances)	3
	Section 54, ‘advise the chief executive’—	4
	<i>omit, insert—</i>	5
	‘give the chief executive notice’.	6
Clause 57	Amendment of s 96 (Dealing with certain things)	7
	Section 96(1), from ‘or seizes’ to ‘analyst,’—	8
	<i>omit.</i>	9
Clause 58	Amendment of s 101 (Analysis)	10
	Section 101(1), from ‘takes’ to ‘analysis,’—	11
	<i>omit, insert—</i>	12
	‘, under section 69(3)(c), ⁷ takes a thing for analysis’.	13
Clause 59	Amendment of s 111 (Hearing procedures)	14
	Section 111(2), ‘original’—	15
	<i>omit, insert—</i>	16
	‘review’.	17
Clause 60	Amendment of sch 3 (Dictionary)	18
	Schedule 3, definition “fumigant”—	19
	<i>omit, insert—</i>	20
	‘ “fumigant” see section 5A.’.	21

⁷ Section 69 (General powers after entering place)

**PART 10—AMENDMENT OF PRIVATE HEALTH
FACILITIES ACT 1999**

	1
	2
Clause 61 Act amended in pt 10	3
This part amends the <i>Private Health Facilities Act 1999</i> .	4
Clause 62 Amendment of s 12 (Chief health officer may make standards)	5
(1) Section 12(3), ‘by gazette notice’—	6
<i>omit.</i>	7
(2) Section 12(4)—	8
<i>omit.</i>	9
(3) Section 12(5) to (7)—	10
<i>renumber</i> as section 12(4) to (6).	11
(4) Section 12(4) and (5), as renumbered, ‘gazette’—	12
<i>omit.</i>	13
Clause 63 Amendment of s 143A (Authority holder to notify chief executive of certain events)	14
Section 143A, ‘chief executive’—	15
<i>omit, insert—</i>	16
‘chief health officer’.	17
	18

Clause 64	Insertion of new pt 13	1
	After section 164—	2
	<i>insert—</i>	3
	‘PART 13—VALIDATING PROVISION	4
	‘165 Validation of notices under s 12(3)	5
	‘(1) The <i>Private Health Facilities (Standards) Notice 2000</i> is, and is	6
	taken to have always been, as valid as if it had been published in the gazette	7
	on 24 November 2000.	8
	‘(2) The <i>Private Health Facilities (Standards) Amendment Notice</i>	9
	<i>(No. 1) 2001</i> is, and is taken to have always been, as valid as if it had been	10
	published in the gazette on 23 November 2001.’.	11
	 PART 11—AMENDMENT OF RADIATION SAFETY	12
	ACT 1999	13
Clause 65	Act amended in pt 11	14
	This part amends the <i>Radiation Safety Act 1999</i> .	15
Clause 66	Amendment of s 16 (Making of radiation safety standards)	16
	(1) Section 16(4), ‘, by gazette notice,’—	17
	<i>omit.</i>	18
	(2) Section 16(5)—	19
	<i>omit.</i>	20
	(3) Section 16(6) and (7)—	21
	<i>renumber</i> as section 16(5) and (6).	22
	(4) Section 16(5) and (6), as renumbered, ‘gazette’—	23
	<i>omit.</i>	24

PART 12—AMENDMENT OF ACTS

1

Clause 67 Other amendments of Acts

2

The schedule amends the Acts mentioned in it.

3

SCHEDULE	1
AMENDMENTS OF ACTS	2
section 67	3
DENTAL PRACTITIONERS REGISTRATION ACT 2001	4
1 Section 263(6), (8) and (9)—	5
<i>renumber</i> as section 263(2) to (4).	6
DENTAL TECHNICIANS AND DENTAL PROSTHETISTS REGISTRATION ACT 2001	7 8
1 Section 243(4) to (6)—	9
<i>renumber</i> as section 243(3) to (5).	10
2 Section 243(4) and (5), as renumbered, ‘and (4)’—	11
<i>omit, insert—</i>	12
‘and (3)’.	13
FOOD ACT 1981	14
1 Section 57(3), ‘the schedule’—	15
<i>omit, insert—</i>	16
‘schedule 1’.	17

SCHEDULE (continued)

	HEALTH PRACTITIONERS (PROFESSIONAL STANDARDS) ACT 1999	1 2
1	Part 14, section 405—	3
	<i>renumber</i> as section 406.	4
2	Schedule, definitions “disciplinary matter” and “disciplinary proceedings”, paragraph (b), ‘review and appeals part’—	5 6
	<i>omit, insert—</i>	7
	‘review and appeal part’.	8
	HEALTH PRACTITIONERS (SPECIAL EVENTS EXEMPTION) ACT 1998	9 10
1	Schedule, definition “health care services”, after ‘medical practitioners,’—	11 12
	<i>insert—</i>	13
	‘medical radiation technologists.’	14
	MEDICAL RADIATION TECHNOLOGISTS REGISTRATION ACT 2001	15 16
1	Section 138, example, ‘radiation therapist’—	17
	<i>omit, insert—</i>	18
	‘medical imaging technologist’.	19

SCHEDULE (continued)

	MENTAL HEALTH ACT 2000	1
1	Section 250(1)(b), after ‘circumstances;’—	2
	<i>insert—</i>	3
	‘and’.	4
2	Section 342(4)(b)(ii), from ‘the children’s’—	5
	<i>omit, insert—</i>	6
	‘the Commissioner for Children and Young People under the	7
	<i>Commission for Children and Young People Act 2000.’.</i>	8
3	Section 349(4)(g)—	9
	<i>omit, insert—</i>	10
	‘(g) the ombudsman appointed under the <i>Ombudsman Act 2001</i> ;’.	11
4	Section 458(1)(a) and (b), ‘it; or’—	12
	<i>omit, insert—</i>	13
	‘it;’.	14
	PHARMACISTS REGISTRATION ACT 2001	15
1	Schedule 3, amendment 3, after ‘“friendly society” ’—	16
	<i>insert—</i>	17
	‘, paragraph (b)(ii),’.	18

SCHEDULE (continued)

	PODIATRISTS REGISTRATION ACT 2001	1
1	Section 237(2)(a), ‘practitioner;’—	2
	<i>omit, insert—</i>	3
	‘practitioner; or’.	4
2	Section 237(2)(b), ‘institution;’—	5
	<i>omit, insert—</i>	6
	‘institution; or’.	7
	PSYCHOLOGISTS REGISTRATION ACT 2001	8
1	Section 100(2), ‘subsections (2)’—	9
	<i>omit, insert—</i>	10
	‘subsections (3)’.	11
2	Section 102(1)(a), ‘conditions;’	12
	<i>omit, insert—</i>	13
	‘conditions; or’.	14
3	Section 102(1)(b), ‘98(5)(c);’	15
	<i>omit, insert—</i>	16
	‘98(5)(c); or’.	17
4	Section 102(1)(c), ‘101(2);’	18
	<i>omit, insert—</i>	19
	‘101(2); or’.	20

SCHEDULE (continued)

TOBACCO AND OTHER SMOKING PRODUCTS	1
ACT 1998	2
1 Section 26H(b), ‘prescribed’—	3
<i>omit, insert—</i>	4
<i>‘as prescribed’.</i>	5