



Queensland

Public Health Bill 2005



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	Community Services (Torres Strait) Act 1984	281
	Coroners Act 2003	281
	Corrective Services Act 2000	283
	Evidence Act 1977	283
	Food Act 1981	284
	Food Production (Safety) Act 2000	287
	Gurulmundi Secure Landfill Agreement Act 1992	287
	Health Act 1937	287
	Health Services Act 1991	290
	Liquor Act 1992	292
	Medical Practitioners Registration Act 2001	292
	Metropolitan Water Supply and Sewerage Act 1909	292
	Plumbing and Drainage Act 2002	293
	Police Powers and Responsibilities Act 2000	293
	Private Health Facilities Act 1999	293
	Public Safety Preservation Act 1986	294
	Queensland Institute of Medical Research Act 1945	294
	Radiation Safety Act 1999	295
	Residential Services (Accreditation) Act 2002	295
	Transplantation and Anatomy Act 1979	295
Schedule 2	Dictionary	296

2005

A BILL

for

**An Act to protect and promote the health of the Queensland
public, and for other purposes**

The Parliament of Queensland enacts—	1
Chapter 1 Preliminary	2
Part 1 Introduction	3
1 Short title	4
This Act may be cited as the <i>Public Health Act 2005</i> .	5
2 Commencement	6
This Act commences on a day to be fixed by proclamation.	7
3 Act binds all persons	8
(1) Subject to subsection (2), this Act binds all persons, including the State and, so far as the legislative power of the Parliament permits, the Commonwealth and all the other States.	9 10 11
(2) The following provisions do not bind the State for local government public health risks—	12 13
(a) chapter 2, part 3; ¹	14
(b) section 386; ²	15
(c) sections 394 and 395. ³	16
(3) Nothing in this Act makes the Commonwealth or a State liable to be prosecuted for an offence.	17 18

1 Chapter 2 (Environmental health), part 3 (Public health orders)

2 Section 386 (Power to enter place to ascertain if public health risk)

3 Sections 394 (Application for warrant) and 395 (Issue of warrant)

4	Contravention of this Act does not create civil cause of action	1 2
	No provision of this Act creates a civil cause of action based on a contravention of the provision.	3 4
5	Act does not affect other rights or remedies	5
	(1) This Act does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.	6 7 8
	(2) Without limiting subsection (1), compliance with this Act does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.	9 10 11 12
Part 2	Object	13
6	Object of Act	14
	The object of this Act is to protect and promote the health of the Queensland public.	15 16
7	How object is mainly achieved	17
	The object is to be mainly achieved by—	18
	(a) preventing, controlling and reducing risks to public health; and	19 20
	(b) providing for the identification of, and response to, notifiable conditions; and	21 22
	(c) imposing obligations on persons and particular health care facilities involved in the provision of declared health services to minimise infection risks; and	23 24 25
	(d) providing for the notification by doctors and registered nurses of child abuse and neglect, and protecting children who have been harmed or are at risk of harm when the children present at health service facilities; and	26 27 28 29

- (e) collecting and managing particular health information, and establishing mechanisms for health information held by the department to be accessed for appropriate research; and
- (f) inquiring into serious public health matters; and
- (g) responding to public health emergencies; and
- (h) providing for compliance with this Act to be monitored and enforced.

Part 3 Interpretation

- 8 Definitions**
- The dictionary in schedule 2 defines particular words used in this Act.

- 9 Notes in text**
- A note in the text of this Act is part of the Act.

Chapter 2 Environmental health

Part 1 Public health risks

- 10 Definitions for ch 2**
- In this chapter—
- local government public health risk* means a public health risk—
- (a) mentioned in section 11(1)(a) or (b)(i), (ii), (iii), (iv), (v) or (vi); or

- (b) prescribed under section 18 as a public health risk that is to be administered and enforced only by local governments. 1
2
3
- public health risk* see section 11. 4
- State public health risk* means a public health risk— 5
- (a) mentioned in section 11(1)(b)(vii) or (viii); or 6
- (b) prescribed under section 18 as a public health risk that is to be administered and enforced only by the State. 7
8

- 11 Meaning of *public health risk*** 9
- (1) *Public health risk* means— 10
- (a) an animal, structure, substance or other thing that— 11
- (i) is, or is likely to become, a breeding ground or source of food for designated pests; or 12
13
- (ii) harbours, or is likely to become something that harbours, designated pests; or 14
15
- (b) any of the following that is, or is likely to be, hazardous to human health, or that contributes to, or is likely to contribute to, disease in humans or the transmission of an infectious condition to humans— 16
17
18
19
- (i) a designated pest; 20
- (ii) water; 21
- (iii) waste; 22
- (iv) a dead or living animal, structure, substance or other thing that has been, or is likely to have been, exposed to an infectious condition; 23
24
25
- (v) a dispersal or release of a pesticide, herbicide, solvent or other chemical at a place other than a workplace; 26
27
28
- (vi) a dispersal or release of a by-product of manufacturing, construction, repair, alteration, cleaning or demolition work at a place other than a workplace; 29
30
31
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(vii) lead used, or being used, in a way that contravenes section 58 or 59;	1 2
(viii) paint used, or being used, in a way that contravenes the standard mentioned in section 60;	3 4
(ix) any other activity, animal, substance or other thing prescribed under a regulation.	5 6
<i>Examples for paragraph (vi)—</i>	7
1 drifting fibreglass dust resulting from building a fibreglass boat	8 9
2 propulsion into the environment of lead particles as a result of sandblasting lead-based paint	10 11
3 the release of asbestos fibres through the renovation of a house containing asbestos-cement sheeting or insulation material comprising or containing asbestos	12 13 14
(2) The Minister must not recommend to the Governor in Council the making of a regulation under subsection (1)(b)(ix) unless the Minister is satisfied the activity, animal, substance or other thing—	15 16 17 18
(a) is, or is likely to be, hazardous to human health; or	19
(b) contributes, or is likely to contribute, to disease in humans or to the transmission of an infectious condition to humans.	20 21 22
(3) In this section—	23
<i>animal</i> does not include a human.	24
<i>disease</i> includes a non-infectious condition.	25
<i>waste</i> includes an accumulation or deposit of a substance or a thing.	26 27
<i>water</i> includes potable water, water used for recreational purposes, recycled water, waste water and sewage.	28 29
<i>workplace</i> has the meaning given in the <i>Workplace Health and Safety Act 1995</i> .	30 31

Part 2	Roles of the State and local governments for public health risks	1 2 3
12	When Act administered only by the State	4
(1)	This Act is to be administered and enforced by the State and not by local governments for—	5 6
(a)	State public health risks; and	7
(b)	a regulation made under section 61 ⁴ that states that the regulation is to be administered and enforced by the State only.	8 9 10
(2)	This section is subject to section 14.	11
13	When Act administered only by local governments	12
(1)	This Act is to be administered and enforced by local governments and not by the State for—	13 14
(a)	local government public health risks; and	15
(b)	a regulation made under section 61 that states that the regulation is to be administered and enforced by local governments only.	16 17 18
(2)	This section is subject to section 14.	19
14	When State and local governments administer this Act in partnership	20 21
(1)	The chief executive and the chief executive officer of a local government may agree that—	22 23
(a)	the State do a thing in the administration or enforcement of this Act for a matter mentioned in section 13(1); or	24 25
(b)	the local government do a thing in the administration or enforcement of this Act for a matter mentioned in section 12(1).	26 27 28

4 Section 61 (Regulations about public health risks)

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- | | | |
|-----------|--|----------------------|
| (2) | For subsection (1)(a), the chief executive may perform functions and exercise powers for this Act for a matter mentioned in section 13(1), including appointing authorised persons. | 1
2
3
4 |
| (3) | For subsection (1)(b), a chief executive officer may perform functions and exercise powers for this Act for a matter mentioned in section 12(1), including appointing authorised persons. | 5
6
7
8 |
| (4) | An appointment under subsection (2) or (3) may be made before or after an agreement under this section. | 9
10 |
| 15 | Action by the State if local government does not administer and enforce this Act | 11
12 |
| (1) | Subsection (2) applies if the chief executive— | 13 |
| (a) | is reasonably of the opinion there is a significant risk to public health from a public health risk in a local government's area for a matter mentioned in section 13(1); and | 14
15
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| (b) | is satisfied a local government has not done, or sufficiently done, a thing in the administration or enforcement of this Act for the matter; and | 18
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20 |
| (c) | is reasonably of the opinion that doing the thing is necessary to remove or reduce the risk to public health from a public health risk, or prevent a risk to public health from recurring. | 21
22
23
24 |
| (2) | For subsection (1)(a), the chief executive must have regard to the following in forming an opinion about whether there is a significant risk to public health from the public health risk— | 25
26
27 |
| (a) | the potential consequences for the health of individuals; | 28 |
| (b) | the number of persons likely to be exposed to the risk. | 29 |
| (3) | The chief executive may do the thing and the reasonable costs and expenses incurred by the chief executive are a debt payable by the local government to the State. | 30
31
32 |
| (4) | For subsections (1), (2) and (3), the chief executive may perform functions and exercise powers for this Act for a | 33
34 |

	matter mentioned in section 13(1), including appointing authorised persons.	1 2
	(5) An appointment under subsection (4) may be made before or after a local government has not done a thing mentioned in subsection (1)(b).	3 4 5
16	Procedure before taking action under s 15	6
	Before the chief executive does a thing under section 15(3), the chief executive must—	7 8
	(a) consult with the chief executive officer of the local government; and	9 10
	(b) give the chief executive officer a reasonable opportunity to do the thing.	11 12
17	State may require report from local government	13
	(1) This section applies to a matter under this chapter administered and enforced—	14 15
	(a) by both the State and local governments in partnership under section 14; or	16 17
	(b) by local governments only.	18
	(2) The chief executive, by notice, may ask a local government to give the chief executive information about the local government's administration and enforcement of the matter within a stated reasonable time.	19 20 21 22
	(3) The local government must comply with the request.	23
	(4) However, before giving notice under this section, the chief executive must consult with the chief executive officer of the local government.	24 25 26
18	Regulation to prescribe who is to administer this Act for particular public health risks	27 28
	If a regulation is made under section 11(1)(b)(ix) prescribing a public health risk, the regulation must state whether this Act is to be administered and enforced for the public health risk by—	29 30 31 32

	(a) the State only; or	1
	(b) local governments only.	2
19	Effect of Act on local laws	3
	(1) This Act does not prevent a local government from making local laws about public health risks.	4 5
	(2) For this Act, local laws about public health risks have effect despite the <i>Local Government Act 1993</i> , section 31 ⁵ .	6 7
	(3) However, subsection (2) does not apply to a local law that is inconsistent with a regulation made under section 61.	8 9
20	Application of Local Government Act, chapter 15	10
	The following provisions of the <i>Local Government Act 1993</i> , chapter 15 do not apply to the administration and enforcement of this Act by a local government—	11 12 13
	(a) section 1060(2);	14
	(b) part 3;	15
	(c) section 1063 and sections 1065 to 1069;	16
	(d) part 4, division 2;	17
	(e) sections 1072 and 1076;	18
	(f) part 5, divisions 4 to 9.	19

5 *Local Government Act 1993*, section 31 (Inconsistency with State law)

Part 3	Public health orders	1
Division 1	Preliminary	2
21	What public health order may require	3
(1)	A public health order may require a person to do something at a place that is—	4 5
(a)	reasonably necessary to remove or reduce the risk to public health from a public health risk, or prevent a risk to public health from recurring; and	6 7 8
(b)	appropriate in the circumstances having regard to the nature and seriousness of the risk to public health at the time the order is made.	9 10 11
(2)	Without limiting subsection (1), a public health order may require a person to do any of the following at the place—	12 13
(a)	clean or disinfect the place, or part of the place, or a structure or other thing at the place, in the way stated in the order;	14 15 16
(b)	carry out insect or pest control at the place in the way stated in the order;	17 18
(c)	demolish stated structures or other property at the place in the way stated in the order;	19 20
(d)	remove stated material or items from the place to another place stated in the order in the way stated in the order;	21 22 23
(e)	dispose of stated material or items at the place in the way stated in the order, for example, by burying the material or items;	24 25 26
(f)	destroy animals at the place or remove animals from the place for destruction at another place in the way stated in the order;	27 28 29
(g)	stop using the place, or part of the place, for a stated purpose, within a stated period or until stated steps are taken.	30 31 32

(3)	A public health order must—	1
(a)	be in writing; and	2
(b)	state a period within which the person to whom it is given must comply with the order.	3 4
(4)	The period stated under subsection (3)(b) must be reasonable having regard to the risk to public health from the public health risk.	5 6 7
22	Public health orders about animals	8
(1)	This section applies if an authorised person reasonably believes there is a public health risk at a place involving an animal that has, or may have—	9 10 11
(a)	an exotic disease under the <i>Exotic Diseases in Animals Act 1981</i> ; or	12 13
(b)	a notifiable disease under the <i>Stock Act 1915</i> .	14
(2)	Before an authorised person issues a public health order relating to the animal, the chief executive or chief executive officer must consult the chief executive of the department in which the relevant one of those Acts is administered.	15 16 17 18
Division 2	Giving public health orders	19
23	Public health orders	20
(1)	If an authorised person reasonably believes that a person is responsible for a public health risk at a place, the authorised person may give a public health order to the person (the <i>recipient</i>).	21 22 23 24
(2)	The public health order must state—	25
(a)	the name and address of the recipient; and	26
(b)	the nature of the public health risk; and	27
(c)	the address of the place of the public health risk; and	28
(d)	the steps the recipient must take, or action the recipient must stop, at the place to remove or reduce the risk to	29 30

- public health from the public health risk, or prevent the risk to public health from recurring; and 1
2
- (e) the period within which the steps must be taken or the action must be stopped; and 3
4
- (f) the name of the authorised person; and 5
- (g) the name, address and contact details of the issuing authority; and 6
7
- (h) that it is an offence for the recipient not to comply with the order, unless the recipient has a reasonable excuse; and 8
9
10
- (i) that if the order is not complied with an application may be made to a magistrates court for an enforcement order. 11
12
- (3) The public health order must also set out, or state the effect of, sections 387 and 388.⁶ 13
14
- (4) The recipient must comply with the public health order, unless the recipient has a reasonable excuse. 15
16
- Maximum penalty—200 penalty units. 17
- Note—* 18
- If a recipient fails to comply with a public health order, the issuing authority may take action under chapter 9, for example under section 388. Other action may be taken under this Act, for example, under division 3 of this part. 19
20
21
22

Division 3 Enforcement of public health orders 23

24 Issuing authority may apply for enforcement order 24

- (1) This section applies if the issuing authority considers a person has contravened a public health order. 25
26
- (2) The issuing authority may apply to a magistrate for an order enforcing the public health order (an *enforcement order*). 27
28
- (3) The application must— 29

⁶ Sections 387 (Power to enter place to check compliance with public health order) and 388 (Power to enter place to take steps if public health order not complied with)

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	(a) be sworn; and	1
	(b) state the grounds on which the application is made; and	2
	(c) state the nature of the enforcement order sought; and	3
	(d) be accompanied by a copy of the public health order.	4
(4)	The magistrate may refuse to consider the application until the applicant gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.	5 6 7 8
	<i>Example—</i>	9
	The magistrate may require additional information supporting the application be given by statutory declaration.	10 11
25	Notice of hearing must be given	12
(1)	The person to whom the application relates must be given a notice at least 14 days before the day the application is to be heard.	13 14 15
(2)	The notice—	16
	(a) must be accompanied by a copy of the application; and	17
	(b) must state—	18
	(i) the time when and the place where the application is to be heard; and	19 20
	(ii) that the person may appear at the hearing and be heard on the application; and	21 22
	(iii) that, if the person does not appear, the application may be decided in the person's absence.	23 24
(3)	If the person appears at the time and place stated in the notice, the person is entitled to be heard on the application.	25 26
(4)	If the person does not appear at the time and place stated in the notice, the application may be decided in the person's absence.	27 28 29
26	When magistrate may order enforcement	30
	The magistrate may make an enforcement order against the person only if the magistrate is satisfied—	31 32

-
- (a) a public health order was given to the person; and 1
 - (b) the public health order was appropriate in the 2
circumstances having regard to the nature and 3
seriousness of the risk to public health from the public 4
health risk at the time the order was given; and 5
 - (c) the person has contravened the public health order; and 6
 - (d) notice under section 25 has been given to the person. 7

27 What enforcement order may require 8

- (1) The magistrate may make an enforcement order in the same 9
terms as the public health order, or in other terms the 10
magistrate considers appropriate. 11
- (2) Without limiting subsection (1), the magistrate may order 12
either— 13
 - (a) that— 14
 - (i) the person against whom the order is made take 15
steps to remove or reduce the risk to public health 16
from the public health risk, or prevent the risk to 17
public health from recurring; and 18
 - (ii) if the person fails to take the steps, the issuing 19
authority may enter the place and take the steps; or 20
 - (b) that the issuing authority may enter a place by its 21
employees or agents to take steps to remove or reduce 22
the risk to public health from the public health risk, or 23
prevent the risk to public health from recurring. 24
- (3) If the magistrate makes an order under subsection (2)(a), the 25
order must state— 26
 - (a) the address of the place the steps are to be taken; and 27
 - (b) the steps the person must take; and 28
 - (c) the period within which the steps must be taken; and 29
 - (d) that an authorised person— 30
 - (i) may enter the place to check whether the steps 31
under the order are being, or have been, taken; and 32

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- | | | |
|------|--|----------------------|
| (ii) | may use necessary and reasonable help and force to enter; and | 1
2 |
| (e) | the times and intervals for entry under paragraph (d); and | 3
4 |
| (f) | that if the steps required to be taken under the enforcement order have not been taken within the required period, the issuing authority may take the steps; and | 5
6
7
8 |
| (g) | that for paragraph (f), an employee or agent of the issuing authority— | 9
10 |
| (i) | may enter the place to take the steps under the order; and | 11
12 |
| (ii) | may use necessary and reasonable help and force to enter, if the employee or agent is an authorised person or is accompanied by an authorised person; and | 13
14
15
16 |
| (h) | the times and intervals for entry under paragraph (g); and | 17
18 |
| (i) | who must pay the costs of taking the steps; and | 19 |
| (j) | that it is an offence not to comply with the enforcement order unless the person has a reasonable excuse. | 20
21 |
| (4) | If the magistrate makes an order under subsection (2)(b), the order must state— | 22
23 |
| (a) | the address of the place where the steps are to be taken; and | 24
25 |
| (b) | the steps that may be taken at the place by the issuing authority; and | 26
27 |
| (c) | that an employee or agent of the issuing authority— | 28 |
| (i) | may enter the place to take the steps under the order; and | 29
30 |
| (ii) | may use necessary and reasonable help and force to enter, if the employee or agent is an authorised person or is accompanied by an authorised person; and | 31
32
33
34 |

(d)	the times and intervals for entry under paragraph (c); and	1 2
(e)	the day when the order ends; and	3
(f)	that an authorised person—	4
(i)	may enter the place to check whether the steps under the order are being, or have been, taken; and	5 6
(ii)	may use necessary and reasonable help and force to enter; and	7 8
(g)	the times and intervals for entry under paragraph (f); and	9
(h)	who must pay the cost of taking the steps.	10
28	Person must comply with enforcement order	11
(1)	A person must comply with an enforcement order unless the person has a reasonable excuse.	12 13
	Maximum penalty—400 penalty units.	14
(2)	Subsection (1) does not limit any other liability a person may incur for a contravention of the order.	15 16
29	Application may be dealt with in proceeding for offence	17
(1)	This section applies if a person to whom an application for an enforcement order relates is being prosecuted for an offence against section 23(4).	18 19 20
(2)	The application may be dealt with in the prosecution proceedings.	21 22
Division 4	Taking steps under enforcement order	23 24
30	Procedure before entry under enforcement order	25
(1)	This section applies if—	26
(a)	an enforcement order allows—	27

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|-----------|--|----------------------------|
| (i) | an issuing authority to enter a place by its employees or its agents to take steps under the order; or | 1
2
3 |
| (ii) | an authorised person to enter a place to check whether the steps under the order are being, or have been, taken; and | 4
5
6 |
| (b) | the employees, agents or authorised person intends to enter the place under the order. | 7
8 |
| (2) | Before entering the place, the employee, agent or authorised person must do or make a reasonable attempt to do the following— | 9
10
11 |
| (a) | identify himself or herself to a person present at the place who is an occupier of the place; | 12
13 |
| (b) | give the person a copy of the order; | 14 |
| (c) | tell the person that the employee, agent or authorised person is permitted by the order to enter the place; | 15
16 |
| (d) | give the person an opportunity to allow the employee, agent or authorised person immediate entry to the place without using force. | 17
18
19 |
| (3) | However, the employee, agent or authorised person need not comply with subsection (2) if the employee, agent or authorised person believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the order is not frustrated. | 20
21
22
23
24 |
| 31 | Costs under enforcement order recoverable as a debt | 25 |
| (1) | The issuing authority may recover the amount payable by a person ordered to pay the costs under an enforcement order as a debt due to the issuing authority. | 26
27
28 |
| (2) | For subsection (1), the amount becomes payable 30 days after the issuing authority gives the person details of the amount of the costs. | 29
30
31 |
| (3) | If the issuing authority is a local government— | 32 |
| (a) | the amount payable to the local government bears interest as if it were an amount of an overdue rate | 33
34 |

	payable to a local government under the <i>Local Government Act 1993</i> ; and	1 2
	(b) the amount payable plus interest may be recovered by the local government as if the total amount were an amount of an overdue rate payable to a local government under the <i>Local Government Act 1993</i> .	3 4 5 6
32	Cost under enforcement order a charge over land	7
	(1) This section applies if an amount (including any interest on the amount) (the <i>unpaid amount</i>) is payable to a local government by a person under an enforcement order that relates to a public health risk on land owned by the person.	8 9 10 11
	(2) The unpaid amount is a charge on the land.	12
	(3) The local government may lodge a request to register the charge in the appropriate form over the land with the registrar of titles.	13 14 15
	(4) The request must be accompanied by a certificate signed by the local government's chief executive officer stating there is a charge over the land under this section.	16 17 18
	(5) A registered charge has priority over all other encumbrances over the land other than—	19 20
	(a) encumbrances in favour of the State or a government entity; and	21 22
	(b) rates payable to the local government.	23
	(6) The charge is in addition to any other remedy the local government has for recovery of the unpaid amount.	24 25
Division 5	Recovery of costs from third parties	26
33	Recipient may apply for contribution	27
	(1) This section applies if the recipient of a public health order has complied with the order and considers another person (the <i>third party</i>) is wholly or partly responsible for the public health risk the subject of the order.	28 29 30 31

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- (2) The recipient may apply to a magistrates court for an order that the third party pay part or all of the costs of removing or reducing the risk to public health from the public health risk, or of preventing the risk to public health from recurring (the *cost recovery order*).
- (3) The application must—
- (a) be sworn; and
 - (b) state the grounds on which the application is made; and
 - (c) state the name of the third party; and
 - (d) state the amount sought from the third party; and
 - (e) be accompanied by a copy of the public health order.
- (4) The magistrate may refuse to consider the application until the applicant gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.
- Example—*
- The magistrate may require additional information supporting the application be given by statutory declaration.

34 Notice of hearing of cost recovery order must be given

- (1) The third party to whom the application relates must be given a notice at least 14 days before the day the application is to be heard.
- (2) The notice—
- (a) must be accompanied by a copy of the application; and
 - (b) must state—
 - (i) the time when and the place where the application is to be heard; and
 - (ii) that the third party may appear at the hearing and be heard on the application; and
 - (iii) that, if the third party does not appear, the application may be decided in the absence of the third party.

(3)	If the third party appears at the time and place stated in the notice, the third party is entitled to be heard on the application.	1 2 3
(4)	If the third party does not appear at the time and place stated in the notice, the application may be decided in the absence of the third party.	4 5 6
35	When magistrate's court may make cost recovery order	7
(1)	A magistrates court may make a cost recovery order against the third party if it is satisfied—	8 9
(a)	a public health order was given to a person; and	10
(b)	the person has complied with the order and has paid, or is liable to pay, an amount for the cost of complying with the order; and	11 12 13
(c)	the third party is responsible for part or all of the public health risk the subject of the order; and	14 15
(d)	a copy of the application for the cost recovery order has been given to the third party.	16 17
(2)	An order made by the court is a judgment in the court's civil jurisdiction.	18 19
Part 4	Authorised prevention and control programs	20 21
36	Chief executive may authorise prevention and control program	22 23
(1)	This section applies if the chief executive is satisfied there is, or is likely to be, in an area—	24 25
(a)	an outbreak of a disease capable of transmission to humans by designated pests; or	26 27
(b)	a plague or infestation of designated pests.	28

-
- (2) The chief executive may authorise, in writing, a prevention and control program for the area (the *chief executive's authorisation*). 1
2
3
- (3) However, subsection (4) applies if a prevention and control program relates to the outbreak of— 4
5
- (a) an exotic disease under the *Exotic Diseases in Animals Act 1981*; or 6
7
- (b) a notifiable disease under the *Stock Act 1915*. 8
- (4) Before authorising the prevention and control program, the chief executive must consult the chief executive of the department in which the relevant one of those Acts is administered. 9
10
11
12
- (5) Also, before authorising a prevention and control program the chief executive must consult with the local government for the area to which the program relates. 13
14
15
- 37 What chief executive's authorisation must state** 16
- The chief executive's authorisation must state the following— 17
- (a) the reasons for the prevention and control program; 18
- (b) the designated pests to which the program relates; 19
- (c) the area to which the program relates; 20
- (d) the types of places within the area to which the program relates; 21
22
- (e) the measures to be taken under the program; 23
- (f) the duration of the program; 24
- (g) who is to undertake the program; 25
- (h) any conditions about the way the program is to be undertaken. 26
27
- 38 Publication of authorisation** 28
- (1) The chief executive must publish the chief executive's authorisation at least 7 days before the start of the program, in the area to which the program relates, by newspaper, radio or television. 29
30
31
32

	(2) Failure to publish the authorisation does not affect the authorisation.	1 2
39	Who may undertake prevention and control program	3
	(1) For section 37(g) the chief executive may authorise—	4
	(a) 1 or more local governments, if the chief executive officer of each local government agrees; or	5 6
	(b) the State; or	7
	(c) the State and 1 or more local governments, if the chief executive officer of each local government agrees.	8 9
	(2) A prevention and control program must be undertaken by authorised persons.	10 11
40	Powers available for prevention and control program	12
	(1) For undertaking a prevention and control program, an authorised person may exercise only the powers under this part and must not exercise the powers under chapter 9.	13 14 15
	(2) Subsection (1) does not apply to the investigation by an authorised person of the contravention of a provision of this part.	16 17 18
41	Power of authorised persons to enter place for prevention and control program	19 20
	(1) For undertaking a prevention and control program, an authorised person may enter a place in the area to which the program relates at any reasonable time of the day or night, to search for—	21 22 23 24
	(a) the designated pests to which the program relates; and	25
	(b) an animal, structure, substance or other thing that—	26
	(i) is, or is likely to become, a breeding ground or source of food for designated pests; or	27 28
	(ii) harbours, or is likely to become something that harbours, designated pests.	29 30

(2)	An authorised person may not enter a dwelling under subsection (1) without the occupier's consent.	1 2
(3)	For subsection (2), the following do not form part of a dwelling—	3 4
(a)	a carport, other than a carport to which access is restricted;	5 6
(b)	the area of a verandah or deck to which access is not restricted and no provision is made to restrict access;	7 8
(c)	the area underneath the dwelling to which access is not restricted and no provision is made to restrict access;	9 10
(d)	any other external part of the dwelling, including, for example, the dwelling's gutters;	11 12
(e)	land around the dwelling.	13
42	Notification of entry	14
(1)	This section applies if an authorised person enters a place under section 41 and an occupier is present at the place.	15 16
(2)	The authorised person must immediately after entering the place—	17 18
(a)	produce the authorised person's identity card for the occupier's inspection; and	19 20
(b)	inform the occupier about the prevention and control program.	21 22
43	Powers of authorised persons after entry	23
(1)	This section applies if an authorised person enters a place under section 41.	24 25
(2)	The authorised person may exercise the following powers—	26
(a)	take reasonable steps to eradicate or prevent the occurrence or recurrence of the designated pests, including by the use of pesticides;	27 28 29
(b)	take a thing, or a sample of or from a thing, at the place for analysis or testing;	30 31

	(c) take into or onto the place any persons, equipment and materials the authorised person reasonably requires for exercising a power under this section;	1 2 3
	(d) require a person at the place to give the authorised person reasonable help to exercise the authorised person's powers under paragraphs (a) to (c).	4 5 6
(3)	When making a requirement mentioned in subsection (2)(d), the authorised person must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.	7 8 9 10
(4)	Also, the authorised person may, under part 3, give a person a public health order if—	11 12
	(a) the authorised person is appointed for part 3; and	13
	(b) the public health order is for the prevention or control of the designated pests to which the prevention and control program relates.	14 15 16
44	Failure to help authorised person	17
	A person required to give reasonable help under section 43(2)(d) must comply with the requirement, unless the person has a reasonable excuse.	18 19 20
	Maximum penalty—50 penalty units.	21
45	Person must not interfere with steps taken	22
	A person must not do anything that interferes with a step taken by an authorised person under a prevention and control program, unless the person has a reasonable excuse.	23 24 25
	Maximum penalty—100 penalty units.	26
46	Notification of prevention and control program	27
	An authorised person must, after exercising the authorised person's powers under a prevention and control program at a place—	28 29 30
	(a) if an occupier is present at the place, inform the occupier—	31 32

(i)	of any steps taken, or to be taken, under the program to eradicate or prevent the occurrence or recurrence of the designated pests; and	1 2 3
(ii)	if steps have been taken, or are to be taken—that it is an offence to do anything that interferes with a step taken; or	4 5 6
(b)	if an occupier is not present at the place, leave a notice at the place in a reasonably secure way and in a conspicuous position stating—	7 8 9
(i)	the purpose of the prevention and control program; and	10 11
(ii)	any steps taken, or to be taken, under the program to eradicate or prevent the occurrence or recurrence of designated pests; and	12 13 14
(iii)	if steps have been taken, or are to be taken—that it is an offence to do anything that interferes with a step taken; and	15 16 17
(iv)	the name and contact details of the authorised person.	18 19
Part 5	Environmental health events	20
Division 1	Definition	21
47	Meaning of <i>environmental health event</i>	22
(1)	An <i>environmental health event</i> is an event involving human exposure to a substance or other thing that is known to have, or is reasonably suspected of having, an adverse effect on human health.	23 24 25 26
(2)	Exposure may happen in connection with—	27
(a)	a single identifiable event; or	28

	<i>Example of a single identifiable event—</i>	1
	an outbreak in a hospital of a new strain of a previously controlled bacterial infection	2 3
	(b) a situation that happens over a period of time.	4
	<i>Example of a situation that happens over a period of time—</i>	5
	the exposure to industrial fumes, over a period of years, of persons in a populated area	6 7
Division 2	Establishment of environmental health event register	8 9
48	Environmental health event register	10
	(1) The chief executive may establish and keep a register (an <i>environmental health event register</i>) for an environmental health event if the chief executive considers the event has or may have significant direct or indirect adverse effects on human health.	11 12 13 14 15
	(2) The chief executive may keep the register in a form the chief executive considers appropriate, including an electronic form.	16 17
	(3) Before establishing the register, the chief executive must obtain and consider the views of a human research ethics committee about the register.	18 19 20
49	Purposes of register	21
	The purposes for establishing an environmental health event register for an environmental health event are the following—	22 23
	(a) to help monitor and analyse any adverse effects on human health resulting from the event;	24 25
	(b) to provide information that may help in the prevention, minimisation or treatment of any adverse effects on human health resulting from the event or a similar future event.	26 27 28 29
50	What register must contain	30
	An environmental health event register must contain—	31

- (a) the information that is necessary or convenient for giving effect to the purposes of the register; and 1
2
- (b) any information prescribed under a regulation. 3

Division 3 Notifications about environmental health event register 4 5

- 51 Notification of establishment of register** 6
- (1) As a soon as practicable after establishing an environmental health event register the chief executive must notify the register's establishment in the gazette. 7
8
9
 - (2) The notification must include the following— 10
 - (a) a description of the environmental health event; 11
 - (b) a description of the substance or other thing relevant to the event known to have, or suspected of having, an adverse effect on human health; 12
13
14
 - (c) the type of human exposure to the substance or thing as a result of the event; 15
16
 - (d) the geographic area of human exposure to the substance or thing as a result of the event; 17
18
 - (e) contact details within the department where further details about the register may be obtained. 19
20

- 52 Notification inviting inclusion in register** 21
- (1) As soon as practicable after notifying the establishment of an environmental health event register for an environmental health event the chief executive must— 22
23
24
 - (a) notify all persons the chief executive considers may have been exposed to a substance or thing because of the event; and 25
26
27
 - (b) if satisfied a person may have been exposed to a substance or thing as a result of the event, offer the person the opportunity of having the person's details included on the register. 28
29
30
31

	(2) Notification under subsection (1)(a) may be made in the way	1
	the chief executive considers appropriate, including, for	2
	example, by personal notification or by way of newspaper,	3
	radio or television.	4
Division 4	Confidentiality and use of	5
	information supplied for	6
	environmental health event register	7
53	Definitions for div 4	8
	In this division—	9
	<i>confidential information</i> means information that has become	10
	known to a relevant person in the course of performing the	11
	relevant person's functions for this part.	12
	<i>information</i> includes a document.	13
	<i>relevant person</i> means the following—	14
	(a) a person who is, or was, the chief executive;	15
	(b) a person who is, or was, involved in the administration	16
	or enforcement of this part, including, for example, a	17
	health service employee or a public service employee.	18
54	Restriction on inconsistent use of information	19
	A relevant person must not use confidential information for a	20
	purpose inconsistent with the purposes of the relevant	21
	environmental health event register.	22
	Maximum penalty—50 penalty units.	23
55	Confidentiality of information	24
	(1) A relevant person must not, whether directly or indirectly,	25
	disclose confidential information.	26
	Maximum penalty—50 penalty units.	27
	(2) However, subsection (1) does not apply if—	28
	(a) the confidential information is disclosed—	29

	(i) in the performance of functions under this Act; or	1
	(ii) with the written consent of the person to whom the information relates; or	2 3
	(iii) to the person to whom the information relates; or	4
	(iv) in a form that could not identify any person; or	5
	(b) the disclosure of the confidential information is authorised under an Act or another law.	6 7
(3)	The <i>Health Services Act 1991</i> , section 62A does not apply to a relevant person in relation to confidential information.	8 9
	<i>Note—</i>	10
	As a specific offence is created under subsection (1), subsection (3) provides that the more general provision in the <i>Health Services Act 1991</i> , section 62A (Confidentiality) does not apply.	11 12 13
56	Release of information for an investigation under the Coroners Act	14 15
(1)	This section applies if a coroner is investigating the death of a person.	16 17
(2)	The chief executive may give to the coroner, or to a police officer helping the coroner to investigate the death, information from the environmental health event register that is relevant to the person's death.	18 19 20 21
(3)	The coroner or police officer to whom the information is given and anyone else to whom the information is subsequently given under this subsection must not use or disclose the information other than—	22 23 24 25
	(a) for a purpose of the investigation; or	26
	(b) as otherwise required or permitted under this or another Act.	27 28
57	Use of environmental health event register	29
(1)	The Minister may, by gazette notice, declare that information contained in an environmental health event register is protected information.	30 31 32

-
- (2) The Minister may make a declaration under subsection (1) only if the Minister reasonably believes it is in the public interest to do so. 1
2
3
- (3) If the Minister makes a declaration under subsection (1), the protected information— 4
5
- (a) can not be accessed under any order, whether of a judicial or administrative nature, other than an order for the purpose of this Act; and 6
7
8
- (b) is not admissible in any proceeding, other than a proceeding under this Act. 9
10
- (4) A person can not be compelled to produce the protected information, or to give evidence relating to the protected information, in any proceeding, other than a proceeding under this Act. 11
12
13
14
- (5) Subsections (3)(b) and (4) do not apply if the protected information is admitted or produced, or evidence relating to the information is given, with the consent of the person to whom the information relates. 15
16
17
18
- (6) Nothing in this section limits— 19
- (a) the giving, use or disclosure of information under section 56; or 20
21
- (b) access to protected information by the chief executive or a person authorised by the chief executive. 22
23
- (7) In this section— 24
25
- order* includes a direction or other process.

Part 6 Lead 26

58 Lead in buildings must not be accessible to children 27

- (1) A person must not use or permit the use of lead in, or for the purposes of, constructing, erecting, altering, extending, improving, renovating or repairing a building or part of a building if the lead is, or may be, easily accessible to children. 28
29
30
31

	Maximum penalty—100 penalty units.	1
(2)	The owner of a building, or part of a building, must not knowingly allow lead to remain in or on the building or part of the building if the lead is, or may be, easily accessible to children.	2 3 4 5
	Maximum penalty—100 penalty units.	6
59	Lead must not be used in water collection	7
(1)	A person must not use, or permit the use of, in a building any of the following things if the thing has in or on it a substance that contains lead—	8 9 10
	(a) a roof, guttering, downpipe or other thing for carrying water to a tank or other receptacle for potable water;	11 12
	(b) a tank or other receptacle for potable water.	13
	Maximum penalty—100 penalty units.	14
(2)	The owner of a building must not knowingly allow any of the following to remain in the building if they have in or on them a substance that contains lead—	15 16 17
	(a) a roof, guttering, downpipe or other thing for carrying water to a tank or other receptacle for potable water;	18 19
	(b) a tank or other receptacle for potable water.	20
	Maximum penalty—100 penalty units.	21

Part 7 Paint 22

60	Person must comply with standard	23
(1)	A person manufacturing, selling, supplying or using paint must comply with the standard.	24 25
	Maximum penalty—100 penalty units.	26
(2)	In this section—	27
	<i>prescribed</i> means prescribed under a regulation.	28

standard means the prescribed part of the *Standard for the Uniform Scheduling of Drugs and Poisons* dealing with paint, compiled by the Australian Health Ministers' Advisory Council and published by the Commonwealth.

Part 8	Regulations about public health risks	5
		6
61	Regulations about public health risks	7
(1)	A regulation may be made for this chapter about public health risks including—	8
		9
(a)	standards for water quality in residential and non-residential swimming pools, spas, hydrotherapy pools, waterslides and recreational water parks, for human use; and	10
		11
		12
		13
(b)	measures to control designated pests, including—	14
(i)	standards for the proofing of any building against designated pests; and	15
		16
(ii)	procedures to be followed to prevent the breeding of, to eliminate any refuge or food source for, or to eradicate, designated pests; and	17
		18
		19
(iii)	the imposition of a permit system for keeping designated pests; and	20
		21
(c)	measures to prevent and control public health risks.	22
(2)	A regulation made under this section must state whether the regulation is to be administered and enforced by—	23
		24
(a)	the State only; or	25
(b)	local governments only.	26
(3)	A regulation made under this section does not bind the State except to the extent prescribed by the regulation.	27
		28

Chapter 3	Notifiable conditions	1
Part 1	Definitions, purpose of chapter and guiding principles	2
		3
62	Definitions for ch 3	4
	In this chapter—	5
	<i>anonymity code</i> means a code of letters, numbers, or letters and numbers used to designate a particular person.	6
		7
	<i>clinical diagnosis notifiable condition</i> means a notifiable condition—	8
		9
	(a) a diagnosis of which can be made on the basis of clinical evidence, including clinical history, signs and symptoms; and	10
		11
		12
	(b) prescribed under a regulation as a clinical diagnosis notifiable condition.	13
		14
	<i>controlled notifiable conditions order</i> see section 116(1).	15
	<i>Notifiable Conditions Register</i> see section 67.	16
	<i>pathological diagnosis notifiable condition</i> means a notifiable condition—	17
		18
	(a) a diagnosis of which can be made on the basis of a pathological examination of a specimen of human origin; and	19
		20
		21
	(b) prescribed under a regulation as a pathological diagnosis notifiable condition.	22
		23
	<i>pathology request notifiable condition</i> means a notifiable condition prescribed under a regulation as a pathology request notifiable condition.	24
		25
		26
	<i>provisional diagnosis notifiable condition</i> means a notifiable condition—	27
		28
	(a) a provisional diagnosis of which can be made on the basis of clinical evidence, including clinical history, signs and symptoms; and	29
		30
		31

	(b) prescribed under a regulation as a provisional diagnosis notifiable condition.	1 2
	<i>register</i> means the Notifiable Conditions Register.	3
63	Meaning of <i>controlled notifiable condition</i>	4
	(1) A <i>controlled notifiable condition</i> is a notifiable condition prescribed under a regulation as a controlled notifiable condition.	5 6 7
	(2) However, the Minister must not recommend to the Governor in Council the making of a regulation under subsection (1) unless the Minister is satisfied—	8 9 10
	(a) the condition may have a substantial impact on public health; and	11 12
	(b) the ordinary conduct of a person with the condition is likely to result in the transmission of the condition to someone else; and	13 14 15
	(c) the transmission of the condition will result in, or is likely to result in, long term or serious deleterious consequences for the health of the person to whom the condition is transmitted.	16 17 18 19
64	Meaning of <i>notifiable condition</i>	20
	(1) A <i>notifiable condition</i> is a medical condition prescribed under a regulation as a notifiable condition.	21 22
	(2) However, the Minister must not recommend to the Governor in Council the making of a regulation under subsection (1) unless the Minister is satisfied the condition is a significant risk to public health.	23 24 25 26
65	Purpose of ch 3	27
	The purpose of this chapter is to protect persons from notifiable conditions through mechanisms that provide an appropriate balance between the health of the public and the right of individuals to liberty and privacy.	28 29 30 31

66	Guiding principles for ch 3	1
(1)	The principles intended to guide the achievement of this chapter's purpose are the following—	2 3
(a)	the spread of notifiable conditions should be prevented or minimised without unnecessarily infringing the liberty or privacy of individuals;	4 5 6
(b)	a person at risk of contracting a notifiable condition should take all reasonable precautions to avoid contracting or being infected with the condition;	7 8 9
(c)	a person who suspects he or she may have a notifiable condition should ascertain—	10 11
(i)	whether he or she has the condition; and	12
(ii)	what precautions should be taken to prevent others from contracting the condition.	13 14
(2)	For subsection (1), a person at risk of contracting, who suspects he or she may have, or who has, a notifiable condition has a right—	15 16 17
(a)	to be protected from unlawful discrimination; and	18
(b)	to have his or her privacy respected; and	19
(c)	to make informed decisions about his or her medical treatment.	20 21
(3)	Nothing in this section limits the <i>Anti-Discrimination Act 1991</i> , section 107. ⁷	22 23

⁷ *Anti-Discrimination Act 1991*, section 107—

107 Public health

A person may do an act that is reasonably necessary to protect public health.

Part 2	Notifiable conditions register	1
Division 1	Establishment and purpose of notifiable conditions register	2
		3
67	Register	4
(1)	The chief executive must establish and keep a register of the persons for whom notifications have been given to the chief executive under this part.	5 6 7
(2)	The register must include details of deceased persons for whom notifications have been given.	8 9
(3)	The chief executive must keep the register in a form the chief executive considers appropriate, including an electronic form.	10 11
(4)	The register is to be known as the Notifiable Conditions Register.	12 13
68	Purposes of register	14
	The purposes for establishing the register are as follows—	15
(a)	to supply data to help in—	16
(i)	monitoring and analysing the incidence and patterns of notifiable conditions; or	17 18
(ii)	studying the efficacy of the management and treatment of notifiable conditions; or	19 20
(iii)	increasing public awareness of notifiable conditions;	21 22
(b)	to identify outbreaks of notifiable conditions so the Commonwealth, the State or a local government can take steps to protect public health;	23 24 25
(c)	to help in the identification of persons who have, or may have, contracted a notifiable condition so that—	26 27
(i)	the Commonwealth, the State or a local government can take action to prevent or minimise transmission of the notifiable condition; or	28 29 30

	(ii) the persons may be medically examined and undergo treatment for the notifiable condition;	1 2
	(d) to help in the planning of services and strategies to prevent or minimise the transmission of notifiable conditions.	3 4 5
Division 2	Notices about notifiable conditions	6
69	Application of div 2	7
	The requirement to notify or give information under this division relating to a person applies also in relation to a deceased person.	8 9 10
70	When a doctor must notify	11
	(1) A doctor must, under subsection (2), notify the chief executive if an examination of a person by the doctor indicates that the person—	12 13 14
	(a) has or had a clinical diagnosis notifiable condition; or	15
	(b) has or had a provisional diagnosis notifiable condition.	16
	Maximum penalty—20 penalty units.	17
	(2) The notice must—	18
	(a) comply with the requirements prescribed under a regulation; and	19 20
	(b) be in the approved form.	21
	(3) Subsection (1) does not apply if the examination was carried out in a hospital.	22 23
71	When the person in charge of hospital must notify	24
	(1) A person in charge of a hospital must, under subsection (2), unless the person in charge has a reasonable excuse, notify the chief executive if an examination of a person by a doctor in the hospital indicates the person—	25 26 27 28
	(a) has or had a clinical diagnosis notifiable condition; or	29

	(b) has or had a provisional diagnosis notifiable condition.	1
	Maximum penalty—20 penalty units.	2
(2)	A notice under subsection (1) must—	3
	(a) comply with the requirements prescribed under a regulation; and	4 5
	(b) be in the approved form.	6
72	When the director of a pathology laboratory must notify a pathological diagnosis notifiable condition	7 8
(1)	The director of a pathology laboratory must, under subsection (2), unless the director has a reasonable excuse, notify the chief executive if a pathological examination of a specimen of human origin in the laboratory indicates that the person from whom the specimen was taken has or had a pathological diagnosis notifiable condition.	9 10 11 12 13 14
	Maximum penalty—20 penalty units.	15
(2)	The notice must—	16
	(a) comply with the requirements prescribed under a regulation; and	17 18
	(b) include the name of the doctor who referred the person's specimen for pathological examination; and	19 20
	(c) be in the approved form.	21
73	When the director of a pathology laboratory must notify pathology request notifiable condition	22 23
(1)	The director of a pathology laboratory must, under subsection (2), unless the director has a reasonable excuse, notify the chief executive if the laboratory receives a request for a pathological examination of a specimen of human origin for a pathology request notifiable condition.	24 25 26 27 28
	Maximum penalty—20 penalty units.	29
(2)	The notice must—	30
	(a) comply with the requirements prescribed under a regulation; and	31 32

- (b) include the name of the doctor who referred the person's specimen for pathological examination; and 1
2
- (c) be in the approved form. 3

74 Anonymity coding 4

A person required to notify the chief executive under this division may give the notice using an anonymity code. 5
6

75 Further information may be required 7

- (1) This section applies if the chief executive considers further information is required in relation to a notice given under this division— 8
9
10
 - (a) to ensure the accuracy, completeness or integrity of the register; or 11
12
 - (b) to prevent or minimise the spread of a notifiable condition. 13
14
- (2) The chief executive may ask the following persons to give stated information within a stated time to the chief executive— 15
16
17
 - (a) the person who gave the notice; 18
 - (b) the doctor mentioned in a notice under section 72 or 73 as the doctor who referred the specimen for pathological examination; 19
20
21
 - (c) another doctor or person who is involved in the treatment of the person for whom a notice was given under this division. 22
23
24
- (3) If a person refuses or fails to comply with a requirement under subsection (2), the chief executive may give the person a notice requiring the person to give the information stated in the notice to the chief executive within the reasonable time stated in the notice. 25
26
27
28
29
- (4) A notice under subsection (3) may require a person to give the full name of, and other identifying information about, a person for whom an anonymity code has been used. 30
31
32

(5)	The notice must warn the person that failure to comply with the notice is an offence under this Act.	1 2
(6)	A person given a notice under subsection (3) must comply with the notice, unless the person has a reasonable excuse. Maximum penalty—20 penalty units.	3 4 5
(7)	A person who gives information requested under this section who would otherwise be required to maintain confidentiality about the information given under an Act, ⁸ oath, rule of law or practice—	6 7 8 9
(a)	does not contravene the Act, oath, rule of law or practice by giving the information; and	10 11
(b)	is not liable to disciplinary action for giving the information.	12 13
(8)	Also, merely because the person gives the information, the person can not be held to have—	14 15
(a)	breached any code of professional etiquette or ethics; or	16
(b)	departed from accepted standards of professional conduct.	17 18
Division 3	Confidentiality of information and use of information supplied for notifiable conditions register	19 20 21
76	Definitions for div 3	22
	In this division—	23
	<i>confidential information</i> means information that has become known to a relevant person in the course of performing the relevant person's functions under this part or the repealed provisions.	24 25 26 27
	<i>entity of the State</i> includes a department and an entity established under an Act for a public purpose.	28 29
	<i>information</i> includes a document.	30

8 See for example the *Health Services Act 1991*, section 62A.

	<i>relevant person</i> means the following—	1
	(a) a person who is, or was, the chief executive;	2
	(b) a person who is, or was, involved in the administration or enforcement of this part, including, for example, a health service employee or a public service employee;	3 4 5
	(c) a person who was involved in the administration or enforcement of the repealed provisions.	6 7
	<i>repealed provisions</i> means the <i>Health Act 1937</i> , part 3, division 2.	8 9
77	Confidentiality of information	10
	(1) A relevant person must not, whether directly or indirectly, disclose confidential information.	11 12
	Maximum penalty—50 penalty units.	13
	(2) The <i>Health Services Act 1991</i> , section 62A, does not apply to a relevant person in relation to confidential information.	14 15
78	Disclosure under an Act or another law	16
	Section 77(1) does not apply if the disclosure of the confidential information by a relevant person is authorised under an Act or another law.	17 18 19
79	Disclosure under Act or with written consent etc.	20
	Section 77(1) does not apply if the confidential information is disclosed by a relevant person—	21 22
	(a) in the performance of functions under this Act; or	23
	(b) with the written consent of the person to whom the information relates; or	24 25
	(c) to the person to whom the information relates; or	26
	(d) in a form that could not identify any person.	27

80	Disclosure about notifiable conditions and contact tracing	1 2
	Section 77(1) does not apply if the disclosure of the confidential information by a relevant person is authorised by the chief executive for the purposes of—	3 4 5
	(a) monitoring the incidence and patterns of notifiable conditions; or	6 7
	(b) identifying the source of outbreaks of notifiable conditions; or	8 9
	(c) identifying persons who may transmit a notifiable condition to others, to prevent or minimise the transmission of the condition; or	10 11 12
	(d) identifying persons who may have contracted, or may be at risk of contracting, a notifiable condition, to prevent or minimise the transmission of the condition; or	13 14 15
	(e) contact tracing by a contact tracing officer.	16
 81	 Disclosure of confidential information in the public interest	 17 18
	(1) Section 77(1) does not apply to the disclosure of confidential information by a relevant person if—	19 20
	(a) the chief executive believes, on reasonable grounds, the disclosure is in the public interest; and	21 22
	(b) the chief executive has, in writing, authorised the disclosure.	23 24
	(2) The department's annual report for a financial year under the <i>Financial Administration and Audit Act 1977</i> must include details of—	25 26 27
	(a) the nature of any confidential information disclosed under subsection (1) during the financial year; and	28 29
	(b) the purpose for which the confidential information was disclosed.	30 31
	(3) However, the details mentioned in subsection (2)(a) must not identify, directly or indirectly, the person to whom the confidential information relates.	32 33 34

	(4) Despite the <i>Public Service Act 1996</i> , section 57, the chief executive may not delegate the chief executive's power under subsection (1).	1 2 3
82	Disclosure for data collection and public health monitoring	4 5
	Section 77(1) does not apply to the disclosure of confidential information by a relevant person if—	6 7
	(a) the disclosure is to an employee of the department or a person approved by the chief executive who is contracted by the department to analyse, monitor or evaluate public health; and	8 9 10 11
	(b) the disclosure and receipt of the confidential information is for analysing, monitoring or evaluating public health; and	12 13 14
	(c) the employee of the department or other person is authorised in writing by the chief executive to receive the confidential information.	15 16 17
83	Disclosure for purposes relating to health services	18
	Section 77(1) does not apply to the disclosure of confidential information by a relevant person if—	19 20
	(a) the disclosure is to an employee of the department or a person approved by the chief executive who is contracted by the department to evaluate, manage, monitor or plan health services; or	21 22 23 24
	(b) the disclosure is to an entity prescribed under a regulation for this paragraph for evaluating, managing, monitoring or planning health services as stated in the regulation.	25 26 27 28
84	Disclosure to Commonwealth, another State or Commonwealth or State entity	29 30
	(1) Section 77(1) does not apply to the disclosure of confidential information by the chief executive if—	31 32

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- (a) the disclosure is to the Commonwealth or another State, or an entity of the Commonwealth or another State and the disclosure—
- (i) is required or allowed under an agreement—
- (A) between Queensland and the Commonwealth, State or entity; and
- (B) prescribed under a regulation for this paragraph; and
- (ii) is considered by the chief executive to be in the public interest; or
- (b) the disclosure is to an entity of the State and the disclosure—
- (i) is required or allowed under an agreement—
- (A) between the chief executive and the entity; and
- (B) prescribed under a regulation for this paragraph; and
- (ii) is considered by the chief executive to be in the public interest.
- (2) The Commonwealth, a State or entity that receives confidential information under an agreement under subsection (1)—
- (a) must not give it to anyone else unless allowed to do so by the agreement or in writing by the chief executive; and
- (b) must ensure the confidential information is used only for the purpose for which it was given under the agreement.

85 Disclosure to allow chief executive to act

Section 77(1) does not apply if the disclosure of the confidential information by a relevant person is to the chief executive to allow the chief executive to act under this division.

86	Release of information for an investigation under the Coroners Act	1 2
(1)	This section applies if a coroner is investigating the death of a person.	3 4
(2)	The chief executive may give to the coroner, or to a police officer helping the coroner to investigate the death, information from the register that is relevant to the person's death.	5 6 7 8
(3)	The coroner or police officer to whom the information is given and anyone else to whom the information is subsequently given under this subsection must not use or disclose the information other than—	9 10 11 12
(a)	for a purpose of the investigation; or	13
(b)	as otherwise required or permitted under this or another Act.	14 15
87	Use of notifiable conditions register	16
(1)	Information in the register—	17
(a)	can not be accessed under any order, whether of a judicial or administrative nature, other than an order for the purpose of this Act; and	18 19 20
(b)	is not admissible in any proceeding, other than a proceeding under this Act.	21 22
(2)	A person can not be compelled to produce the information, or to give evidence relating to the information, in any proceeding, other than a proceeding under this Act.	23 24 25
(3)	Subsections (1)(b) and (2) do not apply if the information is admitted or produced, or evidence relating to the information is given, with the consent of the person to whom the information relates.	26 27 28 29
(4)	Nothing in this section limits—	30
(a)	the giving, use or disclosure of information under section 86; or	31 32
(b)	the release of information by the chief executive under section 88 or the use of that information in a proceeding for a serious offence under that section; or	33 34 35

	(c) access to information by the chief executive or a person authorised to have access by the chief executive.	1 2
	(5) In this section— <i>order</i> includes a direction or other process.	3 4
88	Access to information in register for serious offence	5
	(1) This section applies if information in the register is required by an entity of the State to investigate a serious offence.	6 7
	(2) The chief executive may release the information to the entity under an agreement under section 84(1)(b) between the chief executive and the entity.	8 9 10
	(3) In this section— <i>serious offence</i> means an offence under—	11 12
	(a) the <i>Prostitution Act 1999</i> , section 90; ⁹ or	13
	(b) the Criminal Code, section 317. ¹⁰	14
Part 3	Contact tracing	15
Division 1	Contact tracing officers	16
89	Functions of contact tracing officer	17
	A contact tracing officer has the following functions—	18
	(a) identifying persons who may have contracted a notifiable condition;	19 20
	(b) identifying persons who may transmit a notifiable condition to others;	21 22

9 *Prostitution Act 1999*, section 90 (Prostitute working while infective with a disease)

10 Criminal Code, section 317 (Acts intended to cause grievous bodily harm and other malicious acts)

	(c) informing persons who may have contracted a notifiable condition so that they may seek medical examination and treatment;	1 2 3
	(d) providing information to persons who may have contracted a notifiable condition to prevent or minimise transmission of the notifiable condition;	4 5 6
	(e) obtaining information about the following to prevent or minimise transmission of a notifiable condition—	7 8
	(i) how a person has, or may have, been exposed to the notifiable condition;	9 10
	(ii) how a person has, or may have, exposed other persons to the notifiable condition.	11 12
90	Appointment of contact tracing officer by chief executive	13
	(1) The chief executive may appoint any of the following persons as a contact tracing officer for a notifiable condition—	14 15
	(a) a public service officer or employee;	16
	(b) a health service employee;	17
	(c) a person prescribed under a regulation.	18
	(2) Also, the chief executive may appoint, as a contact tracing officer for a notifiable condition, a person employed by a local government.	19 20 21
	(3) An appointment under subsection (2) is for the local government's area and any other local government area stated in the appointment.	22 23 24
	(4) For an appointment under subsection (2), the chief executive—	25 26
	(a) must, before appointing a person, obtain agreement to the appointment from the chief executive officer of the local government that employs the person; and	27 28 29
	(b) must state, in the instrument by which the appointment is made, every notifiable condition to which the appointment applies.	30 31 32

	(5) For exercising his or her powers under this part, a contact tracing officer appointed under subsection (1) or (2) is subject to the directions of the chief executive.	1 2 3
91	Qualifications for appointment	4
	The chief executive may appoint a person as a contact tracing officer only if—	5 6
	(a) the chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience; and	7 8 9
	(b) the person has the competencies, if any, prescribed under a regulation for this paragraph.	10 11
92	Appointment conditions and limit on powers	12
	(1) A contact tracing officer holds office on the conditions stated in—	13 14
	(a) the instrument under which the contact tracing officer is appointed; or	15 16
	(b) a signed notice given to the contact tracing officer; or	17
	(c) a regulation.	18
	(2) The instrument of appointment or a signed notice given to a contact tracing officer or a regulation may limit the contact tracing officer's powers under this part.	19 20 21
	(3) In this section—	22
	<i>signed notice</i> means a notice signed by the chief executive.	23
93	Issue of identity card	24
	(1) The chief executive must issue an identity card to each contact tracing officer.	25 26
	(2) The identity card must—	27
	(a) contain a recent photo of the contact tracing officer; and	28
	(b) contain a copy of the contact tracing officer's signature; and	29 30

	(c) identify the person as a contact tracing officer under this Act; and	1 2
	(d) state an expiry date for the card.	3
	(3) This section does not prevent the issue of a single identity card to a person for this Act and for other purposes.	4 5
94	Production or display of identity card	6
	(1) In exercising a power under this part in relation to a person, a contact tracing officer must—	7 8
	(a) produce the contact tracing officer’s identity card for the person’s inspection before exercising the power; or	9 10
	(b) have the identity card displayed so it is clearly visible to the person when exercising the power.	11 12
	(2) However, if it is not practicable to comply with subsection (1), the contact tracing officer must produce the identity card for the person’s inspection at the first reasonable opportunity.	13 14 15
95	When contact tracing officer ceases to hold office	16
	(1) A contact tracing officer ceases to hold office if any of the following happens—	17 18
	(a) the term of office stated in a condition of office ends;	19
	(b) under another condition of office, the contact tracing officer ceases to hold office;	20 21
	(c) the contact tracing officer’s resignation under section 96 takes effect.	22 23
	(2) Subsection (1) does not limit the ways a contact tracing officer may cease to hold office.	24 25
	(3) In this section—	26
	<i>condition of office</i> means a condition on which the contact tracing officer holds office.	27 28
96	Resignation	29
	A contact tracing officer may resign by signed notice given to the chief executive.	30 31

97	Return of identity card	1
	A person who ceases to be a contact tracing officer must, unless the person has a reasonable excuse, return the contact tracing officer's identity card to the chief executive within 21 days after ceasing to be a contact tracing officer.	2 3 4 5
	Maximum penalty—20 penalty units.	6
Division 2	Obtaining contact information	7
98	Definitions for div 2	8
	In this division—	9
	<i>business contact information</i> see section 101(2).	10
	<i>business contact information requirement</i> see section 101(5).	11 12
	<i>contact information</i> see sections 99(2) and 103(2).	13
	<i>contact information requirement</i> see section 99(5).	14
99	Power to require contact information	15
	(1) This section applies if a contact tracing officer—	16
	(a) reasonably suspects that a person —	17
	(i) has a notifiable condition; or	18
	(ii) has been in contact with a person who has, or may have, a notifiable condition; and	19 20
	(b) has explained to the person that information is needed to attempt to prevent or minimise the spread of the notifiable condition.	21 22 23
	(2) The contact tracing officer may ask the person to give the contact tracing officer all or any of the following information (the <i>contact information</i>) within a stated time—	24 25 26
	(a) the person's name and residential address or another address where the person may be contacted;	27 28
	(b) the name, address, whereabouts and telephone number of any other person—	29 30

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| (i) who may have transmitted the notifiable condition to the person; or | 1
2 |
| (ii) to whom the person may have transmitted the notifiable condition; | 3
4 |
| (c) information about the circumstances in which the person may have been exposed to the notifiable condition or may have exposed another person to the notifiable condition. | 5
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8 |
| (3) The contact tracing officer may ask the person to give the contact tracing officer evidence of the correctness of the contact information, within a stated reasonable time, if the contact tracing officer reasonably suspects the stated contact information to be false. | 9
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| (4) If the person fails to comply with a request under subsection (2) or (3), the contact tracing officer may give the person a notice that— | 14
15
16 |
| (a) states the contact information the person is required to provide; and | 17
18 |
| (b) states the information is needed to attempt to prevent or minimise the spread of the notifiable condition; and | 19
20 |
| (c) requires the person to give the contact tracing officer the contact information within a stated reasonable time; and | 21
22 |
| (d) warns the person it is an offence to fail to give the contact information, unless the person has a reasonable excuse; and | 23
24
25 |
| (e) tells the person the effect of section 100(2). | 26 |
| (5) A requirement under subsection (4) is a <i>contact information requirement</i> . | 27
28 |
| (6) A person asked or required by a contact tracing officer to give contact information or evidence of the correctness of contact information must not state anything to the officer that the person knows is false or misleading in a material particular. | 29
30
31
32 |
| Maximum penalty for subsection (6)—50 penalty units. | 33 |

100	Failure to give contact information	1
(1)	A person of whom a contact information requirement is made must comply with the requirement, unless the person has a reasonable excuse.	2 3 4
	Maximum penalty—50 penalty units.	5
(2)	It is not a reasonable excuse to fail to comply with the contact information requirement that complying with the requirement might tend to incriminate the person.	6 7 8
(3)	However, the following is not admissible in evidence against an individual in any civil or criminal proceeding—	9 10
(a)	any information given by the individual in complying with the contact information requirement or a requirement under section 99(2) or (3) (<i>primary evidence</i>);	11 12 13 14
(b)	any information, or document or other thing, obtained as a direct or indirect result of primary evidence (<i>derived evidence</i>).	15 16 17
(4)	Subsection (3) does not prevent primary evidence or derived evidence being admitted in evidence in—	18 19
(a)	criminal proceedings about the falsity or misleading nature of the primary evidence; or	20 21
(b)	proceedings for obtaining a controlled notifiable conditions order under part 5.	22 23
(5)	Also, subsection (3) does not prevent derived evidence being admitted in evidence in criminal proceedings about a controlled notifiable condition.	24 25 26
101	Power to require business contact information	27
(1)	This section applies if a contact tracing officer—	28
(a)	reasonably suspects that a person may have contracted a notifiable condition while receiving or providing goods or services from or to a business; and	29 30 31
(b)	has explained to an owner of the business, or the person apparently in charge of the business, that information is	32 33

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- needed to prevent or minimise the spread of the
notifiable condition. 1 2
- (2) The contact tracing officer may ask the owner or person
apparently in charge to give the contact tracing officer all or
any of the following information (the *business contact
information*) within a stated reasonable time— 3 4 5 6
- (a) the owner’s or person’s name and residential address or
another address where the owner or person may be
contacted; 7 8 9
- (b) the name, address, whereabouts and telephone number
of any person who received or provided goods or
services from or to the business within a stated period; 10 11 12
- (c) information about the circumstances in which a person
who received or provided goods or services from or to
the business may have been exposed to the notifiable
condition or may have exposed another person to the
notifiable condition. 13 14 15 16 17
- (3) The contact tracing officer may ask the owner or person
apparently in charge to give the contact tracing officer
evidence of the correctness of the business contact
information within a stated reasonable time if the contact
tracing officer reasonably suspects the stated business contact
information to be false. 18 19 20 21 22 23
- (4) If a person fails to comply with a request under subsection (2)
or (3), the contact tracing officer may give the person a notice
that— 24 25 26
- (a) states the business contact information the person is
required to provide; and 27 28
- (b) states the business contact information is needed to
attempt to prevent or minimise the spread of the
notifiable condition; and 29 30 31
- (c) requires the person to give the contact tracing officer the
business contact information within a stated reasonable
time; and 32 33 34
- (d) warns the person it is an offence to fail to give the
business contact information, unless the owner or person
has a reasonable excuse; and 35 36 37

	(e) tells the person the effect of section 102(2).	1
(5)	A requirement under subsection (4) is a <i>business contact information requirement</i> .	2 3
(6)	A person asked or required by a contact tracing officer to give business contact information or evidence of the correctness of business contact information must not state anything to the officer that the person knows is false or misleading in a material particular.	4 5 6 7 8
	Maximum penalty—50 penalty units.	9
(7)	In this section—	10
	<i>business</i> includes any organisation whether or not the organisation operates to make a profit.	11 12
	<i>Examples</i> —	13
	a sporting club or charitable organisation	14
102	Failure to give business contact information	15
(1)	A person of whom a business contact information requirement is made must comply with the requirement, unless the person has a reasonable excuse.	16 17 18
	Maximum penalty—50 penalty units.	19
(2)	It is not a reasonable excuse to fail to comply with the requirement that complying with the requirement might tend to incriminate the person.	20 21 22
(3)	However, the following is not admissible in evidence against an individual in any civil or criminal proceeding—	23 24
	(a) any information given by the individual in complying with the business contact information requirement or a requirement under section 101(2) or (3) (<i>primary evidence</i>);	25 26 27 28
	(b) any information, or document or other thing, obtained as a direct or indirect result of primary evidence (<i>derived evidence</i>).	29 30 31
(4)	Subsection (3) does not prevent primary evidence or derived evidence being admitted in evidence in—	32 33

(a)	criminal proceedings about the falsity or misleading nature of the primary evidence; or	1 2
(b)	proceedings for obtaining a controlled notifiable conditions order under part 5.	3 4
(5)	Also, subsection (3) does not prevent derived evidence being admitted in evidence in criminal proceedings about a controlled notifiable condition.	5 6 7
103	Obtaining contact information from health information held by the department	8 9
(1)	Subsection (2) applies if a contact tracing officer—	10
(a)	reasonably suspects that a person has a notifiable condition; and	11 12
(b)	has been unable to locate and question the person despite reasonable attempts to do so.	13 14
(2)	The contact tracing officer may inspect health information held by the department to obtain the following information (also the <i>contact information</i>) ¹¹ —	15 16 17
(a)	the person's name and residential address or another address where the person may be contacted;	18 19
(b)	the name and address, whereabouts and telephone number of another person—	20 21
(i)	who may have transmitted the notifiable condition to the person; or	22 23
(ii)	to whom the person may have transmitted the notifiable condition;	24 25
(c)	information about the circumstances in which the person may have been exposed to the notifiable condition or may have exposed others to the notifiable condition.	26 27 28 29
(3)	This section applies despite any other provision of this Act or any provision of another law that deals with confidentiality,	30 31

11 See also section 99(2).

	including, for example, the <i>Health Services Act 1991</i> , section 62A. ¹²	1 2
Division 3	Confidentiality of information and use of information supplied for contact tracing	3 4 5
104	Definitions for div 3	6
	In this division—	7
	<i>confidential information</i> means information that has become known to a relevant person in the course of performing the relevant person’s functions under this part or the repealed provisions.	8 9 10 11
	<i>information</i> includes a document.	12
	<i>relevant person</i> means the following—	13
	(a) a person who is, or was, a contact tracing officer or other person involved in the administration or enforcement of this part;	14 15 16
	(b) a person who was involved in the administration or enforcement of the repealed provisions.	17 18
	<i>repealed provisions</i> means the <i>Health Act 1937</i> , part 3, division 2.	19 20
105	Confidentiality of information	21
	(1) A relevant person must not, whether directly or indirectly, disclose confidential information.	22 23
	Maximum penalty—50 penalty units.	24
	(2) The <i>Health Services Act 1991</i> , section 62A, does not apply to a relevant person in relation to confidential information.	25 26

12 *Health Services Act 1991*, section 62A (Confidentiality)

106	Disclosure under an Act or another law	1
	Section 105(1) does not apply if the disclosure of the confidential information by a relevant person is authorised under an Act or another law.	2 3 4
107	Disclosure under Act or with written consent etc.	5
	Section 105(1) does not apply if the confidential information is disclosed by a relevant person—	6 7
	(a) in the performance of functions under this Act; or	8
	(b) with the written consent of the person to whom the information relates; or	9 10
	(c) to the person to whom the information relates; or	11
	(d) in a form that could not identify any person.	12
108	Disclosure to protect health of person	13
	Section 105(1) does not apply if the disclosure of the confidential information by a relevant person to another person is authorised by the chief executive to protect the health of that person or another person.	14 15 16 17
109	Disclosure of confidential information in the public interest	18 19
	(1) Section 105(1) does not apply to the disclosure of confidential information by a relevant person if—	20 21
	(a) the chief executive believes, on reasonable grounds, the disclosure is in the public interest; and	22 23
	(b) the chief executive has, in writing, authorised the disclosure.	24 25
	(2) The department's annual report for a financial year under the <i>Financial Administration and Audit Act 1977</i> must include details of—	26 27 28
	(a) the nature of any confidential information disclosed under subsection (1) during the financial year; and	29 30

	(b) the purpose for which the confidential information was disclosed.	1 2
	(3) However, the details mentioned in subsection (2)(a) must not identify, directly or indirectly, the person to whom the confidential information relates.	3 4 5
	(4) Despite the <i>Public Service Act 1996</i> , section 57, the chief executive may not delegate the chief executive's power under subsection (1).	6 7 8
110	Disclosure to allow chief executive to act	9
	Section 105(1) does not apply if the disclosure of the confidential information by a relevant person is to the chief executive to allow the chief executive to act under this division.	10 11 12 13
111	Use of contact information and business contact information	14 15
	(1) Contact information or business contact information (the <i>information</i>)—	16 17
	(a) can not be accessed under any order, whether of a judicial or administrative nature, other than an order for the purpose of this Act; and	18 19 20
	(b) is not admissible in any proceeding, other than a proceeding under this Act or a proceeding mentioned in section 100(4)(a) or (5) or section 102(4)(a) or (5).	21 22 23
	(2) A person can not be compelled to produce the information, or to give evidence relating to the information, in any proceeding, other than a proceeding under this Act.	24 25 26
	(3) Subsections (1)(b) and (2) do not apply if the information is admitted or produced, or evidence relating to the information is given, with the consent of the person to whom the information relates.	27 28 29 30
	(4) Nothing in this section limits access to information by the chief executive or a person authorised by the chief executive.	31 32
	(5) In this section—	33
	<i>order</i> includes a direction or other process.	34

Part 4	Orders by chief executive about controlled notifiable conditions	1 2
Division 1	Preliminary	3
112	Definition for pt 4	4
	In this part—	5
	<i>chief executive's order</i> see section 113(4).	6
Division 2	Orders by chief executive	7
113	Chief executive may order detention	8
	(1) This section applies if the chief executive—	9
	(a) reasonably suspects that a person who has presented to a public sector health service has, or may have, a controlled notifiable condition; and	10 11 12
	(b) reasonably suspects the person's condition, or the person's condition and likely behaviour, constitutes an immediate risk to public health; and	13 14 15
	(c) is satisfied the person has been counselled, or reasonable attempts have been made to counsel the person, about the condition and its possible effect on the person's health and on public health.	16 17 18 19
	(2) However, subsection (1)(c) does not apply if it is not practicable to counsel the person.	20 21
	(3) The chief executive may order the detention of the person at a public sector health service.	22 23
	(4) The order (a <i>chief executive's order</i>) must be in writing and must state the following—	24 25
	(a) the controlled notifiable condition the person has or is suspected of having;	26 27
	(b) the reasons for the order;	28

(c)	the name of the public sector health service where the person is to be detained;	1 2
(d)	that the person must—	3
	(i) if the person is at the public sector health service where the person is to be detained— remain at the service; or	4 5 6
	(ii) if the person is not at the public sector health service where the person is to be detained—go immediately with the person enforcing the order to the public sector health service and remain at the service;	7 8 9 10 11
(e)	that the person, while being detained at a public sector health service, must comply with the reasonable requirements of the person in charge of the service;	12 13 14
(f)	when the chief executive’s order ends under section 115.	15
114	Enforcement of chief executive’s order	16
(1)	A chief executive’s order may be enforced by the person in charge of the public sector health service where the person to whom the order relates is to be detained.	17 18 19
(2)	The person in charge must before enforcing the order—	20
	(a) give the person to whom the order relates a copy of the chief executive’s order; and	21 22
	(b) explain to the person, in general terms, the purpose and effect of the chief executive’s order including that it is an offence not to comply with the order.	23 24 25
(3)	The person in charge must note on the copy and original of the chief executive’s order when the copy was given to the person.	26 27
(4)	The person given a copy of the chief executive’s order under subsection (2)(a) must comply with the order.	28 29
	Maximum penalty—200 penalty units.	30
(5)	The person in charge of a public sector health service may enforce a chief executive’s order with the help, and using the force, that is reasonable in the circumstances.	31 32 33

	(6) However, the person in charge of a public sector health service must give the person detained an opportunity to voluntarily comply with the order.	1 2 3
	(7) A person authorised by the person in charge of a public sector health service may help the person in charge to enforce a chief executive's order.	4 5 6
115	Duration of chief executive's order	7
	A chief executive's order ends at the earlier of—	8
	(a) 24 hours from the time a copy is given to the person who is the subject of the order unless the chief executive orders the earlier release of the person; or	9 10 11
	(b) the time a magistrate decides an application for a controlled notifiable conditions order relating to the person.	12 13 14
Part 5	Orders by magistrate about controlled notifiable conditions	15 16
Division 1	General	17
116	Applying for controlled notifiable conditions order	18
	(1) The chief executive may apply to a magistrate for any of the following orders for a person (each a <i>controlled notifiable conditions order</i>)—	19 20 21
	(a) an initial examination order;	22
	(b) a behavioural order;	23
	(c) a detention order.	24
	(2) The application must be sworn and state the following—	25
	(a) the controlled notifiable condition the person has or is suspected of having;	26 27

(b)	the grounds on which it is made;	1
(c)	the nature of the order sought;	2
(d)	if an order taking the person into, or keeping the person in, detention is sought—the proposed arrangements for the person’s detention and care.	3 4 5
(3)	The magistrate may refuse to consider the application until the applicant gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.	6 7 8 9
	<i>Example—</i>	10
	The magistrate may require additional information supporting the application be given by statutory declaration.	11 12
117	Deciding application in person’s absence	13
(1)	A magistrate may decide an application for a controlled notifiable conditions order in the absence of the person for whom the order is sought if the magistrate—	14 15 16
(a)	considers the person’s presence may be an immediate risk to public health; or	17 18
(b)	is satisfied the person can not be located; or	19
(c)	is satisfied there is another reason that makes this necessary.	20 21
(2)	Without limiting subsection (1), a magistrate may decide that representations, if any, for the person must be made through someone acting for the person.	22 23 24
Division 2	Initial examination orders	25
118	Making initial examination order	26
(1)	A magistrate may make an initial examination order for a person if the magistrate—	27 28
(a)	reasonably suspects the person may have a controlled notifiable condition; and	29 30

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| (b) | is satisfied that if the person has the condition, either of the following may constitute an immediate risk to public health— | 1
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| (i) | the person’s condition; | 4 |
| (ii) | the person’s condition and likely behaviour; and | 5 |
| (c) | is satisfied it is necessary for the person to undergo a medical examination to ascertain whether the person has the condition; and | 6
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| (d) | is satisfied the person has been counselled, or reasonable attempts have been made to counsel the person, about the condition and its possible effect on the person’s health and on public health. | 9
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| (2) | However, subsection (1)(d) does not apply if it is not practicable to counsel the person. | 13
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119 What initial examination order may provide 15

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| (1) | An initial examination order may provide for any or all of the following— | 16
17 |
| (a) | that the person be detained at a stated place; | 18 |
| (b) | subject to subsection (2), a period that is not more than 72 hours, for which a person may be detained; | 19
20 |
| (c) | that the person be detained in isolation for part or all of the period of detention; | 21
22 |
| (d) | if the person is not at the place where the person is to be detained, that the person be taken to and detained at the place; | 23
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25 |
| (e) | that the person undergo the medical examination stated in the order by a doctor nominated by the chief executive to ascertain whether the person has the controlled notifiable condition. | 26
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| (2) | The order may state a period that is more than 72 hours only if the magistrate is satisfied that because of the nature of the controlled notifiable condition a longer period is required to ascertain whether the person has the condition. | 30
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| (3) | The order may be made subject to the conditions the magistrate considers appropriate. | 1
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| (4) | The order may authorise any authorised person, within a stated period— | 3
4 |
| (a) | to enter or re-enter any place the authorised person reasonably believes the person is; and | 5
6 |
| (b) | to search the place to find the person; and | 7 |
| (c) | to remain in the place for as long as the authorised person considers is reasonably necessary to find the person; and | 8
9
10 |
| (d) | to take the person to the place where the person is to be detained under the order. | 11
12 |
| (5) | An authorised person may exercise powers under the order with the help, and using the force, that is reasonable in the circumstances. | 13
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| (6) | Without limiting section 123, for enforcing the order the chief executive may detain the person and carry out the medical examination with the help, and using the force, that is reasonable in the circumstances. | 16
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18
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| 120 | Service of initial examination order | 20 |
| | As soon as practicable after an initial examination order is made for a person, an authorised person must— | 21
22 |
| (a) | give the person the subject of the order a copy of the order; and | 23
24 |
| (b) | explain the terms and effect of the order to the person including the effect of section 121; and | 25
26 |
| (c) | give the person an opportunity to voluntarily accompany the authorised person to the place where the person the subject of the order is to be examined; and | 27
28
29 |
| (d) | give the person notice about the right of appeal against the order and how to appeal. | 30
31 |

121	Person must remain at place of detention and undergo medical examination	1 2
	A person detained under an initial examination order must remain at the place of detention for the period stated in the order and undergo the stated medical examination stated in the order unless the person is released under section 124.	3 4 5 6
	Maximum penalty—400 penalty units.	7
122	When period of detention starts	8
	The period of detention of a person under an initial examination order starts—	9 10
	(a) if the person is at the place where the person is to be examined—from the time the person is detained at the place and given a copy of the order; or	11 12 13
	(b) if the person is not at the place where the person is to be examined—from the time the person is detained at the place after being given a copy of the order.	14 15 16
123	Details of medical examination must be explained	17
	(1) This section applies to a doctor undertaking the medical examination of a person under an initial examination order.	18 19
	(2) The doctor must, if practicable—	20
	(a) give an explanation to the person of the examination to be undertaken in a way likely to be readily understood by the person; and	21 22 23
	(b) allow the person an opportunity to submit to the examination voluntarily.	24 25
	(3) If the person does not submit to the examination voluntarily, the doctor may undertake the examination with the help, and using the force, that is reasonable in the circumstances.	26 27 28

124	When detained person must be released before the end of initial examination order	1 2
	The chief executive must release a person detained under this division before the initial examination order ends if the chief executive is satisfied the reason for the order no longer exists.	3 4 5
Division 3	Behavioural orders	6
125	Making behavioural order	7
	(1) A magistrate may make a behavioural order for a person if the magistrate is satisfied—	8 9
	(a) the person has a controlled notifiable condition; and	10
	(b) either of the following may constitute an immediate risk to public health—	11 12
	(i) the person’s condition;	13
	(ii) the person’s condition and likely behaviour; and	14
	(c) the person needs to do, or not do, stated things to avoid the person’s condition, or the person’s condition and likely behaviour, constituting a risk to public health; and	15 16 17
	(d) the person has been counselled, or reasonable attempts have been made to counsel the person, about the condition and its possible effect on the person’s health and on public health.	18 19 20 21
	(2) However, subsection (1)(d) does not apply if it is not practicable to counsel the person.	22 23
126	What behavioural order may provide	24
	(1) A behavioural order for a person may provide that the person do any or all of the following for the period stated in the order—	25 26 27
	(a) undergo counselling by a stated person or persons;	28
	(b) refrain from stated conduct;	29
	(c) refrain from visiting stated places;	30

	(d) submit to supervision and monitoring by another person.	1
(2)	For subsection (1)(d), the order may specify that the supervision and monitoring —	2 3
	(a) be by a particular person or a person nominated by the chief executive; and	4 5
	(b) be done in a stated way.	6
(3)	Also, the order may be made subject to the conditions the magistrate considers appropriate.	7 8
(4)	An authorised person may enforce the order with the help, and using the force, that is reasonable in the circumstances.	9 10
127	Service of behavioural order	11
	As soon as practicable after a behavioural order is made for a person, an authorised person must—	12 13
	(a) give a copy of the order to the person; and	14
	(b) explain the terms and effect of the order to the person including that is an offence not to comply with the order; and	15 16 17
	(c) give the person notice about the right of appeal against the order and how to appeal.	18 19
128	Person must comply with behavioural order	20
(1)	This section applies if a behavioural order has been made for a person and the person has been given a copy of the order.	21 22
(2)	The person must comply with the order.	23
	Maximum penalty—400 penalty units.	24
Division 4	Detention orders	25
129	Making detention order	26
(1)	A magistrate may make a detention order for a person if the magistrate is satisfied—	27 28

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| (a) | the person has a controlled notifiable condition; and | 1 |
| (b) | either of the following may constitute an immediate risk to public health— | 2 |
| (i) | the person’s condition; | 3 |
| (ii) | the person’s condition and likely behaviour; and | 4 |
| (c) | the person needs to be detained at a stated place for a stated period to avoid the person’s condition, or the person’s condition and likely behaviour, constituting a risk to public health; and | 5 |
| (d) | the person has been counselled, or reasonable attempts have been made to counsel the person, about the condition and its possible effect on the person’s health and on public health. | 6 |
| (e) | | 7 |
| (f) | | 8 |
| (g) | | 9 |
| (h) | | 10 |
| (i) | | 11 |
| (j) | | 12 |
| (k) | | 13 |
| (2) | However, subsection (1)(d) does not apply if it is not practicable to counsel the person. | 14 |
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130 What detention order may provide 16

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| (1) | A detention order for a person may provide for any or all of the following— | 17 |
| (a) | that the person be detained at a stated place for a stated period of not more than 28 days; | 18 |
| (b) | that the person be detained in isolation for part or all of the period of detention; | 19 |
| (c) | if the person is not at the place where the person is to be detained, that the person be taken to and detained at the place; | 20 |
| (d) | that the person undergo the medical examination or treatment stated in the order by a doctor nominated by the chief executive. | 21 |
| (e) | | 22 |
| (f) | | 23 |
| (g) | | 24 |
| (h) | | 25 |
| (i) | | 26 |
| (j) | | 27 |
| (k) | | 28 |
| (2) | The order may be made subject to the conditions the magistrate considers appropriate. | 29 |
| | | 30 |
| (3) | The order may authorise any authorised person, within a stated period— | 31 |
| | | 32 |
| (a) | to enter or re-enter any place the authorised person reasonably believes the person is; and | 33 |
| | | 34 |

	(b) to search the place to find the person; and	1
	(c) to remain in the place for as long as the authorised person considers is reasonably necessary to find the person; and	2 3 4
	(d) to take the person to the place where the person is to be detained under the order.	5 6
(4)	An authorised person may exercise powers under the order with the help, and using the force, that is reasonable in the circumstances.	7 8 9
(5)	Without limiting section 133, for enforcing the order the chief executive may detain the person and carry out the medical examination with the help, and using the force, that is reasonable in the circumstances.	10 11 12 13
131	Service of detention order	14
	As soon as practicable after a detention order is made for a person, an authorised person must—	15 16
	(a) give the person the subject of the order a copy of the order; and	17 18
	(b) explain the terms and effect of the order to the person including the effect of section 132; and	19 20
	(c) if the person is not at the place where the person is to be detained, give the person an opportunity to voluntarily accompany the authorised person to the place; and	21 22 23
	(d) give the person notice about the right of appeal against the order and how to appeal.	24 25
132	Person must remain at place of detention and undergo medical examination or treatment	26 27
	A person detained under a detention order must remain at the place of detention for the period stated in the order and undergo the medical examination or treatment stated in the order.	28 29 30 31
	Maximum penalty—400 penalty units.	32

133	Details of medical examination or treatment must be explained	1
		2
(1)	This section applies to a doctor undertaking a medical examination or treatment of a person under a detention order.	3
		4
(2)	The doctor must, if practicable—	5
(a)	give an explanation to the person of the examination or treatment to be undertaken in a way likely to be readily understood by the person; and	6
		7
		8
(b)	allow the person an opportunity to submit to the examination or treatment voluntarily.	9
		10
(3)	If the person does not submit to the examination or treatment voluntarily, the doctor may undertake the examination or treatment with the help, and using the force, that is reasonable in the circumstances.	11
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Division 5	Extension, variation or revocation of controlled notifiable conditions orders	15
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134	Extension of behavioural or detention orders	18
(1)	The chief executive may apply to a magistrate for an order to extend the period of a behavioural order or a detention order.	19
		20
(2)	The application must be made before the order ends.	21
(3)	A behavioural order may be extended once only and for the period decided by the magistrate.	22
		23
(4)	A detention order may be extended once only and for not more than 28 days.	24
		25
(5)	This part applies, with all necessary changes, to the application as if it were an application for a behavioural order or a detention order.	26
		27
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135	Variation and revocation of initial examination, behavioural or detention orders	1 2
(1)	The chief executive may apply to a magistrate for an order to vary or revoke an initial examination order, a behavioural order or a detention order.	3 4 5
(2)	This part applies, with all necessary changes, to the application as if it were an application for an initial examination order, a behavioural order or a detention order.	6 7 8
(3)	Without limiting the things to which the magistrate may have regard in deciding the application, the magistrate may have regard to a contravention of section 121, 128 or 132.	9 10 11
Division 6	Warrants	12
136	Application for warrant for apprehension	13
(1)	This section applies if a person who is subject to an initial examination order or a detention order—	14 15
(a)	absconds while being taken to the place where the person is to be detained under the order; or	16 17
(b)	absconds from the place where the person is being detained under the order; or	18 19
(c)	absconds from another place before being taken to the place where the person is to be detained under the order.	20 21
(2)	An authorised person may apply to a magistrate for a warrant for apprehension of the person.	22 23
(3)	The authorised person must prepare a written application that states the grounds on which the warrant is sought.	24 25
(4)	The written application must be sworn.	26
(5)	The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.	27 28 29 30
	<i>Example—</i>	31
	The magistrate may require additional information supporting the application be given by statutory declaration.	32 33

137	Issue of warrant	1
(1)	The magistrate may issue a warrant for the apprehension of the person who has absconded if the magistrate is satisfied the warrant is necessary to enable an authorised person to detain the person.	2 3 4 5
(2)	The warrant authorises any authorised person—	6
(a)	to enter or re-enter any place the authorised person reasonably believes the person is; and	7 8
(b)	to search the place to find the person; and	9
(c)	to remain in the place for as long as the authorised person considers is reasonably necessary to find the person; and	10 11 12
(d)	to take the person to the place where the person is to be detained under an initial examination order or a detention order.	13 14 15
(3)	The warrant must state the day when it ends.	16
(4)	An authorised person may exercise powers under the warrant with the help, and using the force, that is reasonable in the circumstances.	17 18 19
138	Application by electronic communication and duplicate warrant	20 21
(1)	An application under section 136 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised person reasonably considers it necessary because of—	22 23 24 25
(a)	urgent circumstances; or	26
(b)	other special circumstances, including, for example, the authorised person's remote location.	27 28
(2)	The application—	29
(a)	may not be made before the authorised person prepares the written application under section 136(3); but	30 31
(b)	may be made before the written application is sworn.	32
(3)	The magistrate may issue the warrant (the <i>original warrant</i>) only if the magistrate is satisfied—	33 34

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| (a) | it was necessary to make the application under subsection (1); and | 1
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| (b) | the way the application was made under subsection (1) was appropriate. | 3
4 |
| (4) | After the magistrate issues the original warrant— | 5 |
| (a) | if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised person, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the authorised person; or | 6
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| (b) | otherwise— | 11 |
| (i) | the magistrate must tell the authorised person the date and time the warrant is issued and the other terms of the warrant; and | 12
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14 |
| (ii) | the authorised person must complete a form of warrant, including by writing on it— | 15
16 |
| (A) | the magistrate's name; and | 17 |
| (B) | the date and time the magistrate issued the warrant; and | 18
19 |
| (C) | the other terms of the warrant. | 20 |
| (5) | The copy of the warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either case the <i>duplicate warrant</i>), is a duplicate of, and as effectual as, the original warrant. | 21
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24 |
| (6) | The authorised person must, at the first reasonable opportunity, send to the magistrate— | 25
26 |
| (a) | the written application complying with section 136(3) and (4); and | 27
28 |
| (b) | if the authorised person completed a form of warrant under subsection (4)(b)—the completed form of warrant. | 29
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31 |
| (7) | The magistrate must keep the original warrant and, on receiving the documents under subsection (6)— | 32
33 |
| (a) | attach the documents to the original warrant; and | 34 |

	(b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.	1 2
(8)	Despite subsection (5), if—	3
	(a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and	4 5 6
	(b) the original warrant is not produced in evidence;	7
	the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.	8 9 10
(9)	In this section—	11
	<i>relevant magistrates court</i> , in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the <i>Magistrates Act 1991</i> .	12 13 14
139	Defect in relation to a warrant	15
	(1) A warrant is not invalidated by a defect in the warrant, or in compliance with section 136, 137 or 138, unless the defect affects the substance of the warrant in a material particular.	16 17 18
	(2) In this section—	19
	<i>warrant</i> includes a duplicate warrant mentioned in section 138(5).	20 21
Division 7	Procedure for entry under orders and warrants	22 23
140	Procedure before entry—orders	24
	(1) This section applies if an authorised person is intending to enter a place under an initial examination order or detention order.	25 26 27
	(2) Before entering the place, the authorised person must do or make a reasonable attempt to do the following things—	28 29
	(a) identify himself or herself to a person present at the place who is an occupier of the place by producing a	30 31

	copy of the authorised person's identity card or other document evidencing the appointment;	1 2
(b)	give the person a copy of the order;	3
(c)	tell the person the authorised person is permitted by the order to enter the place;	4 5
(d)	give the person an opportunity to allow the authorised person immediate entry to the place without using force.	6 7
(3)	However, the authorised person need not comply with subsection (2) if the authorised person believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the order is not frustrated.	8 9 10 11
141	Procedure before entry—warrants	12
(1)	This section applies if an authorised person is intending to enter a place under a warrant under this part.	13 14
(2)	Before entering the place, the authorised person must do or make a reasonable attempt to do the following things—	15 16
(a)	identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the authorised person's identity card or other document evidencing the appointment;	17 18 19 20
(b)	give the person a copy of the warrant;	21
(c)	tell the person the authorised person is permitted by the warrant to enter the place;	22 23
(d)	give the person an opportunity to allow the authorised person immediate entry to the place without using force.	24 25
(3)	However, the authorised person need not comply with subsection (2) if the authorised person believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.	26 27 28 29
(4)	In this section—	30
	<i>warrant</i> includes a duplicate warrant mentioned in section 138(5).	31 32

Division 8	Appeals against magistrate's decisions	1 2
142	Appeal against decision on application for controlled notifiable conditions order or extension of order	3 4
	The following persons may appeal to the District Court against a decision on an application for a controlled notifiable conditions order or an extension or variation of the order—	5 6 7
	(a) the chief executive;	8
	(b) the person to whom the application relates.	9
Part 6	Reckless spread of controlled notifiable conditions	10 11
143	Person must not recklessly spread controlled notifiable condition	12 13
	(1) A person must not recklessly put someone else at risk of contracting a controlled notifiable condition.	14 15
	Maximum penalty—200 penalty units or 18 months imprisonment.	16 17
	(2) A person must not recklessly transmit a controlled notifiable condition to someone else.	18 19
	Maximum penalty—400 penalty units or 2 years imprisonment.	20 21
	(3) A person does not commit an offence against subsection (1) if, when the other person was put at risk of contracting the condition, the other person—	22 23 24
	(a) knew the person had the condition; and	25
	(b) voluntarily accepted the risk of contracting the condition.	26 27

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- (4) A person does not commit an offence against subsection (2) if, when the condition was transmitted to the other person, the other person—
- (a) knew the person had the condition; and
 - (b) voluntarily accepted the risk of contracting the condition.
- (5) A person does not commit an offence against subsection (1) or (2) by merely refusing, or failing, to be vaccinated against a condition for which there is a recognised and reasonably available vaccine.
- Note—*
- The Criminal Code, section 317 provides for the crime of intentionally transmitting a serious disease to a person.

Part 7 Proceedings 14

144 How proceedings under this chapter heard 15

- (1) A court hearing a proceeding under this chapter, including a proceeding for an offence, may by its order limit the extent to which its business is open to the public if the public interest or the interest of justice require it (the *limitation power*) having regard to—
- (a) the subject matter of the proceeding; or
 - (b) the nature of the evidence expected to be given.
- (2) A person must not make or publish a report about a proceeding in relation to which the limitation power is exercised unless the report—
- (a) is authorised by the court; or
 - (b) is made for the purpose of the proceeding or of a proceeding related to that proceeding; or
 - (c) is contained in or is made for the purpose of being contained in a recognised series of law reports; or
 - (d) is made for the chief executive.

Maximum penalty—	1
(a) for a first offence—200 penalty units or 6 months imprisonment;	2 3
(b) for a subsequent offence—400 penalty units or 12 months imprisonment.	4 5
(3) This section does not limit the <i>Supreme Court of Queensland Act 1991</i> , section 128. ¹³	6 7
Part 8	
Other matters about controlled notifiable conditions orders	8 9
145 Person may give information necessary for authorised person's safety	10 11
(1) This section applies if—	12
(a) under a chief executive's order, the person (the <i>relevant person</i>) who is the subject of the order is to be taken to, or detained at, a public sector health service; or	13 14 15
(b) under an initial examination order, the person (also the <i>relevant person</i>) who is the subject of the order is to be taken to, or detained at, a stated place; or	16 17 18
(c) under an behavioural order, the person (also the <i>relevant person</i>) who is the subject of the order is to do or not do stated things for a stated period; or	19 20 21
(d) under a detention order, the person (also the <i>relevant person</i>) who is the subject of the order is to be taken to, or detained at, a stated place; or	22 23 24
(e) a person (also the <i>relevant person</i>) may be apprehended under a warrant issued under section 137 or 138.	25 26
(2) To protect the safety of the relevant person or the following persons a doctor, health service employee or person involved	27 28

13 *Supreme Court of Queensland Act 1991*, section 128 (No distinction between court and chambers for Supreme Court, District Court and Magistrates Courts)

- in the administration of this Act may give information about the relevant person to the following persons—
- (a) an authorised person;
 - (b) the relevant person;
 - (c) the person in charge of public sector health service;
 - (d) a person authorised by the person in charge of public sector health service.
- (3) This section applies despite any other provision of this Act or any provision of another law that deals with confidentiality, including, for example, the *Health Services Act 1991*, section 62A.

146 Obstructing persons exercising powers

- (1) A person must not obstruct any of the following in the exercise of a power under this chapter, unless the person has a reasonable excuse—
- (a) the chief executive;
 - (b) a doctor;
 - (c) an authorised person;
 - (d) a person in charge of a public sector health service;
 - (e) a person authorised by a person in charge of a public sector health service.
- Maximum penalty—100 penalty units.
- (2) If a person has obstructed a person mentioned in subsection (1)(a) to (e) (the *enforcing person*) and the enforcing person decides to proceed with the exercise of the power, the enforcing person must warn the person that—
- (a) it is an offence to obstruct the enforcing person, unless the person has a reasonable excuse; and
 - (b) the enforcing person considers the person's conduct is an obstruction.

Chapter 4	Infection control for health care facilities	1 2
Part 1	Preliminary	3
147	Definitions for ch 4	4
	In this chapter—	5
	<i>commencement</i> means the commencement of this chapter.	6
	<i>declared health service</i> see section 148.	7
	<i>ICMP</i> see section 152.	8
	<i>invasive procedure</i> means a procedure involving the insertion of an instrument, appliance or other object into human tissue, organs, body cavities or body orifices.	9 10 11
	<i>Example</i> —	12
	subcutaneous and intramuscular injections, blood collection, dentistry, suturing of superficial wounds and examinations of the mouth	13 14
	<i>mobile premises</i> means premises that—	15
	(a) are a vehicle or are otherwise ordinarily moved from place to place; and	16 17
	(b) are used for the provision of a declared health service.	18
	<i>operator</i> , of a health care facility, means the person who has the day to day operation and control of the facility.	19 20
148	Meaning of <i>declared health service</i>	21
	(1) A <i>declared health service</i> means a service provided to a person that—	22 23
	(a) is intended to maintain, improve or restore the person's health; and	24 25
	(b) involves the performance of an invasive procedure or an activity that exposes the person or another person to blood or another bodily fluid.	26 27 28

(2)	Without limiting subsection (1), a declared health service includes a declared health service provided to a person at the following—	1 2 3
(a)	a public sector hospital;	4
(b)	a medical practice;	5
(c)	a dental practice;	6
(d)	an acupuncture clinic;	7
(e)	a midwifery service;	8
(f)	an ambulance service;	9
(g)	a blood bank.	10
149	Meaning of <i>health care facility</i>	11
(1)	A <i>health care facility</i> means a facility at which a declared health service is provided and includes—	12 13
(a)	mobile premises associated with the facility; and	14
(b)	other premises or places at which persons employed or otherwise engaged at the facility provide declared health services for the facility.	15 16 17
	<i>Examples for subsection (1)—</i>	18
1	an ambulance base and the ambulances that operate from the base	19
2	a home-based service provided by a public sector hospital	20
3	an acupuncture clinic operating from an office or residential address that provides home visits	21 22
(2)	A health care facility includes services supporting the facility.	23
	<i>Example for subsection (2)—</i>	24
	a hospital laundry or cleaning service	25
(3)	However, a health care facility does not include a facility or type of facility—	26 27
(a)	where the declared health service provided is not the principal function of the person that owns or operates the facility; and	28 29 30
(b)	that is prescribed under a regulation.	31

150	Application of ch 4	1
(1)	This chapter does not apply to—	2
(a)	a private health facility; or	3
(b)	an area within a health care facility used for food services, including, for example, the preparation, handling and storage of food; or	4 5 6
(c)	an aged care service conducted by an approved provider under the <i>Aged Care Act 1997</i> (Cwlth).	7 8
(2)	If this chapter conflicts with either of the following Acts, that Act prevails, but only to the extent of the conflict—	9 10
(a)	the <i>Workplace Health and Safety Act 1995</i> ;	11
(b)	the <i>Environmental Protection Act 1994</i> .	12
Part 2	Obligations to minimise infection risks for declared health services	13 14 15
151	Obligations to minimise risk	16
(1)	Persons involved in the provision of a declared health service must take reasonable precautions and care to minimise the risk of infection (the <i>infection risk</i>) to other persons.	17 18 19
	<i>Examples of persons involved in the provision of a declared health service—</i>	20 21
1	a registered nurse collecting blood for a blood bank	22
2	the medical superintendent or director of nursing of a public sector hospital	23 24
3	the owner of a dental practice that employs dentists, on a permanent or casual basis	25 26
4	the owner of a business that operates a first aid room for its employees	27 28
(2)	In addition to their obligation under subsection (1), particular persons have obligations under part 3.	29 30

Part 3	Infection control management plans	1 2
152	What is an infection control management plan	3
	An infection control management plan (an <i>ICMP</i>), for a health care facility, is a documented plan to prevent or minimise the risk of infection, in relation to a declared health service, for—	4 5 6 7
	(a) persons receiving services at the facility; and	8
	(b) persons employed or engaged at the facility; and	9
	(c) other persons at risk of infection at the facility.	10
153	Obligation of owner for ICMP	11
	(1) This section applies if the owner and the operator of a health care facility are different persons.	12 13
	(2) The owner must—	14
	(a) ensure that the operator—	15
	(i) develops and implements an ICMP; and	16
	(ii) reviews the effectiveness and implementation of the ICMP at appropriate intervals; and	17 18
	(ii) provides appropriate training in relation to the ICMP to employees and other persons engaged at the facility; and	19 20 21
	(b) provide adequate resources to the operator to ensure the effectiveness and implementation of the ICMP.	22 23
154	Obligation of owner/operator for ICMP	24
	(1) This section applies if the owner and the operator of a health care facility are the same person.	25 26
	(2) The person must—	27
	(a) develop and implement an ICMP; and	28

(b)	provide adequate resources to ensure the effectiveness and implementation of the ICMP; and	1 2
(c)	review the effectiveness and implementation of the ICMP at appropriate intervals; and	3 4
(d)	provide appropriate training in relation to the ICMP to employees and other persons engaged at the facility.	5 6
155	What an ICMP must contain	7
(1)	An ICMP for a health care facility must state—	8
(a)	the infection risks associated with the provision of declared health services provided at the facility; and	9 10
(b)	the measures to be taken to prevent or minimise the infection risks for declared health services; and	11 12
(c)	how the operator is to monitor and review the implementation and effectiveness of the measures; and	13 14
(d)	details about the provision of training in relation to the ICMP for persons employed or otherwise engaged at the facility; and	15 16 17
(e)	state how often the ICMP is to be reviewed; and	18
(f)	if a person other than the operator of the facility is also responsible for providing advice about, and monitoring the effectiveness of, the ICMP—the name of that person.	19 20 21 22
(2)	A regulation may prescribe matters to be included in an ICMP, including the measures under subsection (1)(b) that are to be included in an ICMP.	23 24 25
(3)	The ICMP must be written in a way likely to be easily understood by persons employed or otherwise engaged at the facility.	26 27 28
(4)	The operator of the facility must—	29
(a)	sign and date the ICMP; and	30
(b)	sign and date the ICMP each time it is reviewed.	31

(5)	The operator must keep a copy of the ICMP at a place at the facility that is readily accessible to persons employed or otherwise engaged at the facility.	1 2 3
(6)	If, after developing an ICMP for a health care facility, the operator of the facility intends to provide a declared health service not identified in the ICMP, the operator must, before providing the service, review and amend the ICMP to address the infection risks associated with the service.	4 5 6 7 8
156	Time for developing and implementing an ICMP	9
	The operator of a health care facility must develop and implement an ICMP—	10 11
(a)	for a health care facility operating at the commencement—within 6 months of the commencement; or	12 13 14
(b)	for a health care facility that starts operation after the commencement—before the facility provides a declared health service.	15 16 17
Part 4	Reporting contraventions of chapter 4 to other entities	18 19
157	Chief executive may report contraventions	20
(1)	If the chief executive considers a person has contravened this chapter, the chief executive may report the alleged contravention to a relevant entity.	21 22 23
(2)	In this section—	24
	<i>relevant entity</i> means—	25
(a)	the Health Rights Commission under the <i>Health Rights Commission Act 1991</i> ; or	26 27
(b)	a board under the <i>Health Practitioner (Professional Standards) Act 1999</i> ; or	28 29
(c)	the council under the <i>Nursing Act 1992</i> ; or	30

- (d) another entity that has the power under an Act of the State, the Commonwealth or another State to deal with the matter. 1
2
3

Chapter 5 Child health 4

Part 1 Definitions 5

158 Definitions for ch 5 6

In this chapter— 7

care and treatment order means an order by a designated medical officer under section 197. 8
9

carer see the *Child Care Act 2002*, section 56. 10

centre based service see the *Child Care Act 2002*, section 10(a). 11
12

chief executive (child safety) means the chief executive of the department in which the *Child Protection Act 1999* is administered. 13
14
15

child care service means a centre based service or a home based service licensed under the *Child Care Act 2002*. 16
17

contagious condition means a contagious medical condition prescribed under a regulation as a contagious condition. 18
19

designated medical officer means a doctor appointed as, or who is, a designated medical officer under section 188. 20
21

harm, to a child, means any detrimental effect on the child's physical, psychological or emotional wellbeing— 22
23

(a) that is of a significant nature; and 24

(b) that has been caused by— 25

(i) physical, psychological or emotional abuse or neglect; or 26
27

(ii) sexual abuse or exploitation. 28

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<i>health service facility</i> means—	1
(a) a facility that provides a public sector health service within the meaning of the <i>Health Services Act 1991</i> , section 2; or	2 3 4
(b) a private health facility; or	5
(c) Mater Misericordiae Public Hospitals.	6
<i>home based service</i> see the <i>Child Care Act 2002</i> , section 10(b).	7 8
<i>licensee</i> means a person licensed under the <i>Child Care Act 2002</i> to conduct a child care service.	9 10
<i>parent</i> , of a child, see section 159.	11
<i>person in charge</i> —	12
(a) for a school, means the principal of the school; or	13
(b) for a child care service, means—	14
(i) for a centre based service, a qualified director within the meaning of the <i>Child Care Act 2002</i> ; or	15 16
(ii) for a home based service, a qualified coordinator within the meaning of the <i>Child Care Act 2002</i> .	17 18
<i>prescribed period</i> , for a contagious condition, see section 160.	19
<i>professional</i> , for part 3, means a doctor or registered nurse.	20
<i>registered nurse</i> means a person registered under the <i>Nursing Act 1992</i> as a registered nurse.	21 22
<i>school</i> means a State school, State preschool centre or non-State school within the meaning of the <i>Education (General Provisions) Act 1989</i> .	23 24 25
<i>teacher</i> means a person registered as a teacher under the <i>Education (Teacher Registration) Act 1988</i> , but does not include the principal of a school.	26 27 28
<i>vaccinated</i> , in relation to a vaccine preventable condition, means vaccinated in the way prescribed under a regulation.	29 30
<i>vaccine preventable condition</i> means a contagious condition that is prescribed under a regulation as a vaccine preventable condition.	31 32 33

159	Who is a <i>parent</i>	1
(1)	For part 2, a <i>parent</i> of a child is—	2
(a)	the child's mother, father or someone else having or exercising parental responsibility for the child; or	3 4
(b)	for a child who is in the custody or guardianship of the chief executive (child safety) under the <i>Child Protection Act 1999</i> , the chief executive (child safety).	5 6 7
(2)	For part 3, a <i>parent</i> of a child is the child's mother, father or someone else, other than the chief executive (child safety), having or exercising parental responsibility for the child.	8 9 10
(3)	In this chapter generally, the following apply—	11
(a)	a parent of an Aboriginal child includes a person who, under Aboriginal tradition, is regarded as a parent of the child;	12 13 14
(b)	a parent of a Torres Strait Islander child includes a person who, under Island custom, is regarded as a parent of the child;	15 16 17
(c)	a reference in this part to the parents of a child or to 1 of the parents of a child is, if the child has only 1 parent, a reference to the parent.	18 19 20
160	What is a <i>prescribed period</i> for a contagious condition	21
(1)	A <i>prescribed period</i> , for a contagious condition, means the period prescribed under subsection (2) or (3) as the prescribed period relating to the condition.	22 23 24
(2)	For a contagious condition that is not a vaccine preventable condition, a single prescribed period may be prescribed under a regulation for a child suspected under this chapter of having the condition.	25 26 27 28
(3)	For a vaccine preventable condition, different prescribed periods may be prescribed under a regulation for the following—	29 30 31
(a)	a child suspected under this chapter of having the condition;	32 33

(b)	a child who does not have the condition but who is suspected under this chapter of—	1 2
(i)	having contact with a child suspected of having the condition; and	3 4
(ii)	not having been vaccinated for the condition.	5
Part 2	Contagious conditions	6
Division 1	Directions about attendance of children at a school or child care service	7 8 9
161	When parent must not send a child to school or child care service	10 11
(1)	This section applies if—	12
(a)	a parent knows or ought reasonably to know that the parent’s child has a contagious condition; or	13 14
(b)	a person in charge of a school or child care service has directed the parent to remove the child from, and not to send the child to, the school or service during the prescribed period for the condition, under section 164, 166 or 169.	15 16 17 18 19
(2)	The parent must not send the child to any school or child care service during the prescribed period for the condition.	20 21
162	When teacher or carer must advise person in charge	22
(1)	This section applies if a teacher or carer reasonably suspects a child attending the teacher’s school or carer’s child care service may have a contagious condition.	23 24 25
(2)	The teacher or carer must advise the person in charge about the teacher’s or carer’s suspicion.	26 27

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- 163 Person in charge may advise parent about suspicion of contagious condition** 1
2
- (1) This section applies if a person in charge of a school or child care service reasonably suspects— 3
4
- (a) that a child attending the school or service may have a contagious condition; and 5
6
- (b) that other children attending the school or service may be at risk of contracting the contagious condition. 7
8
- (2) The person in charge may advise at least 1 of the child’s parents— 9
10
- (a) of the suspicion of the person in charge; and 11
- (b) of the parent’s obligation under section 161(1)(a) and (2) not to send the child to the school or child care service. 12
13
14
- 164 Person in charge may direct parent not to send child to school or child care service** 15
16
- (1) This section applies if— 17
- (a) a person in charge of a school or child care service has advised a parent under section 163(2) about the parent’s child; and 18
19
20
- (b) the child continues to attend the school or service or the parent tells the person in charge that the parent’s child will continue to attend the school or service; and 21
22
23
- (c) the person in charge reasonably suspects that the child still has the contagious condition and that other children attending the school or service may be at risk of contracting the condition if the child continues to attend the school or service. 24
25
26
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28
- (2) The person in charge may direct the parent— 29
- (a) to remove the child from the school or child care service as soon as reasonably practicable; and 30
31
- (b) not to send the child to the school or service during the prescribed period for the condition applying to the child. 32
33

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- (3) However, the person in charge must consult a doctor or another person authorised by the chief executive for advice before taking action under subsection (2). 1
2
3
- 165 Person in charge may advise parent of child not vaccinated about suspicion of vaccine preventable condition** 4
5
6
- (1) This section applies if a person in charge of a school or child care service reasonably suspects— 7
8
- (a) that a child (the *first child*) attending the school or service has a contagious condition that is a vaccine preventable condition; and 9
10
11
- (b) that another child (the *second child*) attending the school or service has not been vaccinated for the condition and may be at risk of contracting the condition because of contact with the first child. 12
13
14
15
- (2) The person in charge may advise at least 1 of the second child's parents of the suspicion. 16
17
- 166 Person in charge may direct parent not to send child to school or child care service** 18
19
- (1) This section applies if— 20
- (a) a person in charge of a school or child care service has advised a parent under section 165(2) about the parent's child; and 21
22
23
- (b) the child continues to attend the school or service or the parent tells the person in charge that the parent's child will continue to attend the school or service; and 24
25
26
- (c) the person in charge reasonably suspects that the child will be at risk of contracting the contagious condition if the child continues to attend the school or service. 27
28
29
- (2) The person in charge may direct the parent— 30
- (a) to remove the child from the school or child care service as soon as reasonably practicable; and 31
32
- (b) not to send the child to the school or service during the prescribed period for the condition applying to the child. 33
34

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- (3) However, the person in charge must consult a doctor or another person authorised by the chief executive for advice before taking action under subsection (2). 1
2
3
- 167 Chief executive may authorise examination of children at school or child care service** 4
5
- (1) This section applies if the chief executive— 6
- (a) reasonably suspects that some or all of the children attending a school or child care service should be examined by a doctor because a child attending the school or service may have a contagious condition; and 7
8
9
10
- (b) has consulted the person in charge of the school or service about the examinations. 11
12
- (2) The chief executive may arrange for a doctor to examine some or all of the children attending the school or service to decide whether the children have, or may have, the condition. 13
14
15
- (3) Before the examinations take place the chief executive must give the person in charge of the school or service notice of the following— 16
17
18
- (a) the date and time of the examinations; 19
- (b) the contagious condition for which examinations are to be conducted; 20
21
- (c) the children, or class of children, to be examined; 22
- (d) the name and contact details of the doctor who is to conduct the examinations. 23
24
- (4) However, a child must not be examined without the consent of a parent of the child. 25
26
- 168 Chief executive must advise parent about examination** 27
- If a child is to be examined under section 167, the chief executive must advise at least 1 of the child's parents of the following— 28
29
30
- (a) the date and time of the examination; 31
- (b) the contagious condition for which the examination is to be conducted; 32
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| (c) | the name and contact details of the doctor who is to conduct the examination; | 1
2 |
| (d) | that the child's parents may be present when the child is examined; | 3
4 |
| (e) | that the examination may not be conducted without the consent of the parent; | 5
6 |
| (f) | that the parent may, on or before the date of the examination— | 7
8 |
| (i) | have the child examined by another doctor to decide whether the child has, or may have, the condition; and | 9
10
11 |
| (ii) | give the person in charge a certificate by the other doctor stating whether or not the child has or may have the condition and, if the child has or may have the condition, whether the prescribed period for the condition has ended; | 12
13
14
15
16 |
| (g) | that the parent may be directed to remove the child from, and not to send the child to, the school or service if— | 17
18
19 |
| (i) | the child has not been examined— | 20 |
| (A) | by the doctor arranged by the chief executive; or | 21
22 |
| (B) | by another doctor chosen by the parent and a certificate provided under paragraph (f); or | 23
24 |
| (ii) | an examination reveals the child has, or may have, the condition. | 25
26 |
| 169 | Chief executive may direct person in charge in relation to child | 27
28 |
| (1) | This section applies if— | 29 |
| (a) | a doctor who examines a child under section 167 attending a school or child care service advises the chief executive that— | 30
31
32 |
| (i) | the child has, or may have, a contagious condition; and | 33
34 |

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| (ii) the prescribed period for the condition has not ended; or | 1
2 |
| (b) a parent of a child has been advised under section 168 but the child has not been examined— | 3
4 |
| (i) by the doctor arranged by the chief executive; or | 5 |
| (ii) by another doctor chosen by the parent and a certificate provided by that doctor stating that the child does not have the contagious condition or the prescribed period for the condition has ended; or | 6
7
8
9 |
| (c) the chief executive reasonably suspects that a child attending a school or child care service has a contagious condition and the prescribed period for the condition has not ended; or | 10
11
12
13 |
| (d) the chief executive reasonably suspects— | 14 |
| (i) that a child (the <i>first child</i>) attending a school or service has a contagious condition that is a vaccine preventable condition and the prescribed period for the condition has not ended; and | 15
16
17
18 |
| (ii) that another child (the <i>second child</i>) attending the school or service has not been vaccinated for the condition and is at risk of contracting the condition because of contact with the first child. | 19
20
21
22 |
| (2) The chief executive may direct the person in charge of the school or child care service— | 23
24 |
| (a) for subsection (1)(a), (b) or (c), to direct the parent of the child to remove the child from, and not to send the child to, the school or service for the prescribed period for the condition; or | 25
26
27
28 |
| (b) for subsection (1)(d), to direct the parent of the second child to remove the child from, and not to send the child to, the school or service for the prescribed period for the condition. | 29
30
31
32 |
| (3) If directed by the chief executive under subsection (2), the person in charge of the school or child care service must comply with the direction, unless the person in charge has a reasonable excuse. | 33
34
35
36 |
| Maximum penalty—50 penalty units. | 37 |

(4)	A direction by the chief executive under subsection (2)—	1
(a)	must be given in writing, if practicable; and	2
(b)	must include the information mentioned in section 170(2).	3 4
(5)	If it is not practicable to give the direction in writing, the chief executive may give the direction orally but must confirm it in writing as soon as practicable thereafter.	5 6 7
170	Person in charge must include information in direction	8
(1)	This section applies if a person in charge of a school or child care service—	9 10
(a)	decides to direct a parent under section 164 or 166; or	11
(b)	must direct a parent because of a direction by the chief executive under section 169.	12 13
(2)	The person in charge must include the following information in the direction—	14 15
(a)	the suspected contagious condition that led to the direction;	16 17
(b)	the prescribed period for the condition;	18
(c)	the circumstances in which the child concerned may be readmitted to the school or service.	19 20
171	When person in charge may readmit child before prescribed period ends	21 22
(1)	Subsection (2) applies if a child is not attending a school or child care service because of a direction by the person in charge under section 164 or 166.	23 24 25
(2)	The person in charge of the school or child care service may readmit the child to the school or service if—	26 27
(a)	for a child mentioned in section 164, a certificate signed by a doctor is produced to the person in charge stating—	28 29
(i)	that the child does not have the condition; or	30
(ii)	that the prescribed period for the condition has ended; or	31 32

-
- (b) for a child mentioned in section 166, the person in charge is satisfied on reasonable grounds that the child no longer continues to be at risk of contracting the contagious condition. 1
2
3
4
- (3) Subsection (4) applies if a child is not attending a school or child care service because of a direction by the person in charge after a direction of the chief executive under section 169. 5
6
7
8
- (4) The person in charge of the school or service may readmit the child only if directed to do so by the chief executive. 9
10
- (5) The chief executive may give the direction if— 11
- (a) for a child suspected of having a contagious condition, the chief executive is satisfied a certificate signed by a doctor has been given to the person in charge stating— 12
13
14
- (i) that the child does not have the condition; or 15
- (ii) that the prescribed period for the condition has ended; or 16
17
- (b) for a child mentioned in section 169(2)(b), the chief executive is satisfied on reasonable grounds that the child no longer continues to be at risk of contracting the contagious condition. 18
19
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21

Division 2 Information sharing 22

172 Chief executive may require details if child suspected of having a contagious condition 23 24

- (1) This section applies if the chief executive reasonably suspects— 25
26
- (a) that a child (the *first child*) attending a school or child care service has a contagious condition; and 27
28
- (b) that other children attending the school or service may be at risk of contracting the contagious condition. 29
30
- (2) The chief executive may require a person in charge of the school or child care service to give the chief executive, to the extent it is available to the person in charge— 31
32
33

(a)	information about the contact the first child has had with other children attending the school or service; and	1 2
(b)	the following information for the first child and each other child with whom the first child has had contact—	3 4
(i)	the child’s full name;	5
(ii)	the child’s place and date of birth;	6
(iii)	the child’s residential address;	7
(iv)	contact details for at least 1 of the child’s parents;	8
(v)	if the contagious condition is a vaccine preventable condition, whether the child has been vaccinated for the condition.	9 10 11
(3)	The person in charge of a school or child care service must comply with a requirement of the chief executive under subsection (2).	12 13 14
	Maximum penalty—50 penalty units.	15
(4)	This section applies despite any other provision of this Act or any provision of another law that deals with confidentiality, including, for example, the <i>Child Care Act 2002</i> , section 87 and the <i>Education (General Provisions) Act 1989</i> , section 25. ¹⁴	16 17 18 19 20
173	Giving health information held by the department	21
(1)	Subsection (2) applies if the chief executive, a person in charge of a school or child care service, or another person involved in the administration of this part asks for health information held by the department to be provided to the chief executive, person in charge or other person.	22 23 24 25 26
(2)	A person asked to provide health information held by the department under subsection (1) may give the information if the giving of the information is necessary for the administration of this part.	27 28 29 30

14 *Child Care Act 2002*, section 87 (Confidentiality of records) and *Education (General Provisions) 1989*, section 25 (School records and reports)

-
- (3) Subsection (4) applies if a person in charge of a school or child care service asks for information held by the department about whether a child attending a school or child care service has been vaccinated for a vaccine preventable condition.
- (4) The chief executive must provide the information to the person in charge if the chief executive is satisfied that—
- (a) a child (the *first child*) attending the school or service has, or is suspected of having the vaccine preventable condition; and
 - (b) another child (the *second child*) attending the school or service has had contact with the first child; and
 - (c) the information about the second child is necessary to enable the person in charge to act under section 165 or 166.
- (5) This section applies despite any other provision of this Act or any provision of another law that deals with confidentiality, including, for example, the *Health Services Act 1991*, section 62A.¹⁵

Division 3 Confidentiality of information and protection for persons

174 Definitions for div 3

In this division—

confidential information means information that has become known to a relevant person in the course of performing the relevant person's functions under this part.

information includes a document.

relevant person means the following—

- (a) a person who is, or was, the chief executive;
- (b) a person who is, or was, involved in the administration or enforcement of this part, including, for example, a health service employee or a public service employee.

¹⁵ *Health Services Act 1991*, section 62A (Confidentiality)

175	Confidentiality of information	1
(1)	A relevant person must not, whether directly or indirectly, disclose confidential information.	2 3
	Maximum penalty—50 penalty units.	4
(2)	The <i>Health Services Act 1991</i> , section 62A, does not apply to a relevant person in relation to confidential information.	5 6
176	Disclosure under an Act or another law	7
	Section 175(1) does not apply if the disclosure of the confidential information by a relevant person is authorised under an Act or another law.	8 9 10
177	Disclosure under Act or with written consent etc.	11
	Section 175(1) does not apply if the confidential information is disclosed by a relevant person—	12 13
(a)	in the performance of functions under this Act; or	14
(b)	if the information relates to a person who is an adult, with the written consent of the person; or	15 16
(c)	if the information relates to a person who is a child, with the written consent of a parent of the child; or	17 18
(d)	to the person to whom the information relates, if the person is an adult; or	19 20
(e)	to a parent of a child to whom the information relates; or	21
(f)	in a form that could not identify any person.	22
178	Disclosure to a person to help prevent or minimise transmission of a contagious condition	23 24
	Section 175(1) does not apply if the disclosure of the confidential information by a relevant person is to a person to enable the person to help prevent or minimise the transmission of a contagious condition.	25 26 27 28

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- 179 Protection for persons acting under pt 2** 1
- (1) This section applies if a person, acting honestly, gives 2
information or does something else under this part including, 3
for example, directing a parent to remove a child from a 4
school or child care service. 5
- (2) The person is not liable, civilly, criminally or under an 6
administrative process, for doing the thing. 7
- (3) Without limiting subsection (2), if the thing involves giving 8
information— 9
- (a) in a proceeding for defamation the person has a defence 10
of absolute privilege for publishing the information; and 11
- (b) if the person would otherwise be required to maintain 12
confidentiality about the information given under an 13
Act, oath, rule of law or practice, the person— 14
- (i) does not contravene the Act, oath, rule of law or 15
practice by giving the information; and 16
- (ii) is not liable to disciplinary action for giving the 17
information. 18
- (4) Also, merely because the person gives the information, the 19
person can not be held to have— 20
- (a) breached any code of professional etiquette or ethics; or 21
- (b) departed from accepted standards of professional 22
conduct. 23
- (5) This section does not limit sections 175 to 178. 24

Division 4 Other action to control contagious 25
conditions 26

- 180 Directions to person in charge of school or child care 27**
service 28
- (1) If the chief executive is satisfied there is an outbreak of a 29
contagious condition at a school or child care service, the 30
chief executive may give a direction under subsection (3) to 31
the person in charge of the school or service. 32

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- (2) However, the chief executive must not give a direction without first consulting with the person in charge of the school or service and with—
- (a) for a direction to be given to the person in charge of a school—the chief executive of the department that administers the *Education (General Provisions) Act 1989* and the *Education (Accreditation of Non-State Schools) Act 2001*; or
- (b) for a direction to be given to the person in charge of a child care service—the chief executive of the department that administers the *Child Care Act 2002*.
- (3) A direction must be in writing and state ways of minimising the risk of contracting the contagious condition by children and staff at the school or service including, for example, by —
- (a) preventing the sharing of eating utensils, drinking cups, bed linen and clothing; or
- (b) requiring that eating utensils, drinking cups, bed linen, toys or other equipment be disinfected; or
- (c) requiring that stated procedures for cleaning and disinfecting be followed; or
- (d) requiring the person in charge to give information to staff, children or parents about the contagious condition including about the way it may be treated and measures to prevent its spread.
- (4) The person in charge of the school or service must comply with a direction by the chief executive.
- Maximum penalty for subsection (4)—50 penalty units.

181 Temporary closure of school or child care service 28

- (1) The Minister may, by notice given to the person in charge of a school or child care service, order the closure of the school or service for a period of not more than 1 month if the Minister is satisfied—
- (a) there is an outbreak of a contagious condition at the school or service; and

	(b) methods of controlling the outbreak will not be effective without the temporary closure of the school or service.	1 2
(2)	However, the Minister must not close a school or service without first consulting—	3 4
	(a) if the closure relates to a school—the Minister who administers the <i>Education (General Provisions) Act 1989</i> and the <i>Education (Accreditation of Non-State Schools) Act 2001</i> ; or	5 6 7 8
	(b) if the closure relates to a child care service—the Minister who administers the <i>Child Care Act 2002</i> .	9 10
(3)	The person in charge of the school or service must comply with the Minister’s order.	11 12
	Maximum penalty for subsection (3)—100 penalty units.	13
Division 5	Appeals against order to close school or child care service	14 15
182	Appeals against Minister’s order to close school or child care service	16 17
	A person ordered by the Minister to close a school or child care service may appeal to the Magistrates Court against the order.	18 19 20
183	Appeals to District Court only on a question of law	21
	A person aggrieved by the court’s decision may appeal to the District Court, but only on a question of law.	22 23
Division 6	Licensee must ensure person complies with this part	24 25
184	Licensee must ensure person in charge complies with pt 2	26 27
(1)	A licensee of a child care service must ensure that the person in charge of the child care service complies with this part.	28 29

(2)	If a person in charge of the child care service commits an offence against a provision of this part, the licensee also commits an offence, namely, the offence of failing to ensure that the person in charge complies with the provision.	1 2 3 4
	Maximum penalty—	5
(a)	if the licensee is an individual—the penalty for the contravention of the provision by the person in charge; or	6 7 8
(b)	if the licensee is a corporation—a penalty equal to 5 times the amount of the penalty under paragraph (a).	9 10
(3)	Evidence that the person in charge has been convicted of an offence against a provision of this part is evidence that the licensee committed the offence of failing to ensure that the person in charge complies with the provision.	11 12 13 14
(4)	However, it is a defence for a licensee to prove the licensee exercised reasonable diligence to ensure the person in charge complied with the provision.	15 16 17
Part 3	Child abuse and neglect	18
Division 1	Principles under which part 3 to be administered	19 20
185	Guiding principles for pt 3	21
(1)	This part is to be administered under the principle that the welfare and best interests of a child are paramount.	22 23
(2)	Subject to subsection (1), this part is to be administered under the following principles—	24 25
(a)	every child has a right to protection from harm;	26
(b)	families have the primary responsibility for the physical, psychological and emotional wellbeing of their children;	27 28 29

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| (c) | the preferred way of ensuring a child's wellbeing is through the support of the child's family; | 1
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| (d) | powers conferred under this part should be exercised in a way that is open, fair and respects the rights of people affected by their exercise, and, in particular, in a way that ensures— | 3
4
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6 |
| (i) | the views of a child and the child's family are considered; and | 7
8 |
| (ii) | a child and the child's parents have the opportunity to take part in making decisions affecting the wellbeing of the child; | 9
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11 |
| (e) | a child should be kept informed of matters affecting him or her in a way and to an extent that is appropriate, having regard to the child's age and ability to understand. | 12
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Division 2	Relationship with Child Protection Act 1999	16 17
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| 186 | Relationship with Child Protection Act 1999 | 18 |
| (1) | If there is in force, for a child, both an order under the <i>Child Protection Act 1999</i> and a care and treatment order or an extension of the care and treatment order, the order under the <i>Child Protection Act 1999</i> prevails to the extent of any inconsistency. | 19
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| (2) | The <i>Child Protection Act 1999</i> , sections 22 and 186, ¹⁶ include provisions relevant to a professional giving a notice or other information to the chief executive (child safety) under this part. | 24
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16 *Child Protection Act 1999*, sections 22 (Protection from liability for notification of, or information given about, alleged harm or risk of harm) and 186 (Confidentiality of notifiers of harm or risk of harm)

Division 3	Custody of child held at health service facility	1 2
187	Person in charge of facility has custody of child held at facility	3 4
(1)	This section applies if a child —	5
(a)	is held at a health service facility under this part; or	6
(b)	is being transferred from one health service facility to another under this part.	7 8
(2)	The person in charge of the health service facility at which the child is held has custody of the child and has—	9 10
(a)	the right to have the child’s daily care; and	11
(b)	the right and responsibility to make decisions about the child’s daily care.	12 13
(3)	Subsection (4) applies to a child being transferred from one health service facility (the <i>first facility</i>) to another health service facility (the <i>second facility</i>) under this part.	14 15 16
(4)	The child is taken to be held at the first facility until the child is accepted by the second facility after which the child is taken to be held at the second facility.	17 18 19
Division 4	Designated medical officers	20
188	Appointment	21
(1)	The person in charge of a health service facility may, by written instrument, appoint a doctor to be a designated medical officer.	22 23 24
(2)	However, a doctor may be appointed as a designated medical officer only if, in the opinion of the person in charge of the health service facility, the doctor has the necessary expertise or experience to be a designated medical officer.	25 26 27 28

189	When person in charge taken to be a designated medical officer	1 2
	If the person in charge of a health service facility is a doctor, the person is taken to be a designated medical officer while the person is in charge of the facility.	3 4 5
190	Powers	6
	(1) A designated medical officer has the powers given under this part.	7 8
	(2) Subsection (1) has effect subject to any limitation stated in the designated medical officer's instrument of appointment.	9 10
Division 5	Notification of child abuse and neglect	11 12
191	Mandatory reporting—immediate notice	13
	(1) This section applies if—	14
	(a) a professional becomes aware, or reasonably suspects, during the practice of his or her profession, that a child has been, is being, or is likely to be, harmed; and	15 16 17
	(b) as far as the professional is aware, no other professional has notified the chief executive (child safety) under this section about the harm or likely harm.	18 19 20
	(2) The professional must immediately give notice of the harm or likely harm to the chief executive (child safety)—	21 22
	(a) orally; or	23
	(b) by facsimile, email or similar communication.	24
	(3) The notice must include—	25
	(a) the following information, to the extent the professional has it or can reasonably obtain it—	26 27
	(i) the child's name;	28
	(ii) the child's date of birth;	29
	(iii) the place or places where the child lives;	30

	(iv) the names of the child's parents;	1
	(v) the place or places where the parents live or may be contacted; and	2 3
	(b) details of the harm or likely harm of which the professional is aware or that the professional suspects; and	4 5 6
	(c) the professional's name, address and telephone number.	7
(4)	To remove any doubt, it is declared that a professional may need to seek further information about harm or likely harm to a child before forming a reasonable suspicion about the matter.	8 9 10 11
	<i>Example—</i>	12
	After physically examining a child, a professional considers it possible that the child has been harmed. The professional obtains more information by consulting with a colleague. After obtaining the further information, the professional forms a reasonable suspicion that the child has been harmed.	13 14 15 16 17
192	Mandatory reporting—follow-up notice	18
(1)	This section applies if a professional gives notice orally under section 191(2).	19 20
(2)	Within 7 days after giving the oral notice, the professional must give the chief executive (child safety) a notice about the harm or likely harm.	21 22 23
(3)	The notice must include the information, as at the time the notice is given, about the matters stated in section 191(3).	24 25
(4)	The professional must give the notice even if the professional no longer believes or suspects the child has been, is being, or is likely to be, harmed.	26 27 28
193	Offence	29
	A professional who fails to give a notice under section 191 or 192 commits an offence.	30 31
	Maximum penalty—50 penalty units.	32

194	Further information may be required	1
(1)	This section applies if—	2
(a)	a professional has given the chief executive (child safety) a notice about harm or likely harm under section 191 or 192; and	3 4 5
(b)	the chief executive (child safety) reasonably considers further information is needed to properly assess the harm or likely harm.	6 7 8
(2)	The chief executive (child safety) may ask the professional, orally or in writing, for stated further information within a reasonable stated time.	9 10 11
(3)	The professional must comply with the request, unless the professional has a reasonable excuse.	12 13
	Maximum penalty—50 penalty units.	14
(4)	A professional is not liable to be prosecuted for an offence against subsection (3) unless the chief executive (child safety), when making the request, warns the professional it is an offence to fail to comply with the request unless the professional has a reasonable excuse.	15 16 17 18 19
195	Protection from liability for giving information to professional	20 21
(1)	This section applies if a person, acting honestly, gives information to a professional by—	22 23
(a)	telling the professional that the person is aware, or suspects, that a child has been, is being, or is likely to be, harmed; or	24 25 26
(b)	giving other information relating to the harm mentioned in paragraph (a).	27 28
	<i>Examples of persons who may give information to a professional under this section—</i>	29 30
	• a fellow professional seeking help to decide whether there are reasonable grounds for forming a suspicion that the child has been harmed	31 32 33
	• a health care worker, administrative worker in a health practice, emergency services officer, teacher or other person who, in the	34 35

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	course of the person's employment, observed something that raised a suspicion the child had been harmed	1 2
	• a relative or friend of the child	3
(2)	The person is not liable, civilly, criminally or under an administrative process, for giving the information.	4 5
(3)	Without limiting subsection (2)—	6
	(a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and	7 8
	(b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath, rule of law or practice, the person—	9 10 11
	(i) does not contravene the Act, oath, rule of law or practice by giving the information; and	12 13
	(ii) is not liable to disciplinary action for giving the information.	14 15
(4)	Also, merely because the person gives the information, the person can not be held to have—	16 17
	(a) breached any code of professional etiquette or ethics; or	18
	(b) departed from accepted standards of professional conduct.	19 20
196	Confidentiality of notifiers	21
(1)	This section applies if a person (the <i>notifier</i>) gives information under section 195(1) to a professional.	22 23
(2)	The professional to whom the information is given, or another person who becomes aware of the identity of the notifier, must not disclose the identity of the notifier to another person except—	24 25 26 27
	(a) as permitted or required under this part; or	28
	(b) in the course of performing functions under a child protection law to another person performing functions under a child protection law; or	29 30 31

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- (c) under the *Child Protection (International Measures) Act 2003*, part 6;¹⁷ or 1
2
- (d) to the ombudsman for the conduct of an investigation 3
under the *Ombudsman Act 2001*; or 4
- (e) by way of evidence given in a legal proceeding under 5
subsections (4) and (5). 6
- Maximum penalty—50 penalty units. 7
- (3) Also, the chief executive (child safety) may disclose the 8
identity of the notifier to the Commissioner for Children and 9
Young People and Child Guardian under the *Commission for 10
Children and Young People and Child Guardian Act 2000*, 11
section 46.¹⁸ 12
- (4) Subject to subsection (5)— 13
- (a) evidence of the identity of the notifier or from which the 14
identity of the notifier could be deduced must not be 15
given in a proceeding before a court or tribunal without 16
leave of the court or tribunal; and 17
- (b) unless leave is granted, a party or witness in the 18
proceeding— 19
- (i) must not be asked, and, if asked, can not be 20
required to answer, any question that can not be 21
answered without disclosing the identity of, or 22
leading to the identification of, the notifier; and 23
- (ii) must not be asked to produce, and, if asked, can 24
not be required to produce, any document that 25
identifies, or may lead to the identification of, the 26
notifier. 27
- (5) The court or tribunal must not grant leave unless— 28
- (a) it is satisfied— 29
- (i) the evidence is of critical importance in the 30
proceeding; and 31

17 *Child Protection (International Measures) Act 2003*, part 6 (Co-operation and other matters)

18 *Commission for Children and Young People and Child Guardian Act 2000*, section 46 (Identity of notifier under Child Protection Act 1999)

	(ii) there is compelling reason in the public interest for disclosure; or	1 2
	(b) the notifier agrees to the evidence being given in the proceeding.	3 4
(6)	In deciding whether to grant leave, the court or tribunal must take into account—	5 6
	(a) the possible effects of disclosure on the safety or welfare of the notifier and the notifier's family; and	7 8
	(b) the public interest in maintaining confidentiality of notifiers.	9 10
(7)	As far as practicable, an application for leave must be heard in a way that protects the identity of the notifier pending a decision on the application.	11 12 13
(8)	In this section—	14
	<i>child protection law</i> means—	15
	(a) the <i>Child Protection Act 1999</i> ; or	16
	(b) a child welfare law or interstate law of another State within the meanings given by the <i>Child Protection Act 1999</i> , schedule 3.	17 18 19
Division 6	Care and treatment order for child	20
197	Designated medical officer may make care and treatment order for child	21 22
(1)	This section applies if a designated medical officer becomes aware, or reasonably suspects, that a child at a health service facility—	23 24 25
	(a) has been harmed or is at risk of harm; and	26
	(b) is likely to leave or be taken from the facility and suffer harm if the designated medical officer does not take immediate action.	27 28 29
(2)	The designated medical officer may order that the child be held at the facility (a <i>care and treatment order</i>).	30 31

(3)	The designated medical officer must immediately make a written record of the care and treatment order that includes the following—	1 2 3
(a)	details of the child’s condition;	4
(b)	the reasons for the order;	5
(c)	the name of the facility where the child is held;	6
(d)	the time that is 48 hours from the time the order is made.	7
(4)	The designated medical officer must explain to the child in general terms the purpose and effect of the order. ¹⁹	8 9
198	Designated medical officer must notify person in charge of facility where child held	10 11
(1)	This section applies if a designated medical officer has ordered that a child be held at a health service facility.	12 13
(2)	The designated medical officer must give the person in charge of the facility notice of the order as soon as practicable after the child is held.	14 15 16
(3)	Subsection (2) does not apply if the designated medical officer and the person in charge are the same person.	17 18
(4)	The notice must include the following—	19
(a)	details of the harm or risk of harm of which the designated medical officer is aware or suspected by the designated medical officer;	20 21 22
(b)	the time that is 48 hours from the time the order is made when the order ends;	23 24
(c)	the name, address and telephone number of—	25
(i)	the designated medical officer; and	26
(ii)	if notice has been given under section 191(2)—the professional who gave the notice if the designated medical officer has these details;	27 28 29
(d)	to the extent it can reasonably be obtained—	30

¹⁹ See also section 461(5) (Compliance with provisions about explaining and giving documents).

	(i) the child's name, date of birth and residential address or another address at which the child may live; and	1 2 3
	(ii) the name and residential address of the parents of the child or another address at which the parents may be contacted.	4 5 6
199	Designated medical officer must advise chief executive (child safety)	7 8
	(1) This section applies if a designated medical officer has ordered that a child be held at a health service facility.	9 10
	(2) The designated medical officer must give the chief executive (child safety) notice of the order as soon as practicable after the order is made.	11 12 13
	(3) The notice must include the same information as that required for the notice under section 198(4).	14 15
200	Designated medical officer must advise parents of child held	16 17
	(1) As soon as practicable after making a care and treatment order for a child, the designated medical officer must—	18 19
	(a) tell at least 1 of the child's parents about the order including the matters contained in the written record of the order; and	20 21 22
	(b) tell the parent that it is an offence to remove the child from the health service facility while the order is in force; and	23 24 25
	(c) if asked by the parent, give the parent a copy of the written record of the order; and	26 27
	(d) tell the parent that the parent may choose to have the child examined by a doctor chosen by the parent.	28 29
	(2) However, the designated medical officer need not comply with subsection (1) if the officer reasonably believes—	30 31
	(a) someone may be charged with a criminal offence for harm to the child and the officer's compliance with the	32 33

	subsection may jeopardise an investigation into the offence; or	1 2
	(b) compliance with the subsection may expose the child to harm.	3 4
Division 7	Extension of care and treatment order	5 6
201	Designated medical officer may extend care and treatment order	7 8
	(1) This section applies if a designated medical officer considers that a care and treatment order for a child should be extended.	9 10
	(2) The designated medical officer may extend the order within 48 hours after the order was first made to a time that is not more than 96 hours after the order was first made.	11 12 13
	(3) The designated medical officer may not extend the order unless the designated medical officer consults with another designated medical officer and the other designated medical officer agrees that the order should be extended.	14 15 16 17
	(4) The designated medical officer extending the order must make a written record of the extension of the care and treatment order that includes the following—	18 19 20
	(a) the designated medical officer's name, address and telephone number;	21 22
	(b) the reasons for the extension of the order;	23
	(c) the name, address and telephone number of the designated medical officer consulted by the designated medical officer extending the order;	24 25 26
	(d) a statement that the designated medical officer consulted agreed that the order should be extended;	27 28
	(e) the time to which the order is extended.	29
	(5) To remove any doubt, it is declared that the designated medical officer who extends the order need not be the designated medical officer who gave the order.	30 31 32

202	Designated medical officer must notify person in charge of facility about extension of order	1 2
(1)	This section applies if a care and treatment order for a child has been extended.	3 4
(2)	The designated medical officer extending the order must advise the person in charge of the health service facility at which the child is held about the extension of the order and must include the information mentioned in section 201(4).	5 6 7 8
(3)	Subsection (2) does not apply if the designated medical officer and the person in charge are the same person.	9 10
203	Designated medical officer must advise chief executive (child safety) about extension of order	11 12
(1)	This section applies if a care and treatment order for a child has been extended.	13 14
(2)	The designated medical officer extending the order must advise the chief executive (child safety) about the extension of the order and must include the information mentioned in section 201(4).	15 16 17 18
204	Designated medical officer must advise child's parents about extension of order	19 20
(1)	This section applies if a care and treatment order for a child has been extended by a designated medical officer.	21 22
(2)	The designated medical officer extending the order must—	23
(a)	advise the child's parents about the extension of the order including the following—	24 25
(i)	the reasons for the extension;	26
(ii)	the time when the order ends; and	27
(b)	if asked by the parent, give the parent a copy of the reasons for the extension of the order.	28 29
(3)	However, the designated medical officer need not comply with subsection (2) if the officer reasonably believes—	30 31
(a)	someone may be charged with a criminal offence for harm to the child and the officer's compliance with the	32 33

	subsection may jeopardise an investigation into the offence; or	1 2
	(b) compliance with the subsection may expose the child to harm.	3 4
Division 8	Enforcement and duration of care and treatment order	5 6
205	Enforcement of care and treatment order	7
	(1) A designated medical officer may use the help and force that is reasonable in the circumstances to hold a child at a health service facility, or transfer a child to another health service facility under section 211.	8 9 10 11
	(2) A person authorised by a designated medical officer may help the designated medical officer to hold or transfer the child.	12 13
206	Duration of order	14
	(1) A care and treatment order starts when the order is made and ends 48 hours after it is made or, if the order is extended under section 201, the time to which it is extended.	15 16 17
	(2) However, a designated medical officer may release a child before an order ends if the designated medical officer is satisfied the reason for the order no longer exists.	18 19 20
	(3) If a designated medical officer releases a child, the officer must make a written record of the release that includes the following—	21 22 23
	(a) the reasons for the release;	24
	(b) the time of the release;	25
	(c) the person into whose care the child is released.	26
207	Limit on the number of care and treatment orders	27
	(1) This section applies if a care and treatment order has been made for a child because of harm, or a risk of harm, to the child.	28 29 30

	(2) A further care and treatment order may not be made for the child in relation to harm, or a risk of harm, arising from the same event or circumstances that gave rise to the care and treatment order mentioned in subsection (1).	1 2 3 4
	(3) Nothing in this section prevents a subsequent care and treatment order being made for a child for harm, or a risk of harm, that arises from an event or circumstances that happens after the end of an earlier care and treatment order.	5 6 7 8
Division 9	Chief executive (child safety) may require information about child held under care and treatment order	9 10 11
208	Chief executive (child safety) may require information from designated medical officer	12 13
	(1) This section applies if the chief executive (child safety) considers information is required about a child held under a care and treatment order.	14 15 16
	(2) The chief executive (child safety) may ask a designated medical officer, orally or in writing, for stated information about the child, within a reasonable stated time.	17 18 19
	(3) The designated medical officer must comply with the request to the extent the designated medical officer is able to do so, unless the designated medical officer has a reasonable excuse. Maximum penalty—50 penalty units.	20 21 22 23
	(4) The designated medical officer is not liable to be prosecuted for an offence against subsection (3) unless the chief executive (child safety), when making the request, warns the designated medical officer it is an offence to fail to comply with the request to the extent the designated medical officer is able to do so, unless the designated medical officer has a reasonable excuse.	24 25 26 27 28 29 30
	(5) A person who gives information requested under this section who would otherwise be required to maintain confidentiality about the information given under an Act, ²⁰ oath, rule of law or practice—	31 32 33 34

	(a) does not contravene the Act, oath, rule of law or practice by giving the information; and	1 2
	(b) is not liable to disciplinary action for giving the information.	3 4
(6)	Also, merely because the person gives the information, the person can not be held to have—	5 6
	(a) breached any code of professional etiquette or ethics; or	7
	(b) departed from accepted standards of professional conduct.	8 9
Division 10	Measures that may be taken in relation to a child held under a care and treatment order	10 11 12
209	Medical examination or treatment of child held under order	13 14
(1)	This section applies if a designated medical officer orders that a child be held at a health service facility.	15 16
(2)	The child may be medically examined or treated at the facility or another facility to which the child is transferred.	17 18
(3)	Subsection (2) applies even though the child's parents have not consented to the examination or treatment.	19 20
(4)	However, subsection (2) is subject to the rights the child has in relation to the examination or treatment, in particular, the Charter of rights for a child in care contained in the <i>Child Protection Act 1999</i> , schedule 1.	21 22 23 24
(5)	Also, only the examination or treatment reasonable in the circumstances may be carried out.	25 26
(6)	For the purpose of deciding any liability in relation to the carrying out of the examination or treatment, the consent of the child's parents to the examination or treatment is taken to have been given.	27 28 29 30

20 See for example the *Health Services Act 1991*, section 62A.

210	Designated medical officer may request information from doctors	1 2
(1)	This section applies if a designated medical officer considers a doctor may hold information relevant to the health of a child the subject of a care and treatment order.	3 4 5
(2)	The designated medical officer may ask the doctor for the information.	6 7
(3)	A doctor who gives information requested under this section who would otherwise be required to maintain confidentiality about the information given under an Act, oath, rule of law or practice—	8 9 10 11
(a)	does not contravene the Act, oath, rule of law or practice by giving the information; and	12 13
(b)	is not liable to disciplinary action for giving the information.	14 15
(4)	Also, merely because the person gives the information, the person can not be held to have—	16 17
(a)	breached any code of professional etiquette or ethics; or	18
(b)	departed from accepted standards of professional conduct.	19 20
211	Transfer of child from one facility to another	21
(1)	This section applies if—	22
(a)	a child is held at a health service facility under a care and treatment order; and	23 24
(b)	a designated medical officer considers it is necessary to transfer the child to, and hold the child at, another health service facility to appropriately medically examine or treat the child.	25 26 27 28
(2)	The child may be transferred to, and held at, the other facility.	29
(3)	The care and treatment order continues to apply to the child while the child is at the other facility.	30 31
(4)	The designated medical officer must advise the person in charge of the other facility of the proposed transfer.	32 33

(5)	Also, the designated medical officer must give the child's parents and the chief executive (child safety) notice of the transfer as soon as practicable after the designated medical officer decides to transfer the child.	1 2 3 4
(6)	However, the designated medical officer need not notify the child's parents under subsection (5) if the officer reasonably believes—	5 6 7
(a)	someone may be charged with a criminal offence for harm to the child and the officer's compliance with the subsection may jeopardise an investigation into the offence; or	8 9 10 11
(b)	compliance with the subsection may expose the child to harm.	12 13
212	Parent may choose doctor to examine child	14
	A designated medical officer, if asked by a parent of the child held at a health care facility under a care and treatment order, must—	15 16 17
(a)	advise a doctor chosen by the parent of the examination or treatment undertaken for the child; and	18 19
(b)	allow the child to be examined by the doctor at the facility.	20 21
Division 11	Offences relating to child held at health service facility	22 23
213	Offence to remove child	24
(1)	This section applies if a child is held at a health service facility under this part.	25 26
(2)	A person must not—	27
(a)	obstruct a designated medical officer or another person involved in holding a child under a care and treatment order; or	28 29 30
(b)	remove the child—	31

	(i) from the facility; or	1
	(ii) during transfer from one facility to another; or	2
	(c) if the child has been removed from the facility or during the transfer, keep the child.	3 4
	Maximum penalty—200 penalty units or 18 months imprisonment.	5 6
(3)	Subsection (2) applies whether the child is kept within or outside Queensland.	7 8
Chapter 6	Health information management	9 10
Part 1	Perinatal statistics	11
Division 1	Definitions	12
214	Definitions for pt 1	13
	In this part—	14
	<i>baby</i> means a baby born alive or a baby not born alive.	15
	<i>baby born alive</i> means a baby whose heart has beaten after delivery of the baby is completed.	16 17
	<i>baby not born alive</i> means a baby—	18
	(a) who has shown no sign of respiration or heartbeat, or other sign of life, after completely leaving the child's mother; and	19 20 21
	(b) who—	22
	(i) has been gestated for 20 weeks or more; or	23
	(ii) weighs 400 grams or more.	24
	<i>collection</i> means the Perinatal Statistics Collection.	25

- delivery* means the expulsion or extraction of a baby from its mother. 1
2
- designated person*, in relation to a delivery, means— 3
- (a) if the delivery happens in a hospital, the person in charge of the hospital; or 4
5
- (b) if the delivery happens elsewhere than in a hospital— 6
- (i) if the delivery is attended by a doctor—the doctor; or 7
8
- (ii) if the delivery is not attended by a doctor, but is attended by a midwife—the midwife; or 9
10
- (iii) if the delivery is not attended by a doctor or midwife but a doctor undertakes the care and treatment of the mother or baby, because of the delivery of the baby, within 3 months of the delivery—the doctor; or 11
12
13
14
15
- (iv) in any other case—the mother. 16
- midwife* see the *Nursing Act 1992*, section 4. 17
- Perinatal Statistics Collection* see section 215(3). 18

Division 2 Establishment and purposes of collection 19 20

215 Collection 21

- (1) The chief executive must keep a collection of perinatal statistics. 22
23
- (2) The chief executive may keep the collection in a form the chief executive considers appropriate, including an electronic form. 24
25
26
- (3) The collection is to be known as the Perinatal Statistics Collection. 27
28

216 Purposes of collection 29

The purposes for establishing the collection are as follows— 30

(a)	to collect data to help in—	1
(i)	monitoring and analysing obstetric and perinatal patterns and outcomes; and	2 3
(ii)	monitoring perinatal mortality rates; and	4
(iii)	researching perinatal care; and	5
(iv)	monitoring congenital abnormalities;	6
(b)	to help in the planning of obstetric and perinatal health services.	7 8
Division 3	Notifications about perinatal statistics	9 10
217	Giving notifications to chief executive	11
	After a delivery, the designated person must, within the time prescribed under a regulation, notify the chief executive in the approved form.	12 13 14
	Maximum penalty—20 penalty units.	15
218	Further information may be required	16
(1)	This section applies if the chief executive considers further information is required in relation to the notification to ensure the accuracy, completeness or integrity of the collection.	17 18 19
(2)	The chief executive may give the designated person a notice requiring the designated person to give the further information stated in the notice to the chief executive within the reasonable time stated in the notice.	20 21 22 23
(3)	The notice must warn the person that failure to comply with the notice is an offence under this Act.	24 25
(4)	A person given a notice under subsection (2) must comply with the notice.	26 27
	Maximum penalty—20 penalty units.	28
(5)	A person who gives information requested under this section who would otherwise be required to maintain confidentiality	29 30

-
- about the information given under an Act,²¹ oath, rule of law or practice— 1
2
- (a) does not contravene the Act, oath, rule of law or practice by giving the information; and 3
4
- (b) is not liable to disciplinary action for giving the information. 5
6
- (6) Also, merely because the person gives the information, the person can not be held to have— 7
8
- (a) breached any code of professional etiquette or ethics; or 9
- (b) departed from accepted standards of professional conduct. 10
11

Division 4 Confidentiality 12

219 Definitions for div 4 13

In this division— 14

confidential information means information that has become known to a relevant person in the course of performing the relevant person's functions under this part or the repealed provisions. 15
16
17
18

entity of the State includes a department and an entity established under an Act for a public purpose. 19
20

information includes a document. 21

relevant person means the following— 22

- (a) a person who is, or was, the chief executive; 23
- (b) a person who is, or was, involved in the administration or enforcement of this part, including, for example, a health service employee or a public service employee; 24
25
26
- (c) a person who was involved in the administration or enforcement of the repealed provisions. 27
28

repealed provisions means— 29

21 See for example the *Health Services Act 1991*, section 62A.

	(a) the <i>Health Act 1937</i> , part 3, division 12; and	1
	(b) the <i>Health Regulation 1996</i> , part 9.	2
220	Confidentiality of information	3
	(1) A relevant person must not, whether directly or indirectly, disclose confidential information.	4 5
	Maximum penalty—50 penalty units.	6
	(2) The <i>Health Services Act 1991</i> , section 62A, does not apply to a relevant person in relation to confidential information.	7 8
221	Disclosure under an Act or another law	9
	Section 220(1) does not apply if the disclosure of the confidential information by a relevant person is authorised under an Act or another law.	10 11 12
222	Disclosure under Act or with written consent etc.	13
	Section 220(1) does not apply if the confidential information is disclosed by a relevant person—	14 15
	(a) in the performance of functions under this Act; or	16
	(b) with the written consent of the person to whom the information relates; or	17 18
	(c) to the person to whom the information relates; or	19
	(d) in a form that could not identify any person.	20
223	Disclosure of confidential information in the public interest	21 22
	(1) Section 220(1) does not apply to the disclosure of confidential information by a relevant person if—	23 24
	(a) the chief executive believes, on reasonable grounds, the disclosure is in the public interest; and	25 26
	(b) the chief executive has, in writing, authorised the disclosure.	27 28

(2)	The department's annual report for a financial year under the <i>Financial Administration and Audit Act 1977</i> must include details of—	1 2 3
(a)	the nature of any confidential information disclosed under subsection (1) during the financial year; and	4 5
(b)	the purpose for which the confidential information was disclosed.	6 7
(3)	However, the details mentioned in subsection (2)(a) must not identify, directly or indirectly, the person to whom the confidential information relates.	8 9 10
(4)	Despite the <i>Public Service Act 1996</i> , section 57, the chief executive may not delegate the chief executive's power under subsection (1).	11 12 13
224	Disclosure for data collection and public health monitoring	14 15
	Section 220(1) does not apply to the disclosure of confidential information by a relevant person if—	16 17
(a)	the disclosure is to an employee of the department or a person approved by the chief executive who is contracted by the department to analyse, monitor or evaluate public health; and	18 19 20 21
(b)	the disclosure and receipt of the confidential information is for analysing, monitoring or evaluating public health; and	22 23 24
(c)	the employee of the department or other person is authorised in writing by the chief executive to receive the confidential information.	25 26 27
225	Disclosure for purposes relating to health services	28
	Section 220(1) does not apply to the disclosure of confidential information by a relevant person if—	29 30
(a)	the disclosure is to an employee of the department or a person approved by the chief executive who is contracted by the department to evaluate, manage, monitor or plan health services; or	31 32 33 34

- (b) the disclosure is to an entity prescribed under a regulation for this paragraph for evaluating, managing, monitoring or planning health services as stated in the regulation.

- 226 Disclosure to Commonwealth, another State or Commonwealth or State entity**
- (1) Section 220(1) does not apply to the disclosure of confidential information by the chief executive if—
- (a) the disclosure is to the Commonwealth or another State, or an entity of the Commonwealth or another State and the disclosure—
- (i) is required or allowed under an agreement—
- (A) between Queensland and the Commonwealth, State or entity; and
- (B) prescribed under a regulation for this paragraph; and
- (ii) is considered by the chief executive to be in the public interest; or
- (b) the disclosure is to an entity of the State and the disclosure—
- (i) is required or allowed under an agreement—
- (A) between the chief executive and the entity; and
- (B) prescribed under a regulation for this paragraph; and
- (ii) is considered by the chief executive to be in the public interest.
- (2) The Commonwealth, a State or entity that receives confidential information under an agreement under subsection (1)—
- (a) must not give it to anyone else unless allowed to do so by the agreement or in writing by the chief executive; and

	(b) must ensure the confidential information is used only for the purpose for which it was given under the agreement.	1 2
227	Disclosure to approved quality assurance committee	3
	Section 220(1) does not apply to the disclosure of confidential information by a relevant person if the disclosure is to an approved quality assurance committee, or to a person authorised by the committee to receive the confidential information, to allow the committee to perform its functions.	4 5 6 7 8
228	Disclosure to allow chief executive to act	9
	Section 220(1) does not apply if the disclosure of the confidential information by a relevant person is to the chief executive to allow the chief executive to act under this division.	10 11 12 13
Part 2	Cancer notifications	14
Division 1	Definitions	15
229	Definitions for pt 2	16
	In this part—	17
	<i>cancer</i> means either of the following—	18
	(a) a neoplasm of human tissue—	19
	(i) in which cell multiplication is uncontrolled and progressive; and	20 21
	(ii) that, if unchecked, may invade adjacent tissues or extend beyond its site of origin; and	22 23
	(iii) that has the propensity to recur, either locally or remotely in the body;	24 25

	(b) skin cancer and non-invasive carcinoma, other than skin cancer and non-invasive carcinoma of a type prescribed under a regulation.	1 2 3
	<i>contractor</i> see section 232(1).	4
	<i>notification about cancer</i> means a notification under section 234 or 235.	5 6
	<i>Queensland Cancer Register</i> see section 230(4).	7
	<i>register</i> means the Queensland Cancer Register.	8
	<i>residential care facility</i> means a residential care service within the meaning of the <i>Aged Care Act 1997</i> (Cwlth).	9 10
Division 2	Establishment and purposes of register	11 12
230	Register	13
	(1) The chief executive must keep a register of the persons for whom notifications about cancer have been given to the chief executive or the contractor.	14 15 16
	(2) The register must include deceased persons for whom notifications about cancer have been given.	17 18
	(3) The chief executive may keep the register in a form the chief executive considers appropriate, including an electronic form.	19 20
	(4) The register is to be known as the Queensland Cancer Register.	21 22
231	Purposes of register	23
	The purposes for establishing the register are as follows—	24
	(a) to collect data to help in—	25
	(i) monitoring and analysing the outcomes and patterns of cancer; and	26 27
	(ii) monitoring cancer mortality; and	28
	(iii) increasing public awareness of cancer;	29

	(b) to help in the planning of services and strategies for the prevention and management of cancer.	1 2
232	Responsibility for keeping of register	3
	(1) The chief executive may enter into a written agreement with a person prescribed under a regulation (the <i>contractor</i>) for the contractor to keep the register for the chief executive.	4 5 6
	(2) The chief executive must take reasonable steps to ensure the contractor complies with the agreement.	7 8
Division 3	Notifications about cancer	9
233	Application of div 3	10
	An obligation to notify or give information under this division for a person includes an obligation to notify or give information for a deceased person.	11 12 13
234	Notifications about cancer to be given to chief executive	14
	(1) If a pathological examination of a specimen of human origin indicates that the person from whom the specimen was taken is or was suffering from cancer, the director of the pathology laboratory where the examination is undertaken—	15 16 17 18
	(a) must complete a notification for the person; and	19
	(b) must give the notification to the chief executive within the time prescribed under a regulation.	20 21
	Maximum penalty—20 penalty units.	22
	(2) A notification for a person under subsection (1) must—	23
	(a) be given for each pathological examination; and	24
	(b) include the name of the doctor who referred the person's specimen for pathological examination; and	25 26
	(c) be in the approved form.	27
	(3) The person in charge of a hospital or residential care facility must give a notification to the chief executive within the time	28 29

prescribed under a regulation if a person known to be suffering from cancer who is a patient in the hospital or a resident of the residential care facility—

- (a) separates from the hospital; or
- (b) ceases to be a resident of the facility.

Maximum penalty—20 penalty units.

- (4) A notification for a person under subsection (3) must be in the approved form.
- (5) The person in charge of a hospital must give a notification to the chief executive about a person if—
 - (a) the person is known to have cancer; and
 - (b) the person is attending the hospital as an outpatient to receive treatment for cancer; and
 - (c) it is the first time in the calendar year the person has attended the hospital as an outpatient to receive treatment for cancer.

Maximum penalty—20 penalty units.

- (6) A notification for a person under subsection (5) must be in the approved form.

235 Directions to give notifications about cancer to contractor

- (1) If a person must, under section 234(1), (3) or (5), give a notification about cancer to the chief executive, the chief executive may give a written direction to the person to give the notification to the contractor in place of the chief executive.
- (2) A direction must state—
 - (a) the name and address of the contractor; and
 - (b) the day the direction is to take effect.
- (3) A person to whom a direction is given under subsection (1) must comply with the direction.

Maximum penalty—20 penalty units.

-
- (4) If, under a direction, a person gives a notification about cancer to the contractor and does not give it to the chief executive, the person does not contravene section 234 in relation to the notification. 1
2
3
4
- (5) The chief executive must monitor compliance with this section. 5
6
- 236 Further information may be required** 7
- (1) This section applies if the chief executive or contractor considers further information is required in relation to a notification about cancer to ensure the accuracy, completeness or integrity of the register. 8
9
10
11
- (2) The chief executive or contractor may give any of the following persons a notice requiring the person to give the further information stated in the notice to the chief executive or contractor within the reasonable time stated in the notice— 12
13
14
15
- (a) the person who gave the notification; 16
- (b) the doctor mentioned in the notification as the doctor who referred the specimen for pathological examination; 17
18
19
- (c) another doctor who has information that may ensure the accuracy, completeness or integrity of the register. 20
21
- (3) The notice must warn the person that failure to comply with the notice is an offence under this Act. 22
23
- (4) A person given a notice under subsection (2) must comply with the notice. 24
25
- Maximum penalty—20 penalty units. 26
- (5) A person who gives information requested under this section who would otherwise be required to maintain confidentiality about the information given under an Act,²² oath, rule of law or practice— 27
28
29
30
- (a) does not contravene the Act, oath, rule of law or practice by giving the information; and 31
32

22 See for example the *Health Services Act 1991*, section 62A.

- (b) is not liable to disciplinary action for giving the information. 1
2
- (6) Also, merely because the person gives the information, the person can not be held to have— 3
4
- (a) breached any code of professional etiquette or ethics; or 5
- (b) departed from accepted standards of professional conduct. 6
7

Division 4 Confidentiality 8

- 237 Definitions for div 4 9**
- In this division— 10
- confidential information* means information that has become known to a relevant person in the course of performing the relevant person's functions under this part or the repealed provisions. 11
12
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14
- entity of the State* includes a department and an entity established under an Act for a public purpose. 15
16
- information* includes a document. 17
- relevant person* means the following— 18
- (a) a person who is, or was, the chief executive; 19
- (b) a person who is, or was, involved in the administration of this part, including, for example, a health service employee or a public service employee, but not including a contractor or an employee of a contractor; 20
21
22
23
- (c) a person who was involved in the administration or enforcement of the repealed provisions. 24
25
- repealed provisions* means— 26
- (a) the *Health Act 1937*, part 3, division 10; or 27
- (b) the *Health Regulation 1996*, part 3. 28

238	Confidentiality of information	1
(1)	A relevant person must not, whether directly or indirectly, disclose confidential information.	2 3
	Maximum penalty—50 penalty units.	4
(2)	The <i>Health Services Act 1991</i> , section 62A, does not apply to a relevant person in relation to confidential information.	5 6
239	Disclosure under an Act or another law	7
	Section 238(1) does not apply if the disclosure of the confidential information by a relevant person is authorised under an Act or another law.	8 9 10
240	Disclosure under Act or with written consent etc.	11
	Section 238(1) does not apply if the confidential information is disclosed by a relevant person—	12 13
	(a) in the performance of functions under this Act; or	14
	(b) with the written consent of the person to whom the information relates; or	15 16
	(c) to the person to whom the information relates; or	17
	(d) in a form that could not identify any person.	18
241	Disclosure of confidential information in the public interest	19 20
(1)	Section 238(1) does not apply to the disclosure of confidential information by a relevant person if—	21 22
	(a) the chief executive believes, on reasonable grounds, the disclosure is in the public interest; and	23 24
	(b) the chief executive has, in writing, authorised the disclosure.	25 26
(2)	The department's annual report for a financial year under the <i>Financial Administration and Audit Act 1977</i> must include details of—	27 28 29
	(a) the nature of any confidential information disclosed under subsection (1) during the financial year; and	30 31

	(b) the purpose for which the confidential information was disclosed.	1 2
	(3) However, the details mentioned in subsection (2)(a) must not identify, directly or indirectly, the person to whom the confidential information relates.	3 4 5
	(4) Despite the <i>Public Service Act 1996</i> , section 57, the chief executive may not delegate the chief executive's power under subsection (1).	6 7 8
242	Disclosure for data collection and public health monitoring	9 10
	Section 238(1) does not apply to the disclosure of confidential information by a relevant person if—	11 12
	(a) the disclosure is to an employee of the department or a person approved by the chief executive who is contracted by the department to analyse, monitor or evaluate public health; and	13 14 15 16
	(b) the disclosure and receipt of the confidential information is for analysing, monitoring or evaluating public health; and	17 18 19
	(c) the employee of the department or other person is authorised in writing by the chief executive to receive the confidential information.	20 21 22
243	Disclosure for purposes relating to health services	23
	Section 238(1) does not apply to the disclosure of confidential information by a relevant person if—	24 25
	(a) the disclosure is to an employee of the department or a person approved by the chief executive who is contracted by the department to evaluate, manage, monitor or plan health services; or	26 27 28 29
	(b) the disclosure is to an entity prescribed under a regulation for this paragraph for evaluating, managing, monitoring or planning health services as stated in the regulation.	30 31 32 33

244	Disclosure to Commonwealth, another State or Commonwealth or State entity	1 2
(1)	Section 238(1) does not apply to the disclosure of confidential information by the chief executive if—	3 4
(a)	the disclosure is to the Commonwealth or another State, or an entity of the Commonwealth or another State and the disclosure—	5 6 7
(i)	is required or allowed under an agreement—	8
(A)	between Queensland and the Commonwealth, State or entity; and	9 10
(B)	prescribed under a regulation for this paragraph; and	11 12
(ii)	is considered by the chief executive to be in the public interest; or	13 14
(b)	the disclosure is to an entity of the State and the disclosure—	15 16
(i)	is required or allowed under an agreement—	17
(A)	between the chief executive and the entity; and	18 19
(B)	prescribed under a regulation for this paragraph; and	20 21
(ii)	is considered by the chief executive to be in the public interest.	22 23
(2)	The Commonwealth, a State or entity that receives confidential information under an agreement under subsection (1)—	24 25 26
(a)	must not give it to anyone else unless allowed to do so by the agreement or in writing by the chief executive; and	27 28 29
(b)	must ensure the confidential information is used only for the purpose for which it was given under the agreement.	30 31
245	Disclosure to approved quality assurance committee	32
	Section 238(1) does not apply to the disclosure of confidential information by a relevant person if the disclosure is to an	33 34

	approved quality assurance committee, or to a person	1
	authorised by the committee to receive the confidential	2
	information, to allow the committee to perform its functions.	3
246	Disclosure to contractor or employee of contractor for maintaining the register	4 5
	Section 238(1) does not apply if the disclosure of the	6
	confidential information is by the chief executive to the	7
	contractor, or an employee of the contractor, for maintaining	8
	the register.	9
247	Disclosure to allow chief executive to act	10
	Section 238(1) does not apply if the disclosure of the	11
	confidential information by a relevant person is to the chief	12
	executive to allow the chief executive to act under this	13
	division.	14
248	Confidentiality of information for contractors	15
	A contractor or employee of a contractor must not, whether	16
	directly or indirectly, disclose confidential information.	17
	Maximum penalty—50 penalty units	18
249	Disclosure by contractor	19
	Section 247 does not apply to the disclosure of confidential	20
	information by the contractor or an employee of the contractor	21
	if the disclosure—	22
	(a) is made in the performance of functions under this part;	23
	or	24
	(b) is made in a form that does not identify any person; or	25
	(c) is made to the chief executive, at the written request of	26
	the chief executive stating the chief executive considers	27
	the disclosure is necessary for ensuring the proper	28
	administration of this part; or	29
	(d) is made to a person or entity to which the chief executive	30
	may make the disclosure under section 242, 243 or 244,	31

	if the chief executive authorises the contractor, in writing, to disclose the information; or	1 2
	(e) is authorised under an Act or another law.	3
250	Arrangements about transfer of information	4
	(1) The chief executive may arrange for the transfer of information in the register for inclusion in the register required to be established under section 253. ²³	5 6 7
	(2) A person does not commit an offence against section 238 or 247 merely because the person does something under the arrangement.	8 9 10
Part 3	Pap smear register	11
Division 1	Definitions and application	12
251	Definitions for pt 3	13
	In this part—	14
	<i>abnormal Pap smear</i> means a Pap smear indicating abnormal cell growth and appearances in the cervix of the woman from whom the Pap smear was obtained.	15 16 17
	<i>clinical information</i> means the following information about a woman appearing in the register as part of her registered screening history—	18 19 20
	(a) the dates and results of the Pap smear tests and histology tests for the woman;	21 22
	(b) other information prescribed under a regulation.	23
	<i>clinical management</i> means a course of action for managing a precursor to cancer of a woman's cervix or cancer of a woman's cervix, including, for example, diagnosing, treating,	24 25 26

23 Section 253 (Pap Smear Register)

monitoring and following up with the woman, and making recommendations to her.	1 2
confidential information means all information in the register about a woman.	3 4
disclosure section means section 262, 265, 272, 273, 277 or 278. ²⁴	5 6
entity of the State includes a department and an entity established under an Act for a public purpose.	7 8
health practitioner means—	9
(a) a doctor; or	10
(b) a registered nurse under the <i>Nursing Act 1992</i> , section 4; or	11 12
(c) a person designated as a health practitioner for this part. ²⁵	13 14
histological sample means a biopsy or excision of the cervix, uterine body or vagina of a woman.	15 16
histology test means the processes for testing a histological sample.	17 18
identifying information means the following information about a woman appearing in the register as part of her registered screening history—	19 20 21
(a) full name or names, including other names previously or currently used;	22 23
(b) date of birth;	24
(c) address for correspondence;	25
(d) other information prescribed under a regulation.	26
information includes a document.	27

24 Section 262 (Chief executive may send reminder notice to woman's health practitioner), 265 (Chief executive may request information), 272 (Access to register by health practitioners), 273 (Access to register by directors of, and nominated persons at, pathology laboratories), 277 (Agreements for sending out notices under ss 260, 261 and 262) or 278 (Arrangements about transfer of information)

25 See section 279 (Chief executive may designate particular persons as health practitioners).

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- nominated person***, at a pathology laboratory, means a person nominated by the director of the laboratory under section 273(1).²⁶
- Pap smear*** means the cells scraped from a woman's cervix for detecting whether the woman has—
- (a) a precursor to cancer of the cervix; or
 - (b) cancer of the cervix.
- Pap Smear Register*** see section 253(3).
- Pap smear test*** means the processes for testing a Pap smear for—
- (a) a precursor to cancer of the cervix; or
 - (b) cancer of the cervix.
- provider*** means—
- (a) a doctor who intends to perform a procedure to obtain a Pap smear or histological sample from a woman; or
 - (b) another person who intends to perform a procedure to obtain a Pap smear from a woman.
- register*** means the Pap Smear Register.
- registered screening history***, for a woman, means her identifying and clinical information, as appearing in the register.
- relevant person*** means the following—
- (a) a person who is, or was, the chief executive;
 - (b) a person who is, or was, involved in the administration or enforcement of this part, including, for example, a health service employee or a public service employee;
 - (c) a person who was involved in the administration or enforcement of the repealed provision.
- repealed provision*** means the *Health Act 1937*, part 3, division 11.

²⁶ Section 273 (Access to register by directors of, and nominated persons at, pathology laboratories)

	<i>woman</i> means a female person.	1
	<i>written</i> or <i>in writing</i> , in relation to a consent by or request from a woman, means a consent or request signed by the woman.	2 3 4
252	Application of part	5
	(1) This part applies to a procedure performed in Queensland to obtain a Pap smear or histological sample from a woman.	6 7
	(2) However, this part does not apply to the procedure if the woman's usual place of residence is outside of Queensland when the Pap smear or histological sample is obtained.	8 9 10
Division 2	Establishment and purposes of register	11 12
253	Pap Smear Register	13
	(1) The chief executive must keep a register under this Act to record identifying and clinical information about women.	14 15
	(2) The chief executive may keep the register in a form the chief executive considers appropriate, including an electronic form.	16 17
	(3) The register is to be known as the Pap Smear Register.	18
254	Purposes of register	19
	The purposes for establishing the register are as follows—	20
	(a) to establish mechanisms to advise a woman who has an abnormal Pap smear result about appropriate medical investigation and intervention;	21 22 23
	(b) to establish mechanisms to advise a woman to have the procedure to obtain another Pap smear because her previous Pap smear is technically unsatisfactory and can not be assessed, including, for example, due to poor fixation of the smear;	24 25 26 27 28
	(c) to supply a woman's registered screening history to the director of, or a nominated person at, the pathology	29 30

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	laboratory, where a Pap smear or histological sample obtained from the woman is being tested, to help the director or person interpret the smear or sample and make clinical management recommendations;	1 2 3 4
(d)	to supply a woman's registered screening history to a health practitioner to help the practitioner in advising the woman about options for clinical management;	5 6 7
(e)	to use information in the register for sending notices to particular women about Pap smears, or the results of Pap smear tests or histology tests;	8 9 10
(f)	to enhance access by pathology laboratories to information to help in assessing the proportion of correct predictions of detected lesions made by the pathology laboratory;	11 12 13 14
(g)	to supply data to help—	15
	(i) in monitoring changing disease trends; and	16
	(ii) in studying the efficacy of the management and treatment of abnormal Pap smears; and	17 18
	(iii) in monitoring and evaluating the effectiveness of cervical screening programs; and	19 20
	(iv) in increasing public awareness of cancer of the cervix;	21 22
(h)	to help in formulating strategies to encourage all women to participate in regular Pap smear testing, and, in particular—	23 24 25
	(i) women who have not had a procedure to obtain a Pap smear; and	26 27
	(ii) women who, according to their registered screening histories, are overdue for their next procedure to obtain a Pap smear.	28 29 30
255	Women may elect to withhold, remove or change information in the register	31 32
(1)	Clinical and identifying information about a woman is to be included in the register unless the woman elects for it not to be included.	33 34 35

(2)	The process stated in division 3 is designed to achieve a balance between maximising participation and ensuring women are informed about their right to elect not to have their clinical and identifying information included in the register.	1 2 3 4
(3)	A woman may—	5
(a)	ask, in writing, for her registered screening history to be removed from the register; or	6 7
(b)	ask for her identifying information to be changed. ²⁷	8
Division 3	Duties of persons involved in obtaining and testing Pap smears and histological samples	9 10 11
256	Initial duty of person obtaining Pap smear or histological sample	12 13
	A provider must be satisfied, on reasonable grounds, the woman has been informed about each of the following—	14 15
(a)	the existence and purposes of the register;	16
(b)	the identifying and clinical information about the woman that may be recorded in the register;	17 18
(c)	that the woman may elect for her identifying and clinical information not to be automatically included in the register.	19 20 21
257	Duty if woman elects for her identifying and clinical information not to be included in the register	22 23
(1)	This section applies if—	24
(a)	a provider's health records do not indicate the woman has previously elected not to have her identifying and clinical information automatically included in the register; and	25 26 27 28

²⁷ See sections 263 (Duty of chief executive to remove registered screening history) and 264 (Duty of chief executive to change identifying information).

- (b) the woman tells the provider she does not want her identifying and clinical information to be automatically included. 1
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- (2) The provider must make a notation in the provider’s health records— 4
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 - (a) about the woman’s decision; and 6
 - (b) that the woman’s identifying and clinical information must not be given to the chief executive. 7
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- (3) Also, the provider must ensure each request by the provider for a Pap smear test or histology test for the woman includes a notation that the woman’s identifying and clinical information must not be given to the chief executive. 9
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258 Provider’s duty if woman previously elected for information not to be included in the register 13
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- (1) This section applies to a provider if the provider’s health records indicate the woman has previously elected not to have her identifying and clinical information automatically included in the register. 15
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- (2) The provider must ask the woman whether she wants to reconsider her decision. 19
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- (3) If the woman reconsiders her decision and tells the provider she now wants her identifying and clinical information to be automatically included in the register, the provider must make a notation in the provider’s health records— 21
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 - (a) about the woman’s decision; and 25
 - (b) that the woman’s identifying and clinical information must be given to the chief executive. 26
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- (4) If the woman reconsiders her decision and tells the provider she still does not want her identifying and clinical information to be automatically included in the register, the provider must ensure each request by the provider for a Pap smear test or histology test for the woman includes a notation that the woman’s identifying and clinical information must not be given to the chief executive. 28
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259	Duty of director to provide information	1
(1)	The director of a pathology laboratory, who receives a request to test a Pap smear or histological sample obtained from a woman, must give the woman's identifying and clinical information, as required under a regulation, to the chief executive.	2 3 4 5 6
(2)	The director must give the information to the chief executive no later than 4 weeks after the results of the tests are given to the person who asked for the test.	7 8 9
(3)	However, if the request for the test of the Pap smear or histological sample includes a notation that the woman's identifying and clinical information must not be given to the chief executive, the director must not give the information to the chief executive.	10 11 12 13 14
Division 4	Duties of chief executive concerning registered screening histories and authority to send notices	15 16 17 18
260	Duty of chief executive on receipt of information	19
(1)	This section applies if the chief executive receives identifying and clinical information under this part for a woman about whom there is no registered screening history.	20 21 22
(2)	After the identifying and clinical information is included in the register, the chief executive must send the woman a notice stating that the information has been included in the register.	23 24 25
(3)	The notice must also state—	26
(a)	the woman may have her registered screening history removed from the register; and	27 28
(b)	the woman may have her identifying information changed if she considers the information is incorrect; and	29 30 31
(c)	the way the woman may have her registered screening history removed or her identifying information changed.	32 33

261	Chief executive may send reminder notices to particular women	1 2
	The chief executive may send a notice to a woman who, according to her registered screening history, may—	3 4
	(a) be overdue for the procedure for obtaining her next Pap smear; or	5 6
	(b) need to have the procedure for obtaining a Pap smear repeated because her previous Pap smear is technically unsatisfactory and can not be assessed; or	7 8 9
	(c) require appropriate medical investigation and intervention because of an abnormal Pap smear result.	10 11
262	Chief executive may send reminder notice to woman's health practitioner	12 13
	(1) This section applies to a woman who, according to her registered screening history, may require appropriate medical investigation and intervention because of an abnormal Pap smear result.	14 15 16 17
	(2) The chief executive may send a notice about the abnormal Pap smear to the woman's health practitioner or another health practitioner to whom the woman has been referred by her health practitioner.	18 19 20 21
263	Duty of chief executive to remove registered screening history	22 23
	(1) This section applies if a woman, in writing, asks the chief executive to remove her registered screening history from the register.	24 25 26
	(2) As soon as practicable after 6 weeks from receiving the request, the chief executive must remove the woman's history from the register, unless the woman withdraws her request before the period ends.	27 28 29 30
	(3) If the woman's request states or otherwise indicates that her registered screening history was included in the register when, under this part, it should not have been included, the chief executive must remove the history from the register as soon as practicable after receiving the request.	31 32 33 34 35

264	Duty of chief executive to change identifying information	1
	If a woman asks the chief executive to change her identifying information because she considers the information is incorrect, the chief executive must comply with the request as soon as practicable after its receipt.	2 3 4 5
265	Chief executive may request information	6
(1)	This section applies if the chief executive considers further information about a woman's registered screening history or clinical management is required to ensure the accuracy, completeness or integrity of the register.	7 8 9 10
(2)	The chief executive may give 1 or more of the following a notice requiring the person to give the further information stated in the notice to the chief executive within the reasonable time stated in the notice—	11 12 13 14
	(a) the person who performed the procedure to obtain the Pap smear or histological sample;	15 16
	(b) a health practitioner who is involved in the clinical management of the woman;	17 18
	(c) the director of a pathology laboratory that tested a Pap smear or histological sample for the woman.	19 20
(3)	The notice must warn the person that failure to comply with the notice is an offence under this Act.	21 22
(4)	A person given a notice under subsection (2) must comply with the notice.	23 24
	Maximum penalty—20 penalty units.	25
(5)	A person who gives information requested under this section who would otherwise be required to maintain confidentiality about the information given under an Act, ²⁸ oath, rule of law or practice—	26 27 28 29
	(a) does not contravene the Act, oath, rule of law or practice by giving the information; and	30 31

28 See for example the *Health Services Act 1991*, section 62A.

	(b) is not liable to disciplinary action for giving the information.	1 2
	(6) Also, merely because the person gives the information, the person can not be held to have—	3 4
	(a) breached any code of professional etiquette or ethics; or	5
	(b) departed from accepted standards of professional conduct.	6 7
Division 5	Confidentiality of, and access to, registered screening histories of women	8 9 10
266	Confidentiality of information	11
	(1) A relevant person must not, whether directly or indirectly, disclose confidential information.	12 13
	(2) Subsection (1) does not apply if the disclosure is made under a disclosure section.	14 15
	Maximum penalty—50 penalty units.	16
	(3) The <i>Health Services Act 1991</i> , section 62A, does not apply to a relevant person in relation to confidential information.	17 18
267	Disclosure under an Act or another law	19
	Section 266(1) does not apply if the disclosure of the confidential information by a relevant person is authorised under an Act or another law.	20 21 22
268	Disclosures about woman's registered screening history	23
	(1) If a relevant person receives a written request from a woman for her registered screening history, the relevant person must disclose the registered screening history to the woman.	24 25 26
	(2) Also, a relevant person may disclose confidential information if—	27 28
	(a) the woman to whom the confidential information relates gives her written consent for the disclosure; or	29 30

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| (b) | the disclosure is made in a form that does not identify any woman. | 1
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| (3) | Further, a relevant person may disclose confidential information to a health service employee, or public service employee within the department, who is involved in maintaining the accuracy, completeness or integrity of the data making up the register. | 3
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| (4) | Section 266(1) does not apply to the disclosure of confidential information by a relevant person under this section. | 8
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| 269 | Disclosure to Commonwealth, another State or Commonwealth or State entity | 10
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| (1) | Section 266(1) does not apply to the disclosure of confidential information by the chief executive if— | 12
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| (a) | the disclosure is to the Commonwealth or another State, or an entity of the Commonwealth or another State and the disclosure— | 14
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| (i) | is required or allowed under an agreement— | 17 |
| (A) | between Queensland and the Commonwealth, State or entity; and | 18
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| (B) | prescribed under a regulation for this paragraph; and | 20
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| (ii) | is considered by the chief executive to be in the public interest; or | 22
23 |
| (b) | the disclosure is to an entity of the State and the disclosure— | 24
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| (i) | is required or allowed under an agreement— | 26 |
| (A) | between the chief executive and the entity; and | 27
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| (B) | prescribed under a regulation for this paragraph; and | 29
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| (ii) | is considered by the chief executive to be in the public interest. | 31
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- (2) The Commonwealth, a State or entity that receives confidential information under an agreement under subsection (1)—
- (a) must not give it to anyone else unless allowed to do so by the agreement or in writing by the chief executive; and
 - (b) must ensure the confidential information is used only for the purpose for which it was given under the agreement.
- 270 Disclosure to approved quality assurance committee**
- Section 266(1) does not apply to the disclosure of confidential information by a relevant person if the disclosure is to an approved quality assurance committee, or to a person authorised by the committee to receive the confidential information, to allow the committee to perform its functions.
- 271 Disclosure to allow chief executive to act**
- Section 266(1) does not apply if the disclosure of the confidential information by a relevant person is to the chief executive to allow the chief executive to act under this division.
- 272 Access to register by health practitioners**
- (1) This section applies if a health practitioner asks the chief executive to give the health practitioner a woman's registered screening history.
 - (2) The chief executive may give the health practitioner a woman's registered screening history if the chief executive is satisfied, on reasonable grounds—
 - (a) the woman is a patient of the health practitioner; and
 - (b) the registered screening history may help the health practitioner make—
 - (i) a clinical diagnosis about the woman; or
 - (ii) decisions about clinical management for the woman; or

	(iii) decisions about the timing for performing a procedure for obtaining another Pap smear from the woman.	1 2 3
(3)	Subsection (2) does not authorise—	4
	(a) the disclosure of a woman’s address to a health practitioner; or	5 6
	(b) the disclosure of information identifying another health practitioner or a pathology laboratory, without the written consent of the other health practitioner or the director of the pathology laboratory, identified in the disclosure.	7 8 9 10 11
273	Access to register by directors of, and nominated persons at, pathology laboratories	12 13
(1)	The director of a pathology laboratory may nominate, by notice to the chief executive, a person or persons employed at the laboratory to whom a woman’s registered screening history may be given for the laboratory.	14 15 16 17
(2)	Subsection (3) applies if—	18
	(a) a Pap smear or histological sample from a woman has been sent to a pathology laboratory for testing; and	19 20
	(b) the director of, or a nominated person at, the pathology laboratory asks the chief executive to give the director or nominated person the woman’s registered screening history.	21 22 23 24
(3)	The chief executive may give the director or nominated person the woman’s registered screening history if the chief executive is satisfied, on reasonable grounds—	25 26 27
	(a) the director or person is interpreting results of the Pap smear test or histology test and making recommendations about clinical management for the woman; or	28 29 30 31
	(b) the pathology laboratory has tested a Pap smear or histological sample for the woman and the director or person is assessing the performance of the pathology laboratory in accurately assessing the proportion of	32 33 34 35

	correct predictions of detected lesions, including, for example, for quality assurance purposes.	1 2
(4)	Subsection (3) does not authorise—	3
	(a) the disclosure of a woman's address to the director of, or a nominated person at, a pathology laboratory; or	4 5
	(b) the disclosure of information identifying a particular health practitioner or another pathology laboratory, without the written consent of the health practitioner, or the director of the other pathology laboratory, identified in the disclosure.	6 7 8 9 10
274	Unauthorised access to registered screening histories	11
(1)	A person must not knowingly obtain, or attempt to obtain, from the register or a health officer, confidential information the person is not authorised under this part to obtain.	12 13 14
	Maximum penalty—50 penalty units.	15
(2)	In this section—	16
	<i>health officer</i> means—	17
	(a) the chief executive; or	18
	(b) a health service employee, or a public service employee within the department, involved in keeping the register or exercising powers involving the register.	19 20 21
275	Health practitioners, directors and nominated persons to keep registered screening histories confidential	22 23
(1)	This section applies to a person to whom confidential information is given under section 272 or 273.	24 25
(2)	The person must not, whether directly or indirectly, disclose the confidential information given to the person, unless the disclosure is made under subsection (3) or (4).	26 27 28
	Maximum penalty—50 penalty units.	29
(3)	A health practitioner may disclose a woman's registered screening history to any of the following persons—	30 31
	(a) the woman;	32

(b)	another health practitioner to whom the health practitioner has referred, or intends to refer, the woman;	1 2
(c)	another health practitioner with whom the health practitioner considers it necessary or desirable to discuss the woman's history for the clinical management for the woman.	3 4 5 6
(4)	The director of, or a nominated person at, a pathology laboratory may disclose a woman's registered screening history to any of the following persons—	7 8 9
(a)	the woman;	10
(b)	the person who performed the procedure to obtain the Pap smear or histological sample;	11 12
(c)	a doctor that the director or nominated person is satisfied, on reasonable grounds, is involved in the clinical management for the woman;	13 14 15
(d)	another person employed at the pathology laboratory involved in—	16 17
(i)	the interpretation of Pap smear tests or histology tests, to the extent the director or nominated person considers it necessary or desirable to discuss the history with the other person; or	18 19 20 21
(ii)	assessing the performance of the laboratory in accurately assessing the proportion of correct predictions of detected lesions, including, for example, for quality assurance purposes.	22 23 24 25
276	Chief executive to monitor access to information	26
(1)	The chief executive must put processes in place to monitor access to the registered screening history of women by—	27 28
(a)	health practitioners; and	29
(b)	the directors of, and nominated persons at, pathology laboratories.	30 31
(2)	The processes for a health practitioner must allow the chief executive to decide—	32 33

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| (a) | whether the health practitioner is accessing only the registered screening history for women for whom the health practitioner is making— | 1
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| (i) | clinical diagnoses; or | 4 |
| (ii) | decisions about clinical management; or | 5 |
| (iii) | decisions about the timing for performing procedures for obtaining Pap smears; and | 6
7 |
| (b) | whether someone else is accessing a woman's registered screening history other than the woman's health practitioner. | 8
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| (3) | The processes for a pathology laboratory must allow the chief executive to decide— | 11
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| (a) | whether the director of, or nominated persons at, a pathology laboratory are accessing only the registered screening histories of women for whom the pathology laboratory— | 13
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| (i) | is testing Pap smears or histological samples, interpreting the results of the Pap smear tests or histology tests and making recommendations about clinical management for the women; or | 17
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| (ii) | tested Pap smears or histological samples and the director or nominated persons are assessing the performance of the pathology laboratory in accurately assessing the proportion of correct predictions of detected lesions, including, for example, for quality assurance purposes; and | 21
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| (b) | whether someone is accessing the registered screening history of women, other than the director of, or a nominated person at, the pathology laboratory. | 27
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Division 6	Agreements and arrangements about confidential information, and designation of particular persons	1 2 3
277	Agreements for sending out notices under ss 260, 261 and 262	4 5
(1)	The chief executive may enter into a written agreement with a person (the <i>contractor</i>) for the contractor to send out notices under section 260, 261 or 262 for the chief executive.	6 7 8
(2)	The chief executive may disclose confidential information to the contractor to the extent it is necessary for the contractor to perform the contractor's functions under the agreement.	9 10 11
(3)	For sending out a notice under section 260, 261 or 262—	12
(a)	the contractor may disclose confidential information to the contractor's employees and the persons to whom the notices are sent; and	13 14 15
(b)	the contractor's employees may disclose confidential information to the persons to whom the notices are sent.	16 17
(4)	A contractor, or an employee of the contractor, in receipt of confidential information must not give it to another person, or use the information, other than for sending out notices as mentioned in subsection (3).	18 19 20 21
	Maximum penalty for subsection (4)—50 penalty units.	22
278	Arrangements about transfer of information	23
(1)	The chief executive may arrange for the transfer of confidential information for inclusion in the register required to be kept under section 230. ²⁹	24 25 26

29 Section 230 (Register)

(2)	A person does not commit an offence against section 266 ³⁰ merely because the person does something under the arrangement.	1 2 3
279	Chief executive may designate particular persons as health practitioners	4 5
	The chief executive may, by gazette notice, designate a person who performs procedures to obtain Pap smears as a health practitioner for this part.	6 7 8
	<i>Example—</i>	9
	an enrolled nurse working in a remote area	10
Part 4	Research	11
Division 1	Definitions	12
280	Definitions for pt 4	13
	In this part—	14
	<i>biomedical study</i> means a study of the biological determinants of health and disease that establishes the biological basis for preventing, treating and curing disease.	15 16 17
	<i>clinical and applied study</i> means a study of the effectiveness of strategies to diagnose and treat disease or illness.	18 19
	<i>epidemiological study</i> means a study of the distribution and determinants of health-related states or events in particular populations.	20 21 22
	<i>evaluation and planning study</i> means a study for—	23
	(a) appraising or measuring the value of a health intervention; or	24 25

30 Section 266 (Confidentiality of information)

- (b) designing and projecting current and future health services. 1
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- monitoring and surveillance study** means a study for keeping watch over the health of the population or individuals to control the spread of disease and maintain health and well-being. 3
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- register** means the Research Register. 7
- research** means systematic investigation for the purpose of adding to knowledge about human health and well-being and includes the following— 8
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- (a) a biomedical study; 11
- (b) a clinical and applied study; 12
- (c) an epidemiological study; 13
- (d) an evaluation and planning study; 14
- (e) a monitoring and surveillance study. 15
- Research Register** see section 288(3). 16

Division 2 Health information held by the 17 **department for research** 18

- 281 Chief executive may give information** 19
- (1) The chief executive may give information under this part. 20
- (2) To enable the chief executive to give information under this part, a relevant person may give information under this part to the chief executive. 21
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- (3) The chief executive or a relevant person may give the information despite any other provision of this Act or any provision of another law that deals with confidentiality, including, for example, the *Health Services Act 1991*, section 62A. 24
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- (4) In this section— 29
- relevant person** means a person who has access to health information held by the department, including, for example, a health service employee or a public service employee. 30
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- 282 Application to chief executive for information** 1
- (1) A person may apply in writing to the chief executive to be 2
 given health information held by the department for research 3
 being conducted by the person or by an entity of which the 4
 person is a member. 5
- (2) The application must state the following— 6
- (a) a description of the research that includes— 7
- (i) the purpose of the research; and 8
- (ii) the methodology of the research; 9
- (b) the type of information required, including whether 10
 information identifying a person is required; 11
- (c) if information identifying a person is required— 12
- (i) the reasons the identifying information is required; 13
 and 14
- (ii) how the privacy of an individual identified will be 15
 protected; 16
- (d) if the information will be needed at intervals during the 17
 research, details of the intervals; 18
- (e) the name of the person or entity proposing to conduct 19
 the research; 20
- (f) the names of all persons who will be given the 21
 information for the research; 22
- (g) the duration of the research; 23
- (h) the views of a human research ethics committee about 24
 the research including contact details for the committee. 25
- 283 Further information or documents to support application** 26
- (1) This section applies if the chief executive considers further 27
 information is required to help the chief executive decide an 28
 application for health information held by the department. 29
- (2) The chief executive may, by notice given to the applicant, 30
 require the applicant to give the chief executive, within the 31
 reasonable time stated in the notice, further information or a 32
 document about the application. 33

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| (3) | The requirement may only relate to information or a document that is necessary and reasonable to help the chief executive decide the application. | 1
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| (4) | If the applicant fails to comply with the requirement within the stated time, the applicant is taken to have withdrawn the application. | 4
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| 284 | Decision about application | 7 |
| (1) | The chief executive must consider the application for health information held by the department as soon as practicable and either grant or refuse the application. | 8
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| (2) | The chief executive may grant the application only if the chief executive is satisfied the giving of the health information held by the department is in the public interest, having regard to— | 11
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| (a) | the opportunities the research will provide for increased knowledge and improved health outcomes; and | 14
15 |
| (b) | the privacy of individuals to whom the health information relates. | 16
17 |
| (3) | If the application asks for information identifying a person, the chief executive may grant the application only if the chief executive is satisfied the identification of the person is necessary for the relevant research. | 18
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21 |
| (4) | If the chief executive decides to grant the application, the chief executive must immediately give notice of the decision under section 285 to the applicant. | 22
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| (5) | An application may be granted subject to the conditions the chief executive considers necessary or desirable including, for example, the following— | 25
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| (a) | that the person or entity conducting the research must pay the State's reasonable costs of giving the information; | 28
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| (b) | that information given for research must be handled in a confidential and secure way; | 31
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| (c) | that measures must be put in place to ensure researchers are aware of and comply with ethical requirements relevant to the conduct of the research; | 33
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	(d) that measures must be put in place to provide feedback to the chief executive on the progress and results of the research.	1 2 3
	(6) If the chief executive decides to grant an application subject to conditions, the chief executive must immediately give the applicant notice of, and the reasons for, the conditions.	4 5 6
	(7) If the chief executive decides to refuse the application, the chief executive must immediately give the applicant notice of the refusal and the reasons for the refusal.	7 8 9
285	What notice must state	10
	(1) The notice under section 284(4) must state the following—	11
	(a) the name of the person or entity conducting the research;	12 13
	(b) the names of all persons who may be given the information for the research;	14 15
	(c) a description of the research, including the purpose and methodology of the research;	16 17
	(d) the type of information to be given and, if the information is to be given at intervals, details of the intervals;	18 19 20
	(e) if the application was granted subject to conditions, the conditions;	21 22
	(f) the period for which the application has been granted.	23
	(2) If an application is granted subject to a condition, the applicant must comply with the condition, unless the applicant has a reasonable excuse.	24 25 26
	Maximum penalty for subsection (2)—50 penalty units.	27
286	Notification of change of persons being given information	28 29
	(1) This section applies if the names of persons who will be given the information for the research changes.	30 31

(2)	The person for the time being in charge of the research must give notice to the chief executive as soon as practicable after the change.	1 2 3
	Maximum penalty—20 penalty units.	4
287	Chief executive may rescind decision to give information	5
(1)	This section applies if this part is contravened in relation to health information given under this part.	6 7
(2)	The chief executive may rescind the chief executive's decision to give the information.	8 9
Division 3	Establishment of register	10
288	Register of approved applications for health information held by the department	11 12
(1)	The chief executive must establish and keep a register of granted applications for health information held by the department stating—	13 14 15
	(a) the type of information to be given for the research; and	16
	(b) a description of the research; and	17
	(c) the name of the person or entity conducting the research; and	18 19
	(d) the period for which the application has been granted.	20
(2)	The register may be kept in a form the chief executive considers appropriate, including an electronic form.	21 22
(3)	The register is to be known as the Research Register.	23
289	Access to register	24
(1)	The chief executive must give a person access to the register and, if requested, a copy of all or part of the register.	25 26
(2)	The chief executive may charge a reasonable fee for copying the register.	27 28

Division 4	Use and disclosure of information supplied for research	1 2
290	Restriction on inconsistent use of information	3
	A person given health information held by the department under this part must not use the information for a purpose inconsistent with the research for which the information is provided.	4 5 6 7
	Maximum penalty—50 penalty units.	8
291	Restriction on disclosure of information	9
(1)	A person given health information held by the department under this part must not disclose the information, whether directly or indirectly.	10 11 12
	Maximum penalty—50 penalty units.	13
(2)	Subsection (1) does not apply if—	14
(a)	the disclosure is to a person named in a notice under section 284(4) or 286 as a person who will be given the information for the research; or	15 16 17
(b)	the disclosure is made with the written consent of the person to whom the information relates; or	18 19
(c)	the disclosure is made in a form the person reasonably believes could not identify any person; or	20 21
(d)	the disclosure is authorised under an Act or another law.	22
(3)	The <i>Health Services Act 1991</i> , section 62A, does not apply to a person in relation to information given to the person under this part for research.	23 24 25

292	Use of health information held by the department	1
(1)	The Minister may, by gazette notice, declare information given to a person under division 2 to be protected information.	2 3
(2)	The Minister may make a declaration under subsection (1) only if the Minister reasonably believes it is in the public interest to do so.	4 5 6
(3)	If the Minister makes a declaration under subsection (1), the protected information—	7 8
(a)	can not be accessed under any order, whether of a judicial or administrative nature, other than an order for the purpose of this Act; and	9 10 11
(b)	is not admissible in any proceeding, other than a proceeding under this Act.	12 13
(4)	A person can not be compelled to produce the protected information, or to give evidence relating to the protected information, in any proceeding, other than a proceeding under this Act.	14 15 16 17
(5)	Subsections (3)(b) and (4) do not apply if the protected information is admitted or produced, or evidence relating to the information is given, with the consent of the person to whom the information relates.	18 19 20 21
(6)	Nothing in this section limits access to protected information by the chief executive or a person authorised by the chief executive.	22 23 24
(7)	In this section— <i>order</i> includes a direction or other process.	25 26

Chapter 7 Public health inquiries 27

293	Definitions for ch 7	28
	In this chapter—	29
	<i>chairperson</i> , of a panel, means the person comprising the panel under this chapter or, if the panel consists of more than	30 31

	1 member, the person named as chairperson by the Minister, by gazette notice.	1 2
	<i>panel</i> means the panel of inquiry established under section 294.	3 4
	<i>witness requirement notice</i> see section 305(1).	5
294	Minister may establish or re-establish panels of inquiry	6
	(1) The Minister may, by gazette notice, establish a panel of inquiry to inquire into a matter the Minister considers to be a serious public health matter.	7 8 9
	(2) The notice, or a later gazette notice, may state matters relevant to the inquiry including, for example—	10 11
	(a) the membership of the panel;	12
	(b) if the panel consists of more than 1 member, the chairperson of the panel;	13 14
	(c) the panel's terms of reference.	15
	(3) The Minister may take action under this section for a serious public health matter whether or not a panel of inquiry has previously inquired into the matter.	16 17 18
295	Role of panel of inquiry	19
	(1) The panel of inquiry must—	20
	(a) inquire into the circumstances and probable causes of the serious public health matter; and	21 22
	(b) give the Minister a written report of the panel's findings.	23
	(2) The report may contain the recommendations the panel considers appropriate and other relevant matters.	24 25
	(3) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving the report.	26 27
	(4) However, if the panel gives the Minister a separate report of issues the panel considers should not be made public, the Minister need not table the separate report in the Legislative Assembly.	28 29 30 31

296	Conditions of appointment	1
(1)	A member of the panel of inquiry is entitled to be paid the remuneration and allowances decided by the Governor in Council.	2 3 4
(2)	A member holds office on conditions not provided by this Act that are decided by the Minister.	5 6
297	Chief executive to arrange for services of staff and financial matters for panel of inquiry	7 8
	As soon as practicable after the panel of inquiry is established, the chief executive must consult with the chairperson of the panel about and arrange for—	9 10 11
(a)	the services of public service employees, health service employees and other persons to be made available to the panel for the conduct of the inquiry; and	12 13 14
(b)	financial matters relevant to the panel.	15
298	Procedure	16
(1)	When conducting its inquiry, the panel of inquiry must—	17
(a)	observe natural justice; and	18
(b)	act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues.	19 20 21
(2)	In conducting the inquiry, the panel—	22
(a)	is not bound by the rules of evidence; and	23
(b)	may inform itself in any way it considers appropriate, including by holding hearings; and	24 25
(c)	may decide the procedures to be followed for the inquiry.	26 27
(3)	However, the panel must comply with this chapter and any procedural rules prescribed under a regulation.	28 29
(4)	The panel may allow or refuse to allow a person, including a lawyer, to represent someone else at the inquiry.	30 31
(5)	The chairperson of the panel of inquiry presides at the inquiry.	32

299	Notice of inquiry	1
	The chairperson of the panel of inquiry must give at least	2
	14 days notice of the time and place of the inquiry to any	3
	person the chairperson reasonably believes should be given	4
	the opportunity to appear at the inquiry.	5
300	Inquiry to be held in public other than in special circumstances	6
		7
	(1) An inquiry must be held in public.	8
	(2) However, the panel of inquiry may, of its own initiative or on	9
	the application of a person appearing before or represented at	10
	the inquiry, direct that the inquiry, or a part of the inquiry, be	11
	held in private, and give directions about the persons who	12
	may be present.	13
	(3) The panel may give a direction under subsection (2) only if it	14
	is satisfied that it is proper to do so in the special	15
	circumstances of the case.	16
301	Protection of members, legal representatives and witnesses	17
		18
	(1) A member of the panel of inquiry has, in the performance of	19
	the member's duties, the same protection and immunity as a	20
	Supreme Court judge performing the functions of a judge.	21
	(2) A lawyer or other person appearing before the panel for	22
	someone else has the same protection and immunity as a	23
	barrister appearing for a party in a proceeding in the Supreme	24
	Court.	25
	(3) A person given a witness requirement notice to attend or	26
	appearing before the panel as a witness has the same	27
	protection as a witness in a proceeding in the Supreme Court.	28
302	Record of proceedings to be kept	29
	The panel of inquiry must keep a record of its proceedings.	30

303	Procedural fairness and representation	1
	In the conduct of the inquiry, the panel of inquiry must give anyone directly concerned in the matter the subject of the inquiry the opportunity of making a defence to all claims made against the person, either in person or by the person's lawyer or representative.	2 3 4 5 6
304	Panel's powers on inquiry	7
	(1) In conducting the inquiry, the panel of inquiry may—	8
	(a) act in the absence of any person who has been given reasonable notice of the inquiry under section 299 or some other reasonable notice; and	9 10 11
	(b) receive evidence on oath or by statutory declaration; and	12
	(c) adjourn the inquiry; and	13
	(d) disregard any defect, error, omission or insufficiency in a document.	14 15
	(2) A member of the panel may administer an oath to a person appearing as a witness before the inquiry.	16 17
305	Notice to witness	18
	(1) The chairperson of the panel of inquiry may, by notice given to a person (a <i>witness requirement notice</i>), require the person to attend the inquiry at a stated time and place to give evidence or produce stated documents or things.	19 20 21 22
	(2) A person required to appear as a witness before the panel is entitled to the witness fees prescribed under a regulation or, if no witness fees are prescribed, the reasonable witness fees decided by the chairperson.	23 24 25 26
306	Inspection of documents or other things	27
	(1) If a document or other thing is produced to the panel of inquiry at the inquiry, the panel may—	28 29
	(a) inspect the document or other thing; and	30
	(b) make copies of, photograph, or take extracts from, the document or other thing if it is relevant to the inquiry.	31 32

(2)	The panel may also take possession of the document or other thing, and keep it while it is necessary for the inquiry.	1 2
(3)	While it keeps a document or other thing, the panel must permit a person otherwise entitled to possession of the document or thing to inspect, make copies of, photograph, or take extracts from, the document or thing, at a reasonable place and time the panel decides.	3 4 5 6 7
307	Inquiry may continue despite court proceeding unless otherwise ordered	8 9
	The panel of inquiry may conduct the inquiry, and a report may be prepared or given, despite a proceeding before any court or tribunal, unless a court or tribunal with the necessary jurisdiction orders otherwise.	10 11 12 13
308	Offences by witnesses	14
(1)	A person given a witness requirement notice—	15
(a)	must not fail, without reasonable excuse, to attend as required by the notice; and	16 17
(b)	must not fail, without reasonable excuse, to continue to attend as required by the chairperson of the panel of inquiry until excused from further attendance.	18 19 20
	Maximum penalty—100 penalty units.	21
(2)	A person appearing as a witness at the inquiry must not fail—	22
(a)	to take an oath when required by the chairperson of the panel; or	23 24
(b)	without reasonable excuse, to answer a question the person is required to answer by a member of the panel; or	25 26 27
(c)	without reasonable excuse, to produce a document or other thing the person is required to produce under a witness requirement notice.	28 29 30
	Maximum penalty—100 penalty units.	31

(3)	It is not a reasonable excuse for subsection (2)(b) or (c) that answering the question or producing the document or other thing might tend to incriminate the person.	1 2 3
(4)	The following is not admissible in evidence against an individual in any civil or criminal proceeding—	4 5
(a)	any answer given at the inquiry by the individual, and any document or other thing produced at the inquiry by the individual and the fact of that production, in response to a requirement under this chapter (<i>primary evidence</i>);	6 7 8 9 10
(b)	any information, or document or other thing, obtained as a direct or indirect result of primary evidence (<i>derived evidence</i>).	11 12 13
(5)	Subsection (4) does not prevent primary evidence or derived evidence being admitted in evidence in criminal proceedings about the falsity or misleading nature of the primary evidence.	14 15 16
309	False or misleading statements	17
	A person must not state anything to the panel of inquiry that the person knows is false or misleading in a material particular.	18 19 20
	Maximum penalty—200 penalty units.	21
310	False or misleading documents	22
(1)	A person must not give to the panel of inquiry a document containing information the person knows is false or misleading in a material particular.	23 24 25
	Maximum penalty—200 penalty units.	26
(2)	Subsection (1) does not apply to a person who, when giving the document—	27 28
(a)	informs the panel, to the best of the person's ability, how it is false or misleading; and	29 30
(b)	if the person has, or can reasonably get, the correct information—gives the correct information to the panel.	31 32

311	Contempt of panel	1
	A person must not—	2
	(a) insult the panel of inquiry; or	3
	(b) deliberately interrupt the inquiry; or	4
	(c) create or continue, or join in creating or continuing, a disturbance in or near a place where the panel is conducting its inquiry; or	5 6 7
	(d) do anything that would be contempt of court if the panel were a judge acting judicially.	8 9
	Maximum penalty—100 penalty units.	10
312	Report of offences	11
	(1) If the panel of inquiry considers material before it discloses an offence, it may report the offence to 1 or more of the following and may make available to them all relevant material in the panel's possession—	12 13 14 15
	(a) the commissioner of the police service;	16
	(b) the Crime and Misconduct Commission;	17
	(c) the director of public prosecutions;	18
	(d) the chief executive of the department in which the Act creating the offence is administered.	19 20
	(2) Subsection (1) does not apply to material to which section 308(4) applies.	21 22
313	Change of membership of panel	23
	The conduct of the inquiry, other than a panel consisting of 1 member, is not affected by a change in its membership.	24 25

Chapter 8	Public health emergencies	1
Part 1	Preliminary	2
314	Purpose of ch 8	3
	The purpose of this chapter is to declare and respond to—	4
	(a) public health emergencies; and	5
	(b) emergency notifiable conditions happening during a declared public health emergency.	6 7
315	Definitions for ch 8	8
	In this chapter—	9
	<i>controlled notifiable conditions declaration</i> see section 327(2).	10 11
	<i>declared public health emergency</i> means a public health emergency declared by the Minister by public health emergency order.	12 13 14
	<i>detention order</i> means an order by an emergency officer (medical) under section 349 for the detention of a person.	15 16
	<i>emergency notifiable condition</i> means a medical condition that is not prescribed under a regulation as a controlled notifiable condition and includes the following—	17 18 19
	(a) a previously unknown infectious medical condition;	20
	(b) a previously unknown strain or variant of a known infectious medical condition;	21 22
	(c) a previously known infectious medical condition or a previously known strain or variant of an infectious medical condition.	23 24 25
	<i>emergency officer</i> means a person appointed under this chapter as—	26 27
	(a) an emergency officer (general); or	28
	(b) an emergency officer (medical).	29

	<i>emergency officer (general)</i> means a person appointed under this chapter as an emergency officer (general).	1 2
	<i>emergency officer (medical)</i> means a doctor appointed under this chapter as an emergency officer (medical).	3 4
	<i>public health emergency</i> means an event or a series of events that has contributed to, or may contribute to, serious adverse effects on the health of persons in Queensland.	5 6 7
	<i>public health emergency area</i> see section 320(b).	8
	<i>public health emergency order</i> see section 319(2).	9
316	Relationship to other Acts	10
	(1) Nothing in this chapter prevents a person from declaring a disaster situation or another emergency under another Act (<i>another declaration</i>).	11 12 13
	(2) However, the existence of another declaration does not prevent the declaration of a public health emergency under this chapter.	14 15 16
	<i>Examples of other Acts—</i>	17
	• <i>Disaster Management Act 2003</i>	18
	• <i>Public Safety Preservation Act 1986</i>	19
317	Other Acts not affected	20
	This chapter is in addition to, and does not limit—	21
	(a) the <i>Disaster Management Act 2003</i> ;	22
	(b) the <i>Public Safety Preservation Act 1986</i> , part 3. ³¹	23
318	Powers under this chapter and powers under other Acts	24
	The powers under this chapter are in addition to and do not limit the powers a person has under another part of this Act or another Act.	25 26 27

31 *Public Safety Preservation Act 1986*, part 3 (Chemical, biological and radiological emergencies)

<i>Examples of powers a person may have under another part or another Act—</i>	1
	2
• the chief executive’s power to issue a chief executive’s order under chapter 3, part 4, division 2	3
	4
• a police officer’s general power of entry under the <i>Police Powers and Responsibilities Act 2000</i> , section 17	5
	6

Part 2	Declaring a public health emergency	7
		8
319	Declaration of public health emergency	9
(1)	This section applies if the Minister is satisfied—	10
(a)	there is a public health emergency; and	11
(b)	it is necessary to exercise powers under this chapter to prevent or minimise serious adverse effects on human health.	12
		13
		14
(2)	The Minister may declare a public health emergency by a signed written order (a public health emergency order).	15
		16
(3)	However, before declaring a public health emergency the Minister must, if practicable, consult with the chief executive and the chief health officer.	17
		18
		19
(4)	If it has not been practicable to consult with the chief executive or the chief health officer under subsection (3), the Minister must consult as soon as practicable after the declaration of the public health emergency.	20
		21
		22
		23
(5)	A public health emergency order takes effect from its declaration by the Minister by signed written order.	24
		25
320	What public health emergency order must state	26
	A public health emergency order must state—	27
(a)	the nature of the public health emergency; and	28
(b)	the area to which the order relates (a public health emergency area); and	29
		30

	(c) the duration of the order; and	1
	(d) any conditions relating to the conduct of the response to the declared public health emergency.	2 3
321	Publication of declaration	4
	(1) The Minister must publish a public health emergency order as soon as practicable after it is declared—	5 6
	(a) by gazette notice; and	7
	(b) by newspaper, radio or television in the public health emergency area.	8 9
	(2) To ensure public knowledge of a public health emergency order, the Minister must give widespread publicity to the order but failure to do so does not affect the order.	10 11 12
322	Duration of declared public health emergency	13
	A declared public health emergency—	14
	(a) starts when it is declared under section 319(2); and	15
	(b) unless either of the following happens, ends 7 days after the day it is declared—	16 17
	(i) the Minister sooner ends the declared public health emergency under section 324(1);	18 19
	(ii) a regulation extends, under section 323, the period of the declared public health emergency beyond the end of the 7 days.	20 21 22
323	Extending declared public health emergency	23
	(1) A regulation may extend, or from time to time further extend, the period of a declared public health emergency.	24 25
	(2) A regulation made under this section commences on the day it is made whether or not it is gazetted on that day.	26 27
	(3) A regulation extending the period of a declared public health emergency expires 14 days after the public health emergency is declared unless it is sooner repealed or it expires under section 324(3).	28 29 30 31

(4)	A regulation further extending the period of a declared public health emergency—	1 2
(a)	must state the period, of not more than 7 days, by which the declared public health emergency is extended; and	3 4
(b)	expires at the end of the stated period unless it is sooner repealed or it expires under section 324(3).	5 6
(5)	Subsection (2) applies despite the <i>Statutory Instruments Act 1992</i> , section 32. ³²	7 8
(6)	The <i>Statutory Instruments Act 1992</i> , part 5 ³³ does not apply to a regulation made under this section.	9 10
324	Ending declared public health emergency	11
(1)	As soon as the Minister is satisfied it is no longer necessary to exercise powers under this chapter to prevent or minimise serious adverse effects on human health, the Minister must end the declared public health emergency.	12 13 14 15
(2)	If the Minister ends the declared public health emergency under subsection (1), the Minister must make a written record of the time and date the declared public health emergency ended.	16 17 18 19
(3)	A regulation extending or further extending a declared public health emergency expires when the declared public health emergency ends under this section.	20 21 22
325	Publication of ending of declared public health emergency	23 24
(1)	The Minister must publish the ending of a public health emergency as soon as practicable after it is made—	25 26
(a)	by gazette notice; and	27
(b)	by newspaper, radio or television in the public health emergency area.	28 29

32 *Statutory Instruments Act 1992*, section 32 (Prospective commencement)

33 *Statutory Instruments Act 1992*, part 5 (Guidelines for regulatory impact statements)

	(2) To ensure public knowledge of the ending of a public health emergency, the Minister must give widespread publicity to the ending.	1 2 3
326	Public health emergency order may be amended	4
	(1) A public health emergency order may be amended by the Minister by signed written order.	5 6
	(2) The provisions of this part about when an order takes effect and about the publication, publicity and consultation for the order apply to the amendment of an order as if it were the order being amended.	7 8 9 10
Part 3	Emergency notifiable conditions	11 12
327	Declaration of emergency notifiable condition as controlled notifiable condition	13 14
	(1) This section applies if the Minister is satisfied—	15
	(a) an emergency notifiable condition exists; and	16
	(b) it is appropriate, having regard to the nature of the declared public health emergency, to declare the emergency notifiable condition to be a controlled notifiable condition.	17 18 19 20
	(2) The Minister may declare the emergency notifiable condition to be a controlled notifiable condition by a signed written declaration (a <i>controlled notifiable conditions declaration</i>).	21 22 23
	(3) However, before declaring an emergency notifiable condition to be a controlled notifiable condition the Minister must, if practicable, consult the chief executive and the chief health officer.	24 25 26 27
	(4) If it has not been practicable to consult with the chief executive or the chief health officer under subsection (3), the Minister must consult as soon as practicable after the declaration.	28 29 30 31

	(5) To remove any doubt, it is declared that an emergency notifiable condition declared to be a controlled notifiable condition under subsection (2) is a controlled notifiable condition for chapter 3.	1 2 3 4
328	What controlled notifiable conditions declaration must state	5 6
	(1) A controlled notifiable conditions declaration must state—	7
	(a) the general nature of the emergency notifiable condition including, for example, signs and symptoms that may be associated with the condition; and	8 9 10
	(b) the period for which the emergency notifiable condition is declared to be a controlled notifiable condition.	11 12
	(2) The declaration may continue after the declared public health emergency ends.	13 14
329	Publication of declaration	15
	The Minister must publish a controlled notifiable conditions declaration by gazette notice as soon as practicable after it is declared.	16 17 18
330	Duration of controlled notifiable conditions declaration	19
	The controlled notifiable conditions declaration—	20
	(a) starts when it is declared under section 327(2); and	21
	(b) ends 28 days after the day it is declared.	22
331	Controlled notifiable conditions declaration may be amended	23 24
	(1) A controlled notifiable conditions declaration may be amended by the Minister by signed written declaration.	25 26
	(2) The provisions of this part about when a declaration takes effect and about publication and consultation for the declaration apply to the amendment of a declaration as if it were the declaration being amended.	27 28 29 30

Part 4	Role of chief executive	1
332	Coordination responsibility	2
(1)	On the declaration of a public health emergency, the chief executive is responsible for the overall management and control of the response to the emergency.	3 4 5
(2)	The chief executive is taken to be—	6
(a)	if the chief executive is a doctor—an emergency officer (medical) and has and may exercise all the powers an emergency officer (medical) may exercise under this chapter; or	7 8 9 10
(b)	if the chief executive is not a doctor—an emergency officer (general), and has and may exercise all the powers an emergency officer (general) may exercise under this chapter.	11 12 13 14
(3)	For coordinating the response by emergency officers to the declared public health emergency, the chief executive may give directions about the circumstances in which powers available to emergency officers under this chapter may be exercised.	15 16 17 18 19
(4)	A direction given under subsection (3)—	20
(a)	may be general or limited to a particular class of emergency officers; and	21 22
(b)	may be given on conditions.	23
Part 5	Appointment of emergency officers	24 25
333	Appointment of emergency officers (general)	26
(1)	The chief executive may by instrument appoint the following persons as emergency officers (general) for declared public health emergencies—	27 28 29

	(a) public service officers or employees;	1
	(b) health service employees;	2
	(c) persons employed by a local government;	3
	(d) SES members under the <i>Disaster Management Act 2003</i> ;	4 5
	(e) other persons prescribed under a regulation.	6
(2)	An appointment under subsection (1)(c) is for the local government's area and any other local government area stated in the appointment.	7 8 9
(3)	For an appointment under subsection (1)(c), the chief executive must, before appointing a person, obtain agreement to the appointment from the chief executive officer of the local government that employs the person.	10 11 12 13
(4)	An appointment under subsection (1) may be made before or after the declaration of a public health emergency.	14 15
334	Qualifications for appointment as emergency officer (general)	16 17
	The chief executive may appoint a person as an emergency officer (general) only if the chief executive considers the person has the necessary expertise and experience to be an emergency officer (general).	18 19 20 21
335	Appointment of emergency officers (medical)	22
(1)	The chief executive may by instrument appoint doctors as emergency officers (medical) for declared public health emergencies if they are—	23 24 25
	(a) public service officers or employees; or	26
	(b) health service employees; or	27
	(c) other persons prescribed under a regulation.	28
(2)	An appointment under subsection (1) may be made before or after the declaration of a public health emergency.	29 30

336	Qualifications for appointment as emergency officer (medical)	1 2
	The chief executive may appoint a doctor as an emergency officer (medical) only if the chief executive considers the doctor has the necessary expertise and experience to be an emergency officer (medical).	3 4 5 6
337	Appointment conditions	7
	(1) An emergency officer holds office on the conditions stated in the instrument of appointment.	8 9
	(2) An emergency officer may resign by signed notice of resignation given to the chief executive.	10 11
338	Chief executive to give copy of appointment to emergency officer	12 13
	The chief executive must, as soon as practicable after appointing a person as an emergency officer, give to the person appointed a copy of the person's appointment.	14 15 16
339	Powers	17
	(1) For a declared public health emergency—	18
	(a) an emergency officer has the powers stated in part 6; and	19 20
	(b) an emergency officer (medical) also has the powers stated in part 7.	21 22
	(2) An emergency officer is subject to the directions of the chief executive in exercising the powers.	23 24
	(3) An emergency officer's powers may be limited—	25
	(a) under a condition of appointment; or	26
	(b) by notice given by the chief executive to the emergency officer.	27 28

340	Identity cards	1
(1)	The chief executive must give each emergency officer an identity card as soon as practicable after the officer's appointment.	2 3 4
(2)	The identity card must—	5
(a)	contain a copy of the signature, and, if practicable, a recent photograph, of the emergency officer; and	6 7
(b)	identify the person as an emergency officer (general) or an emergency officer (medical) under this Act; and	8 9
(c)	include an expiry date for the card.	10
341	Failure to return identity card	11
	A person who ceases to be an emergency officer must return the person's identity card to the chief executive as soon as practicable, but within 21 days, after ceasing to be an emergency officer, unless the person has a reasonable excuse.	12 13 14 15
	Maximum penalty—20 penalty units.	16
342	Production or display of identity card by emergency officer	17 18
(1)	An emergency officer may exercise a power in relation to another person only if—	19 20
(a)	if the emergency officer has been issued with an identity card with a photograph, the emergency officer—	21 22
(i)	first produces the emergency officer's identity card for the other person's inspection; or	23 24
(ii)	has the identity card displayed so it is clearly visible to the other person; or	25 26
(b)	if the emergency officer has been issued with an identity card without a photograph, the emergency officer—	27 28
(i)	first produces the emergency officer's identity card for the other person's inspection together with a form of photo identification that identifies the officer; or	29 30 31 32

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- (ii) has the identity card displayed so it is clearly visible to the other person and produces a form of photo identification that identifies the officer; or
 - (c) if the emergency officer has not been issued with an identity card, the emergency officer first produces—
 - (i) a form of photo identification that identifies the officer; and
 - (ii) a copy of the officer’s appointment as an emergency officer.
- (2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the emergency officer must produce for the other person’s inspection at the first reasonable opportunity—
 - (a) if the emergency officer has been issued with an identity card with a photograph—the emergency officer’s identity card; or
 - (b) if the emergency officer has been issued with an identity card without a photograph—the emergency officer’s identity card together with a form of photo identification that identifies the officer; or
 - (c) if the emergency officer has not been issued with an identity card—a form of photo identification that identifies the officer and a copy of the officer’s appointment as an emergency officer.
- (3) Subsection (2) applies only if the production is practicable in all the circumstances.

Part 6	Powers of emergency officers	1
Division 1	Entry of places	2
343	Power to enter places	3
(1)	An emergency officer may enter a place, in the public health emergency area, if the emergency officer is responding to a declared public health emergency and reasonably believes it is urgent that the emergency officer enter the place to—	4 5 6 7
(a)	save human life; or	8
(b)	prevent or minimise serious adverse effects on human health; or	9 10
(c)	do anything else to relieve suffering or distress.	11
(2)	The emergency officer may enter the place with the help, and using the force, that is reasonable in the circumstances.	12 13
344	Procedure before entry	14
(1)	This section applies to an emergency officer intending to enter a place to respond to a declared public health emergency.	15 16
(2)	Before entering the place, the emergency officer must do or make a reasonable attempt to do the following things—	17 18
(a)	seek an occupier’s consent to the entry;	19
(b)	tell the occupier the emergency officer is permitted to enter the place to respond to a declared public health emergency;	20 21 22
(c)	give the occupier an opportunity to allow the emergency officer immediate entry to the place without using force.	23 24
(3)	However, the emergency officer need not comply with subsection (2) if the emergency officer believes on reasonable grounds that immediate entry to the place is required to effectively respond to the declared public health emergency.	25 26 27 28

Division 2	Emergency powers	1
345	Emergency powers	2
(1)	An emergency officer responding to a declared public health emergency may do any of the following the emergency officer reasonably believes is necessary to respond to the declared public health emergency—	3 4 5 6
(a)	require a person not to enter or not to remain within a place;	7 8
(b)	require a person to stop using a place for a stated purpose;	9 10
(c)	require a person to go to a stated place;	11
(d)	require a person to stay at or in a stated place;	12
(e)	require a person to take measures to remove from the person a substance that is a hazard to human health, for example, by showering;	13 14 15
(f)	direct the movement of a person, animal or a vehicle into, out of, or around the public health emergency area;	16 17
(g)	require a person to state the person's name and residential address;	18 19
(h)	require a person to answer questions by the emergency officer;	20 21
(i)	clean or disinfect a place, structure or thing;	22
(j)	carry out insect or pest control;	23
(k)	demolish stated structures or other property;	24
(l)	contain an animal, substance or thing within the public health emergency area;	25 26
(m)	remove an animal, substance or thing from a place;	27
(n)	destroy animals at a place or remove animals from a place for destruction at another place;	28 29
(o)	dispose of an animal, substance or thing at a place, for example, by burying the animal, substance or thing;	30 31

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- (p) take action in relation to property including, for example, to allow the officer to take control of a building for the purposes of the emergency;
- (q) require a person to give the emergency officer reasonable help to exercise the emergency officer's powers under paragraphs (i) to (p).
- (2) However, an emergency officer may exercise a power under subsection (1)(k) or (n) only with the written approval of the chief executive.
- (3) If a person fails to comply with a requirement or direction under subsection (1)(a) to (f), an emergency officer may, with necessary and reasonable help and force, take action to enforce the requirement or direction.
- (4) For subsection (1)(g), the emergency officer may require the person to give the officer evidence of the correctness of the stated name or residential address if the officer reasonably suspects the stated name or address to be false.
- (5) When making a requirement or direction mentioned in subsection (1) or (4), the emergency officer must—
- (a) warn the person it is an offence to fail to comply with the requirement or direction, unless the person has a reasonable excuse; and
- (b) tell the person of the effect of section 346(2).

346 Failure to comply with requirement

- (1) A person of whom a requirement or direction is made under section 345(1)(a) to (h) or (4) must comply with the requirement or direction, unless the person has a reasonable excuse.
- Maximum penalty—100 penalty units.
- (2) It is not a reasonable excuse to fail to comply with the requirement that complying with the requirement might tend to incriminate the person.
- (3) However, the following is not admissible in evidence against an individual in any civil or criminal proceeding—

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| (a) | any answer given by the individual in complying with the requirement (<i>primary evidence</i>); | 1
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| (b) | any information, or document or other thing, obtained as a direct or indirect result of primary evidence (<i>derived evidence</i>). | 3
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| (4) | Subsection (3) does not prevent primary evidence or derived evidence being admitted in evidence in criminal proceedings about the falsity or misleading nature of the primary evidence. | 6
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347 General powers after entering places 9

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| (1) | This section applies to an emergency officer who enters a place to respond to a declared public health emergency. | 10
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| (2) | The emergency officer may— | 12 |
| (a) | search any part of the place; or | 13 |
| (b) | inspect, measure, test, photograph or film any part of the place or anything at the place; or | 14
15 |
| (c) | take a thing, or a sample of or from a thing, at the place for analysis or testing; or | 16
17 |
| (d) | copy a document at the place or take the document to another place to copy it; or | 18
19 |
| (e) | take into or onto the place any persons, equipment and materials the emergency officer reasonably requires for exercising a power under this chapter; or | 20
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| (f) | require a person at the place to give the emergency officer reasonable help to exercise the emergency officer's powers under paragraphs (a) to (e). | 23
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| (3) | When making a requirement mentioned in subsection (2)(f) the emergency officer must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse. | 26
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| (4) | If an emergency officer takes a document from a place to copy it, the document must be copied as soon as practicable and returned to the place. | 30
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348	Failure to help emergency officer	1
	A person required to give reasonable help under section 345(1)(q) or 347(2)(f) must comply with the requirement, unless the person has a reasonable excuse.	2 3 4
	Maximum penalty—100 penalty units.	5
Part 7	Extra powers of emergency officers (medical)	6 7
Division 1	Detention powers	8
349	Emergency officer (medical) may order detention	9
	(1) This section applies if an emergency officer (medical) reasonably suspects that—	10 11
	(a) a person in a public health emergency area has or may have a serious disease or illness; and	12 13
	(b) the serious disease or illness, or the serious disease or illness and the person’s likely behaviour, constitutes an immediate risk to public health; and	14 15 16
	(c) it is necessary to detain the person to effectively respond to the declared public health emergency.	17 18
	(2) The emergency officer (medical) may order the detention of the person at a place decided by the officer within or outside the public health emergency area.	19 20 21
	(3) The order must be in writing and state the following—	22
	(a) a description of the serious disease or illness the person has or may have;	23 24
	(b) the place where the person is to be detained;	25
	(c) that the person must—	26
	(i) if the person is at the place where the person is to be detained—remain at the place; or	27 28

	(ii) if the person is not at the place where the person is to be detained—go to the place with the emergency officer (medical) or with a person nominated by the officer;	1 2 3 4
	(d) the time when the detention order ends.	5
350	Duration of order	6
	A detention order by an emergency officer (medical) ends—	7
	(a) 96 hours from the time it is given to the person the subject of the order; or	8 9
	(b) if a lesser period is stated in the order, at the end of the lesser period.	10 11
351	Enforcement of order	12
	(1) A detention order may be enforced by the emergency officer (medical) or a person nominated by the officer.	13 14
	(2) The officer or person nominated must—	15
	(a) give the person to be detained a copy of the detention order and explain to the person, in general terms, the purpose and effect of the order; or	16 17 18
	(b) if it is not reasonably practicable to give a written detention order to the person before detaining the person—explain the purpose and effect of the order to the person in detail.	19 20 21 22
	(3) A detention order explained under subsection (2)(b) has the same effect as a written order but the officer or person nominated by the officer must give the written order to the person detained as soon as reasonably practicable after the person is detained.	23 24 25 26 27
	(4) A person to whom a detention order applies must comply with the order.	28 29
	Maximum penalty—200 penalty units.	30
	(5) The officer or person may enforce the detention order with the help, and using the force, that is reasonable in the circumstances.	31 32 33

352	Establishing isolation areas	1
(1)	An emergency officer (medical) may establish an area (an <i>isolation area</i>) to accommodate persons detained under this division.	2 3 4
(2)	An emergency officer may take the action the emergency officer reasonably believes is necessary to establish an isolation area.	5 6 7
(3)	Without limiting subsection (2), an emergency officer may use a building or any other thing within the isolation area.	8 9
353	Person to be given opportunity of voluntarily complying with order	10 11
	Before enforcing a detention order against a person, the emergency officer (medical) or a person nominated by the officer must give the person the opportunity of voluntarily complying with the order.	12 13 14 15
354	Medical examination and treatment	16
(1)	As soon as practicable after a person is detained, an emergency officer (medical) must request that the person be medically examined—	17 18 19
(a)	to help decide whether the person has or may have a serious disease or illness so that the person may be treated for the disease or illness; and	20 21 22
(b)	to decide whether the person is an immediate risk to public health.	23 24
(2)	When requesting that the person be examined, the emergency officer (medical) must—	25 26
(a)	give an explanation to the person about the examination to be undertaken in a way likely to be readily understood by the person; and	27 28 29
(b)	tell the person that the person may refuse the examination.	30 31
(3)	Any examination of the person may be conducted by an emergency officer (medical) or a doctor chosen by the person.	32 33

(4)	The person must be given the opportunity of receiving medical treatment including by a doctor chosen by the person.	1 2
(5)	Subsection (1) does not apply if—	3
(a)	the serious disease or illness is an emergency notifiable condition and there is no recognised procedure for deciding whether the person has been exposed to the condition; or	4 5 6 7
(b)	there is no way of deciding within 96 hours whether the person has been exposed to the serious disease or illness.	8 9 10
	<i>Note—</i>	11
	The chief executive may apply for an initial examination order under section 116.	12 13
355	When detained person must be released before the end of the order	14 15
	A person detained under this part must be released before the detention order ends if—	16 17
(a)	an emergency officer (medical) is satisfied the person is no longer an immediate risk to public health; or	18 19
(b)	if the person has been examined by a doctor chosen by the person—both the doctor and the emergency officer (medical) are satisfied the person is no longer an immediate risk to public health.	20 21 22 23
Division 2	Extension of detention order	24
356	Application to extend order	25
(1)	This section applies if an emergency officer (medical) is satisfied that, having regard to the matters stated in section 349(1)(a) and (b), it is necessary to continue to detain a person after a detention order ends.	26 27 28 29
(2)	The emergency officer (medical) or the chief executive may apply to a magistrate to extend the detention order.	30 31
(3)	The application must be made before the detention order ends.	32

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- (4) The emergency officer (medical) or the chief executive must immediately give the person detained a copy of the application. 1
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- (5) The person detained must not attend the hearing of the application but may nominate a person to represent the person detained at the hearing. 4
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- (6) The magistrate may refuse to consider the application until the applicant gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires. 7
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- Example—* 11
- the magistrate may require additional information supporting the application be given by statutory declaration 12
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357 Consideration of application 14

- (1) The magistrate— 15
- (a) must decide the application as quickly as possible; and 16
- (b) must consider any representations made by the person representing the person detained; and 17
18
- (c) may make the orders the magistrate considers appropriate for deciding the application; and 19
20
- Example of order—* 21
- an order adjourning the application until the emergency officer (medical) gives the magistrate additional information 22
23
- (d) may extend, or refuse to extend, the detention order. 24
- (2) However, the magistrate may extend the detention order only if satisfied it is reasonably necessary to effectively respond to the declared public health emergency. 25
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- (3) If the magistrate does not decide the application before the end of the detention order, the detention order continues until the application is finally decided. 28
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358	Appeal	1
(1)	An emergency officer (medical) or the chief executive may appeal to the District Court against the refusal of a magistrate to extend the detention order.	2 3 4
(2)	On the filing of an appeal, the decision of the magistrate is stayed and the detention order continues.	5 6
(3)	The District Court—	7
(a)	must hear and decide the appeal without delay; and	8
(b)	may either—	9
(i)	extend the detention order; or	10
(ii)	confirm the decision appealed against and dismiss the appeal; and	11 12
(c)	may make the other orders the court considers appropriate.	13 14
Division 3	Other provisions about detention	15
359	Application of div 3	16
	This division applies only in relation to a person who is detained under this part.	17 18
360	Obligations of emergency officer (medical) in relation to person detained	19 20
	The emergency officer (medical) must—	21
(a)	as soon as possible having regard to all the circumstances, inform the person detained—	22 23
(i)	that the person may apply to a magistrate for an order ending the person's detention and how the person may apply; and	24 25 26
(ii)	of the person's right to consult a lawyer or other person of the person's choice; and	27 28

	(iii) that, for the person to be detained beyond 96 hours, the emergency officer (medical) must apply to a magistrate to extend the detention order; and	1 2 3
	(b) as soon as reasonably practicable inform the next of kin of the detained person or someone else nominated by the person—	4 5 6
	(i) that the person is detained under this part and where the person is detained; and	7 8
	(ii) of the things mentioned in paragraph (a); and	9
	(iii) of how to obtain information about the person detained, including who to contact to obtain the information; and	10 11 12
	(c) as soon as reasonably practicable give the detained person a reasonable opportunity to contact persons with whom the detained person wants to communicate.	13 14 15
	<i>Example for paragraph (c)—</i>	16
	It may be reasonably practicable for a person with a highly contagious condition to contact a person by telephone but not to have personal contact.	17 18 19
361	Application to magistrate for order ending person's detention	20 21
	(1) This section applies if a person has been detained under a detention order.	22 23
	(2) The person's lawyer or a person nominated by the person (the <i>applicant</i>) may apply to a magistrate for an order ending the detention.	24 25 26
	(3) The application may be made orally or in writing but if made orally can not be made in the absence of the emergency officer (medical) or a representative of the emergency officer (medical).	27 28 29 30
	(4) The applicant must immediately give the emergency officer (medical) notice of when and where the application will be made.	31 32 33
	(5) The notice may be given orally or in writing, but if given orally must be put in writing as soon as practicable.	34 35

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| (6) The magistrate— | 1 |
| (a) must decide the application as quickly as possible; and | 2 |
| (b) must have regard to any submissions made by the parties to the application; and | 3
4 |
| (c) may make an order ending the person’s detention only if satisfied the person’s continued detention is not reasonably necessary to effectively respond to the declared public health emergency; and | 5
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| (d) may not order the applicant to pay the respondent’s costs of the application; and | 9
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| (e) may refuse to consider the application until the applicant gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires. | 11
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| <i>Example for paragraph (e)—</i> | 15 |
| the magistrate may require additional information supporting the application be given by statutory declaration | 16
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| (7) The person detained is not entitled to be present when the application is being heard. | 18
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| 362 Appeal | 20 |
| (1) The emergency officer (medical) or the chief executive or the person detained may appeal to the District Court against a decision of the magistrate on an application for an order ending a person’s detention. | 21
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| (2) If the emergency officer (medical) or the chief executive is the appellant, the decision appealed against is stayed on the filing of the notice of appeal and the detention order continues. | 25
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27 |
| (3) The District Court must hear and decide the appeal without delay. | 28
29 |
| (4) If the emergency officer (medical) or the chief executive is the appellant, the District Court may make an order— | 30
31 |
| (a) allowing the appeal; or | 32 |
| (b) confirming the decision appealed against and dismissing the appeal. | 33
34 |

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- 368 Applying for compensation** 1
- (1) A person who suffers loss or damage because of the exercise, 2
or purported exercise, of a power under part 6 or 7 may apply 3
to the chief executive for compensation for the loss or 4
damage. 5
- (2) The application must be made in writing within 90 days after 6
the person suffers the loss or damage. 7
- (3) The application must state— 8
- (a) details of the person’s loss or damage; and 9
- (b) the amount of compensation claimed and the grounds 10
for the amount claimed. 11
- (4) The applicant also must provide any other relevant 12
information reasonably required by the chief executive to 13
decide the application. 14
- (5) Despite subsection (2), the chief executive may accept a 15
person’s application for compensation made more than 16
90 days after the person suffers the loss or damage if the chief 17
executive is satisfied it would be reasonable in all the 18
circumstances to accept the application. 19
- 369 Lapsing of application** 20
- (1) If an application for compensation is made under this part, the 21
chief executive may make a requirement under section 368(4) 22
for information to decide the application by giving the 23
applicant a notice stating— 24
- (a) the required information; and 25
- (b) the time by which the information must be given to the 26
chief executive; and 27
- (c) that, if the information is not given to the chief executive 28
by the stated time, the application will lapse. 29
- (2) The stated time must be reasonable and, in any case, at least 30
21 days after the requirement is made. 31
- (3) The chief executive may give the applicant a further notice 32
extending or further extending the time if the chief executive 33

	is satisfied it would be reasonable in all the circumstances to give the extension.	1 2
(4)	A notice may be given under subsection (3) even if the time to which it relates has lapsed.	3 4
(5)	If the applicant does not comply with the requirement within the stated time, or any extension, the application lapses.	5 6
370	Deciding application	7
(1)	The chief executive must consider and decide an accepted application within 60 days after the last of the following to happen—	8 9 10
(a)	the chief executive receives the application;	11
(b)	the chief executive receives all necessary information to decide the application.	12 13
(2)	If the chief executive has not decided an accepted application within the period stated in subsection (1) for the application, the chief executive is taken to have refused to pay compensation.	14 15 16 17
(3)	In this section—	18
	<i>accepted application</i> means an application made under section 368(2) or an application the chief executive accepts under section 368(5).	19 20 21
371	Notice about decision	22
	As soon as practicable after deciding the application, the chief executive must give the applicant a notice stating all of the following—	23 24 25
(a)	the decision and the reasons for it;	26
(b)	if the chief executive decides to pay compensation—	27
(i)	details of the amount and how the amount was assessed; and	28 29
(ii)	if the amount is less than the amount claimed—that the applicant may appeal against the decision, and how the applicant may appeal;	30 31 32

	(c) if the chief executive decides not to pay compensation—that the applicant may appeal against the decision, and how the applicant may appeal.	1 2 3
372	Who may appeal	4
	An applicant for the payment of compensation under this part who is dissatisfied with the chief executive’s decision to refuse to pay compensation or about the amount of compensation may appeal against the decision.	5 6 7 8
373	Starting an appeal	9
	(1) An appeal may be started at—	10
	(a) the Magistrates Court nearest the place where the person lives or carries on business; or	11 12
	(b) a Magistrates Court at Brisbane.	13
	(2) The notice of appeal under the <i>Uniform Civil Procedure Rules 1999</i> must be filed with the registrar of the court within 28 days after—	14 15 16
	(a) if the person is given notice of the decision under section 371—the day the person is given the notice; or	17 18
	(b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.	19 20
	(3) The court may, at any time, extend the time for filing the notice of appeal.	21 22
374	Hearing procedures	23
	In hearing the appeal, the court is not bound by the rules of evidence.	24 25
375	Appeal to District Court	26
	An appeal lies to the District Court from a decision of a Magistrates Court under this part, but only on a question of law.	27 28 29

Chapter 9	Monitoring and enforcement	1
		2
Part 1	Authorised persons	3
376	Powers generally	4
	(1) An authorised person has the powers given under this Act.	5
	(2) In exercising the powers an authorised person is subject to the directions of the administering executive.	6 7
	(3) If the authorised person is appointed by 2 or more chief executive officers, the authorised person is subject to the directions of the chief executive officer of the local government for the area in which the authorised person is exercising the powers.	8 9 10 11 12
377	Appointment	13
	(1) The chief executive may appoint any of the following persons as an authorised person—	14 15
	(a) a public service officer or employee;	16
	(b) a health service employee;	17
	(c) a person prescribed under a regulation.	18
	(2) The chief executive officer of a local government may appoint any of the following persons as an authorised person for the local government and its area—	19 20 21
	(a) an employee of the local government;	22
	(b) if the chief executive officer of another local government agrees—an employee of the other local government;	23 24 25
	(c) another person under contract to the local government.	26
	(3) The chief executive officers of 2 or more local governments may appoint an employee of, or another person under contract to, one of the local governments to be an authorised person for the local governments' areas.	27 28 29 30

(4)	A person may be appointed for the Act generally, for stated provisions of the Act or for stated public health risks.	1 2
378	Qualifications for appointment	3
	The administering executive may appoint a person as an authorised person only if—	4 5
	(a) the administering executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience; and	6 7 8
	(b) the person has the competencies, if any, prescribed under a regulation as relevant to the person's appointment.	9 10 11
379	Appointment conditions and limit on powers	12
(1)	An authorised person holds office on the conditions stated in—	13 14
	(a) the authorised person's instrument of appointment; or	15
	(b) a signed notice given to the authorised person; or	16
	(c) a regulation.	17
(2)	The instrument of appointment, a signed notice given to an authorised person or a regulation may limit the authorised person's powers under this Act.	18 19 20
(3)	In this section—	21
	<i>signed notice</i> means a notice signed by the administering executive.	22 23
380	Issue of identity card	24
(1)	The administering executive must issue an identity card to each authorised person.	25 26
(2)	The identity card must—	27
	(a) contain a recent photo of the authorised person; and	28
	(b) contain a copy of the authorised person's signature; and	29

(c)	identify the person as an authorised person under this Act; and	1 2
(d)	state an expiry date for the card.	3
(3)	This section does not prevent the issue of a single identity card to a person for this Act and other purposes.	4 5
381	Production or display of identity card	6
(1)	In exercising a power under this Act in relation to another person, an authorised person must—	7 8
(a)	produce the authorised person’s identity card for the other person’s inspection before exercising the power; or	9 10 11
(b)	have the identity card displayed so it is clearly visible to the other person when exercising the power.	12 13
(2)	However, if it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the other person’s inspection at the first reasonable opportunity.	14 15 16
(3)	For subsection (1), an authorised person does not exercise a power in relation to another person only because the authorised person has entered a place as mentioned in section 385(1)(b) or (2).	17 18 19 20
382	When authorised person ceases to hold office	21
(1)	An authorised person ceases to hold office if any of the following happens—	22 23
(a)	the term of office stated in a condition of office ends;	24
(b)	under another condition of office, the authorised person ceases to hold office;	25 26
(c)	the authorised person’s resignation under section 383 takes effect.	27 28
(2)	Subsection (1) does not limit the ways an authorised person may cease to hold office.	29 30

(3)	In this section—	1
	<i>condition of office</i> means a condition on which the authorised person holds office.	2 3
383	Resignation	4
	An authorised person may resign by signed notice given to the administering executive.	5 6
384	Return of identity card	7
(1)	A person who ceases to be an authorised person must return the person's identity card to the administering executive within 21 days after ceasing to be an authorised person unless the person has a reasonable excuse.	8 9 10 11
	Maximum penalty—20 penalty units.	12
(2)	For subsection (1), for a person appointed under this Act as an authorised person by 2 or more chief executive officers, the identity card must be returned to 1 of the chief executive officers.	13 14 15 16
Part 2	Powers of authorised persons	17
Division 1	Entry of places	18
385	Power to enter places	19
(1)	An authorised person may enter a place if—	20
	(a) an occupier of the place consents to the entry; or	21
	(b) it is a public place and the entry is made when it is open to the public; or	22 23
	(c) the entry is authorised by a warrant; or	24
	(d) entry is under section 386, 387, 388, 389 or 390.	25

(2)	For the purpose of asking the occupier of a place for consent to enter, an authorised person may, without the occupier's consent, an enforcement order or a warrant—	1 2 3
(a)	enter land around premises at the place to an extent that is reasonable to contact the occupier; or	4 5
(b)	enter part of the place the authorised person reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.	6 7 8
(3)	Nothing in this part allows entry to a dwelling without the occupier's consent, an enforcement order or a warrant.	9 10
386	Power to enter place to ascertain if public health risk	11
(1)	This section applies if an authorised person reasonably believes there may be a public health risk at a place.	12 13
(2)	The authorised person may, at reasonable times, enter the place to find out whether there is a public health risk at the place.	14 15 16
(3)	Subsection (2) does not allow entry to a building or other structure without the occupier's consent, an enforcement order or a warrant.	17 18 19
(4)	The procedure for entry under this section is set out under section 392.	20 21
387	Power to enter place to check compliance with public health order	22 23
(1)	This section applies if a person has been given a public health order for a public health risk at a place.	24 25
(2)	An authorised person may, at reasonable times, enter the place to check whether the order has been complied with.	26 27
(3)	Subsection (2) does not allow entry to a building or other structure without the occupier's consent, an enforcement order or a warrant.	28 29 30
(4)	The procedure for entry under this section is set out under section 392.	31 32

388	Power to enter place to take steps if public health order not complied with	1 2
(1)	This section applies if—	3
(a)	a person has been given a public health order for a public health risk at a place; and	4 5
(b)	the public health order requires the person to take steps at the place to remove or reduce the risk to public health from the public health risk, or prevent the risk to public health from recurring; and	6 7 8 9
(c)	the person has failed to take the steps as required by the order.	10 11
(2)	The issuing authority by its employees or agents may, at reasonable times, enter the place to take the steps stated in the order.	12 13 14
(3)	Subsection (2) does not allow entry to a building or other structure without the occupier's consent, an enforcement order or a warrant.	15 16 17
(4)	The procedure for entry under this section is set out under section 393.	18 19
389	Power to enter place under approved inspection program	20
(1)	This section applies if there is an approved inspection program for a place.	21 22
(2)	An authorised person may, at reasonable times, enter the place for the inspection program.	23 24
(3)	Subsection (2) does not allow entry to a building or other structure without the occupier's consent.	25 26
(4)	The procedure for entry under this section is set out under section 392.	27 28
390	Power to enter health care facility	29
(1)	This section applies if an authorised person intends to enter a health care facility for monitoring compliance with chapter 4.	30 31

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- (2) The authorised person may enter the health care facility if the facility is open for carrying on business or otherwise open for entry.
1
2
3
 - (3) The authorised person must advise the person in charge of the facility at least 24 hours before the entry.
4
5
 - (4) However, an authorised person may not enter a part of the facility where a person is—
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7
 - (a) undergoing a procedure conducted by a health practitioner; or
8
9
 - (b) consulting a health practitioner.
10

Division 2 Procedure for entry 11

391 Entry with consent 12

- (1) This section applies if an authorised person intends to ask the occupier of a place to consent to the authorised person or another person entering the place.
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14
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- (2) Before asking for the consent, the authorised person must tell the occupier—
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17
- (a) the purpose of the entry; and
18
- (b) that the occupier is not required to consent.
19
- (3) If the consent is given, the authorised person may ask the occupier to sign an acknowledgment of the consent.
20
21
- (4) The acknowledgment must state—
22
- (a) that the occupier has been told—
23
- (i) the purpose of the entry; and
24
- (ii) that the occupier is not required to consent; and
25
- (b) the purpose of the entry; and
26
- (c) that the occupier gives the authorised person consent to enter the place and exercise powers under this chapter; and
27
28
29
- (d) the time and date the consent was given.
30

(5)	If the occupier signs an acknowledgment, the authorised person must immediately give a copy to the occupier.	1 2
(6)	If—	3
(a)	an issue arises in a proceeding about whether the occupier consented to the entry; and	4 5
(b)	an acknowledgment complying with subsection (4) for the entry is not produced in evidence;	6 7
	the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.	8 9
392	Entry of place under s 386, 387 or 389	10
(1)	This section applies to an authorised person intending to enter a place under section 386, 387 or 389.	11 12
(2)	The authorised person must, before entering the place, make a reasonable attempt to locate an occupier and obtain the occupier's consent to the entry. ³⁴	13 14 15
(3)	If the occupier refuses consent to enter, the authorised person must not enter the place unless the entry is under an enforcement order or a warrant.	16 17 18
(4)	If the authorised person is unable to locate an occupier after making a reasonable attempt to do so, the authorised person may enter the place.	19 20 21
(5)	If the authorised person enters the place after being unable to locate an occupier, the authorised person must leave a notice in a conspicuous position and in a reasonably secure way stating the date, time and purpose of the entry.	22 23 24 25
(6)	In exercising a power under section 386, 387 or 389, the authorised person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable in the circumstances.	26 27 28 29

34 See section 391 (Entry with consent).

393	Entry of place under s 388	1
(1)	This section applies to an authorised person intending to enter a place under section 388.	2 3
(2)	The issuing authority must give the occupier and owner of the place reasonable notice that the issuing authority, by its employees or agents, intends to enter the place to take the steps required under the public health order.	4 5 6 7
(3)	The notice must state the steps that are to be taken by the issuing authority.	8 9
(4)	The authorised person must, before entering the place, make a reasonable attempt to locate an occupier and obtain the occupier's consent to the entry. ³⁵	10 11 12
(5)	If the occupier refuses consent to enter, the authorised person must not enter the place unless the entry is under an enforcement order or a warrant.	13 14 15
(6)	If the authorised person is unable to locate an occupier after making a reasonable attempt to do so, the authorised person may enter the place.	16 17 18
(7)	If the authorised person enters the place after being unable to locate an occupier, the authorised person must leave a notice in a conspicuous position and in a reasonably secure way stating the date, time and purpose of the entry.	19 20 21 22
(8)	In exercising a power under this section, the authorised person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable in the circumstances.	23 24 25 26
394	Application for warrant	27
(1)	An authorised person may apply to a magistrate for a warrant for a place.	28 29
(2)	The authorised person must prepare a written application that states the grounds on which the warrant is sought.	30 31
(3)	The written application must be sworn.	32

35 See section 391 (Entry with consent).

- (4) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

the magistrate may require additional information supporting the application to be given by statutory declaration

395 Issue of warrant

- (1) The magistrate may issue the warrant for the place only if the magistrate is satisfied there are reasonable grounds for suspecting—
- (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act and the evidence is at the place or, within the next 7 days, will be at the place; or
 - (b) there is a public health risk at the place.
- (2) The warrant must state—
- (a) the place to which the warrant applies; and
 - (b) that a stated authorised person may, with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for entry to the place; and
 - (ii) exercise the authorised person's powers under this chapter; and
 - (c) particulars of the offence or public health risk that the magistrate considers appropriate in the circumstances; and
 - (d) the name of the person suspected of having committed the offence or who caused the public health risk or allowed the public health risk to continue, unless the name is unknown or the magistrate considers it inappropriate to state the name; and
 - (e) if subsection (1)(a) applies, the evidence that may be seized under the warrant; and

(f)	whether the authorised person may exercise powers under part 2, division 6; ³⁶ and	1 2
(g)	if the authorised person may exercise powers under part 2, division 6, the person, if any, who is to pay the costs incurred by the authorised person in exercising the powers; and	3 4 5 6
(h)	the hours of the day or night when the place may be entered; and	7 8
(i)	the magistrate's name; and	9
(j)	the date and time of the warrant's issue; and	10
(k)	except for a warrant allowing for re-entry of a place as mentioned in subsection (3), the date, within 14 days after the warrant's issue, the warrant ends.	11 12 13
(3)	If the warrant relates to a public health risk, the warrant may also state that an authorised person may enter the place again to check compliance with a public health order issued as a result of the authorised person's entry of the place under the warrant.	14 15 16 17 18
(4)	To the extent that the warrant allows for the re-entry of a place as mentioned in subsection (3), it expires on—	19 20
(a)	the day that is 7 days after the expiration of the period stated in the public health order for completing the steps stated in the order; or	21 22 23
(b)	if an earlier day is stipulated in the warrant, that day.	24
396	Application by electronic communication and duplicate warrant	25 26
(1)	An application under section 394 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised person reasonably considers it necessary because of—	27 28 29 30
(a)	urgent circumstances; or	31

36 Part 2, division 6 (Power to remove or reduce public health risk under a warrant)

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- (b) other special circumstances, including, for example, the authorised person's remote location. 1
2
- (2) The application— 3
- (a) may not be made before the authorised person prepares the written application under section 394(2); but 4
5
- (b) may be made before the written application is sworn. 6
- (3) The magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied— 7
8
- (a) it was necessary to make the application under subsection (1); and 9
10
- (b) the way the application was made under subsection (1) was appropriate. 11
12
- (4) After the magistrate issues the original warrant— 13
- (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised person, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the authorised person; or 14
15
16
17
18
- (b) otherwise— 19
- (i) the magistrate must tell the authorised person the date and time the warrant is issued and the other terms of the warrant; and 20
21
22
- (ii) the authorised person must complete a form of warrant, including by writing on it— 23
24
- (A) the magistrate's name; and 25
- (B) the date and time the magistrate issued the warrant; and 26
27
- (C) the other terms of the warrant. 28
- (5) The copy of the warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either case the *duplicate warrant*), is a duplicate of, and as effectual as, the original warrant. 29
30
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32
- (6) The authorised person must, at the first reasonable opportunity, send to the magistrate— 33
34

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- (a) the written application complying with section 394(2) and (3); and 1
2
- (b) if the authorised person completed a form of warrant under subsection (4)(b)—the completed form of warrant. 3
4
5
- (7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)— 6
7
- (a) attach the documents to the original warrant; and 8
- (b) give the original warrant and documents to the clerk of the court of the relevant magistrates court. 9
10
- (8) Despite subsection (5), if— 11
- (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and 12
13
14
- (b) the original warrant is not produced in evidence; 15
- the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power. 16
17
18
- (9) This section does not limit section 394. 19
- (10) In this section— 20
- relevant magistrates court*, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*. 21
22
23

397 Defect in relation to a warrant 24

- (1) A warrant is not invalidated by a defect in the warrant, or in compliance with section 394, 395 or 396, unless the defect affects the substance of the warrant in a material particular. 25
26
27
- (2) In this section— 28
- warrant* includes a duplicate warrant mentioned in section 396(5). 29
30

398	Warrants—procedure before entry	1
(1)	This section applies if an authorised person named in a warrant issued under this chapter for a place is intending to enter the place under the warrant.	2 3 4
(2)	Before entering the place, the authorised person must do or make a reasonable attempt to do the following things—	5 6
(a)	identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the authorised person’s identity card or other document evidencing the appointment;	7 8 9 10
(b)	give the person a copy of the warrant;	11
(c)	tell the person the authorised person is permitted by the warrant to enter the place;	12 13
(d)	give the person an opportunity to allow the authorised person immediate entry to the place without using force.	14 15
(3)	However, the authorised person need not comply with subsection (2) if the authorised person believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.	16 17 18 19
(4)	In this section—	20
	<i>warrant</i> includes a duplicate warrant mentioned in section 396(5).	21 22

Division 3 General powers 23

399	General powers after entering places	24
(1)	This section applies to an authorised person who enters a place.	25 26
(2)	However, if an authorised person enters a place to get the occupier’s consent to enter a place, this section applies to the authorised person only if the consent is given or the entry is otherwise authorised.	27 28 29 30
(3)	For monitoring and enforcing compliance with this Act or establishing whether there is a public health risk at the place, the authorised person may—	31 32 33

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- | | | |
|-----|---|----------------------|
| (a) | search any part of the place; or | 1 |
| (b) | inspect, measure, test, photograph or film any part of the place or anything at the place; or | 2
3 |
| (c) | take a thing, or a sample of or from a thing, at the place for analysis or testing; or | 4
5 |
| (d) | copy a document at the place or take the document to another place to copy it; or | 6
7 |
| (e) | take into or onto the place any persons, equipment and materials the authorised person reasonably requires for exercising a power under this chapter; or | 8
9
10 |
| (f) | require a person at the place to give the authorised person reasonable help to exercise the authorised person's powers under paragraphs (a) to (e); or | 11
12
13 |
| (g) | require a person at the place to answer questions by the authorised person to help the authorised person ascertain whether this Act is being or has been complied with or there is a public health risk at the place. | 14
15
16
17 |
| (4) | When making a requirement mentioned in subsection (3)(f) or (g), the authorised person must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse. | 18
19
20
21 |
| (5) | If an authorised person takes a document from a place to copy it, the document must be copied as soon as practicable and returned to the place. | 22
23
24 |

400 Failure to help authorised person 25

A person required to give reasonable help under section 399(3)(f) must comply with the requirement, unless the person has a reasonable excuse. 26
27
28

Maximum penalty—50 penalty units. 29

401	Failure to answer questions	1
(1)	A person of whom a requirement is made under section 399(3)(g) must comply with the requirement, unless the person has a reasonable excuse. ³⁷	2 3 4
	Maximum penalty—50 penalty units.	5
(2)	It is a reasonable excuse for the person to fail to comply with the requirement that complying with the requirement might tend to incriminate the person.	6 7 8
Division 4	Vehicles	9
402	Stopping motor vehicle	10
(1)	This section applies if an authorised person reasonably suspects, or is aware, that—	11 12
(a)	a thing in or on a motor vehicle may provide evidence of the commission of an offence against this Act; or	13 14
(b)	there is a public health risk in or on the motor vehicle.	15
(2)	For the purpose of exercising the powers of an authorised person under this part, an authorised person may—	16 17
(a)	if the motor vehicle is moving—ask or signal the person in control of the motor vehicle to stop the motor vehicle; and	18 19 20
(b)	whether or not the motor vehicle is moving—ask or signal the person in control of the motor vehicle to bring the motor vehicle to a convenient place within a reasonable distance to allow the authorised person to exercise the authorised person’s powers under this part.	21 22 23 24 25
(3)	When asking or signalling the person in control of a moving motor vehicle to stop the motor vehicle or bring it to a convenient place, the authorised person must clearly identify himself or herself as an authorised person exercising the authorised person’s powers under this Act.	26 27 28 29 30

³⁷ Also, a person must not state anything the person knows to be false or misleading in a material particular—see section 423 (False or misleading statements).

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- Examples—* 1
- 1 If the authorised person is in a moving motor vehicle, he or she may 2
use a loud hailer to identify himself or herself as an authorised 3
person exercising powers under this Act. 4
 - 2 If the authorised person is standing at the side of the road, he or she 5
may use a sign to identify himself or herself as an authorised person 6
exercising powers under this Act. 7
- (4) Despite section 381,³⁸ for the purpose of exercising a power 8
under subsection (2)(a), the authorised person must— 9
- (a) have with him or her the authorised person’s identity 10
card; and 11
 - (b) produce the identity card for the person’s inspection 12
immediately after the motor vehicle is stopped. 13
- (5) The person must comply with the authorised person’s request 14
or signal, unless the person has a reasonable excuse. 15
- Maximum penalty—50 penalty units. 16
- (6) It is a reasonable excuse for the person not to obey the request 17
or signal if— 18
- (a) the authorised person has not complied with 19
subsection (3); or 20
 - (b) to immediately obey the request or signal would have 21
endangered the person or someone else or caused loss or 22
damage to property, and the person obeys the request or 23
signal as soon as it is practicable to obey it. 24
- (7) If the motor vehicle is stopped, the authorised person may 25
direct the person— 26
- (a) not to move the motor vehicle until the authorised 27
person has exercised the authorised person’s powers 28
under this part; or 29
 - (b) to move the motor vehicle to, and keep it at, a stated 30
reasonable place to allow the authorised person to 31
exercise the authorised person’s powers under this part. 32

38 Section 381 (Production or display of identity card)

(8)	When giving the direction, the authorised person must warn the person it is an offence not to comply with the direction, unless the person has a reasonable excuse.	1 2 3
(9)	The person must comply with the authorised person's direction, unless the person has a reasonable excuse.	4 5
	Maximum penalty for subsection (9)—50 penalty units.	6
Division 5 Power to seize evidence		7
403	Seizing evidence at place that may be entered without consent or a warrant	8 9
	An authorised person who lawfully enters a place under this chapter without the consent of the occupier and without a warrant, may seize a thing at the place only if the authorised person reasonably believes the thing is evidence of an offence against this Act.	10 11 12 13 14
404	Seizing evidence at a place that may only be entered with consent or warrant	15 16
(1)	This section applies if—	17
(a)	an authorised person is authorised to enter a place under this chapter only with the consent of the occupier or a warrant; and	18 19 20
(b)	the authorised person enters the place after obtaining the necessary consent or warrant.	21 22
(2)	Also, if the authorised person enters the place with a warrant, this section applies only if the warrant was issued under section 395(1)(a).	23 24 25
(3)	If the authorised person enters the place with the occupier's consent, the authorised person may seize a thing at the place only if—	26 27 28
(a)	the authorised person reasonably believes the thing is evidence of an offence against this Act; and	29 30

-
- (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent. 1
2
3
- (4) If the authorised person enters the place with a warrant, the authorised person may seize the evidence for which the warrant was issued. 4
5
6
- (5) The authorised person also may seize anything else at the place if the authorised person reasonably believes— 7
8
- (a) the thing is evidence of an offence against this Act; and 9
- (b) the seizure is necessary to prevent the thing being— 10
- (i) hidden, lost or destroyed; or 11
- (ii) used to continue, or repeat, the offence. 12
- (6) Also, the authorised person may seize a thing at the place if the authorised person reasonably believes it has just been used in committing an offence against this Act. 13
14
15

Division 6 **Power to remove or reduce public health risk under a warrant** 16
17

- 405** **Power to remove or reduce public health risk after entering place** 18
19
- (1) This section applies if— 20
- (a) an authorised person enters a place after obtaining a warrant; and 21
22
- (b) the warrant authorises the authorised person to exercise powers under this division. 23
24
- (2) The authorised person may take the steps necessary in the circumstances to remove or reduce the risk to public health from the public health risk stated in the warrant, or to prevent the risk to public health from recurring, including seizing a thing.³⁹ 25
26
27
28
29

39 See also part 2, division 3 which provides for the general powers available to an authorised person after entering a place.

- (3) In exercising a power under this section, the authorised person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable in the circumstances.

Division 7 Recovery of costs and expenses 5

406 Cost of steps recoverable as a debt 6

- (1) The issuing authority may recover the amount of the reasonable costs and expenses incurred by the issuing authority in exercising powers under section 388 or 405 as a debt payable to the issuing authority by the person named in the public health order or the warrant.
- (2) For subsection (1), the amount becomes payable 30 days after the issuing authority gives the person details of the amount of the costs.
- (3) If the issuing authority is a local government—
- (a) the amount payable to the local government bears interest as if it were an amount of an overdue rate payable to a local government under the *Local Government Act 1993*; and
 - (b) the amount payable plus interest may be recovered by the local government as if the total amount were an amount of an overdue rate payable to a local government under the *Local Government Act 1993*.

407 Cost of steps by local government a charge over land 24

- (1) This section applies if an amount (including any interest on the amount) (the *unpaid amount*) is payable by a person for steps taken by an issuing authority that is a local government, on land owned by the person.
- (2) The unpaid amount is a charge on the land.
- (3) The local government may lodge a request to register the charge in the appropriate form over the land with the registrar of titles.

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|-----|---|-------------|
| (4) | The request must be accompanied by a certificate signed by the local government's chief executive officer stating there is a charge over the land under this section. | 1
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| (5) | A registered charge has priority over all encumbrances over the land other than— | 4
5 |
| | (a) encumbrances in favour of the State or a government entity; and | 6
7 |
| | (b) rates payable to the local government. | 8 |
| (6) | The charge is in addition to any other remedy the local government has for recovery of the unpaid amount. | 9
10 |

Division 8 Dealing with seized things 11

408 Securing seized things 12

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|-----|--|----------|
| (1) | This section applies if an authorised person seizes a thing under section 403, 404 or 405. | 13
14 |
| (2) | Having seized the thing, the authorised person may— | 15 |
| | (a) move the thing from the place where it was seized (the <i>place of seizure</i>); or | 16
17 |
| | (b) leave the thing at the place of seizure, but take reasonable action to restrict access to it. | 18
19 |
| | <i>Examples of restricting access to a thing—</i> | 20 |
| | 1 sealing a thing and marking it to show access to it is restricted | 21
22 |
| | 2 sealing the entrance to a room where the thing is situated and marking it to show access to it is restricted | 23
24 |

409 Tampering with seized things 25

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|-----|---|----------------------|
| (1) | If an authorised person restricts access to a seized thing under section 408, a person must not tamper with the thing, or something restricting access to the thing, without an authorised person's approval. | 26
27
28
29 |
| | Maximum penalty—100 penalty units. | 30 |

(2) In this section—	1
<i>tamper</i> includes attempt to tamper.	2
410 Powers to support seizure	3
(1) To enable a thing to be seized, an authorised person may require the person in control of it—	4
(a) to take it to a stated reasonable place by a stated reasonable time; and	5
(b) if necessary, to remain in control of it at the stated place for a reasonable time.	6
(2) The requirement—	7
(a) must be made by notice; or	8
(b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by notice as soon as practicable.	9
(3) A further requirement may be made under this section about the same thing if it is necessary and reasonable to make the further requirement.	10
(4) A person of whom the requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.	11
Maximum penalty—100 penalty units.	12
(5) Subject to section 422, ⁴⁰ the cost of complying with subsection (4) must be borne by the person.	13
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411 Authorised person may require thing's return	24
(1) If an authorised person has required a person to take a thing to a stated place by a stated reasonable time under section 410 the authorised person may require the person to return the thing to the place from which it was taken.	25
	26
	27
	28

40 Section 422 (Compensation)

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- (2) A person of whom the requirement is made under subsection (1) must comply with the requirement, unless the person has a reasonable excuse. 1
2
3
Maximum penalty—100 penalty units. 4
- (3) Subject to section 422, the cost of complying with subsection (1) must be borne by the person. 5
6
- 412 Receipts for seized things** 7
- (1) As soon as practicable after an authorised person seizes a thing, the authorised person must give a receipt for it to the person from whom it was seized. 8
9
10
- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised person must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way. 11
12
13
14
- (3) The receipt must describe generally each thing seized and its condition. 15
16
- (4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt, given the thing's nature, condition and value. 17
18
19
- 413 Forfeiture of seized things** 20
- (1) A seized thing is forfeited to the relevant entity if— 21
- (a) an authorised person can not find its owner, after making reasonable inquiries; or 22
23
- (b) an authorised person can not return it to its owner, after making reasonable efforts; or 24
25
- (c) for a thing seized under section 405— 26
- (i) an authorised person reasonably considers that, because of the thing's inherent nature or condition, the return of the thing is likely to result in a recurrence of the public health risk in relation to which the thing was seized; or 27
28
29
30
31
- (ii) at the end of 6 months, the return of the thing is, in an authorised person's reasonable opinion, likely 32
33

	to result in a recurrence of the public health risk in relation to which the thing was seized. ⁴¹	1 2
(2)	In applying subsection (1)—	3
	(a) subsection (1)(a) does not require the authorised person to make inquiries if it would be unreasonable to make inquiries to find the owner; and	4 5 6
	(b) subsection (1)(b) does not require the authorised person to make efforts if it would be unreasonable to make efforts to return the thing to its owner.	7 8 9
(3)	Regard must be had to a thing's nature, condition and value in deciding—	10 11
	(a) whether it is reasonable to make inquiries or efforts; and	12
	(b) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable.	13 14 15
(4)	In this section—	16
	<i>relevant entity</i> , for a seized thing, means—	17
	(a) if the thing was seized by an authorised person appointed by the chief executive—the State; or	18 19
	(b) if the thing was seized by an authorised person appointed by a chief executive officer—the local government; or	20 21 22
	(c) if the thing was seized by an authorised person appointed by 2 or more chief executive officers—the local government for whom the authorised person was performing his or her functions at the time the thing was seized.	23 24 25 26 27
414	Return of seized things	28
	If a thing has been seized but not forfeited, the authorised person must return it to its owner—	29 30
	(a) for a thing seized under section 404—	31

41 Section 446 (Dealing with forfeited thing) states how a forfeited seized thing is to be dealt with.

	(i) at the end of 6 months; or	1
	(ii) if a proceeding for an offence involving the thing is started within 6 months, at the end of the proceeding and any appeal from the proceeding; or	2 3 4
	(iii) if the authorised person stops being satisfied its continued retention as evidence is necessary—immediately; or	5 6 7
	(b) for a thing seized under section 405 if—	8
	(i) the thing ceases to be a public health risk; or	9
	(ii) the authorised person is satisfied the return of the thing is unlikely to result in the recurrence of the public health risk in relation to which it was seized.	10 11 12
415	Access to seized things	13
	(1) Until a thing that has been seized is forfeited or returned, an authorised person must allow its owner to inspect it and, if it is a document, to copy it.	14 15 16
	(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.	17 18
Division 9	Power to obtain information	19
416	Power to require name and address	20
	(1) This section applies if—	21
	(a) an authorised person finds a person committing an offence against this Act; or	22 23
	(b) an authorised person finds a person in circumstances that lead, or has information that leads, the authorised person reasonably to suspect the person—	24 25 26
	(i) has just committed an offence against this Act; or	27
	(ii) is responsible for a public health risk.	28
	(2) The authorised person may require the person to state the person's name and residential address.	29 30

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- (3) When making the requirement, the authorised person must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse. 1
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- (4) The authorised person may require the person to give the authorised person evidence of the correctness of the stated name or residential address if the authorised person reasonably suspects the stated name or address to be false. 5
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- (5) A requirement under subsection (2) or (4) is a *personal details requirement*. 9
10
- 417 Failure to give name or address** 11
- (1) A person of whom a personal details requirement is made must comply with the requirement, unless the person has a reasonable excuse. 12
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Maximum penalty—50 penalty units. 15
- (2) A person does not commit an offence against subsection (1) if— 16
17
- (a) the person was required to state the person's name and residential address by an authorised person who suspected the person had committed an offence against this Act; and 18
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21
- (b) the person is not proved to have committed the offence. 22
- (3) Also, a person does not commit an offence against subsection (1) if— 23
24
- (a) the person was required to state the person's name and residential address by an authorised person who suspected the person was responsible for a public health risk; and 25
26
27
28
- (b) a court decides the person is not responsible for the public health risk. 29
30
- 418 Power to require production of documents** 31
- (1) An authorised person may require a person to make available for inspection by the authorised person, or produce to the 32
33

authorised person for inspection, at a reasonable time and place nominated by the authorised person—	1 2
(a) a document issued to the person under this Act; or	3
(b) a document required to be kept by the person under this Act.	4 5
(2) The authorised person may keep the document to copy it.	6
(3) If the authorised person copies the document, or an entry in the document, the authorised person may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.	7 8 9 10
(4) The authorised person must return the document to the person as soon as practicable after copying it.	11 12
(5) However, if a requirement (a <i>document certification requirement</i>) is made of a person under subsection (3), the authorised person may keep the document until the person complies with the requirement.	13 14 15 16
(6) A requirement under subsection (1) is a <i>document production requirement</i> .	17 18
419 Failure to produce document	19
(1) A person of whom a document production requirement is made must comply with the requirement, unless the person has a reasonable excuse.	20 21 22
Maximum penalty—50 penalty units.	23
(2) It is not a reasonable excuse for a person not to comply with a document production requirement that complying with the requirement might tend to incriminate the person.	24 25 26
420 Failure to certify copy of document	27
A person of whom a document certification requirement is made must comply with the requirement, unless the person has a reasonable excuse.	28 29 30
Maximum penalty—50 penalty units.	31

Part 3	General enforcement matters	1
421	Notice of damage	2
(1)	This section applies if—	3
(a)	an authorised person damages property when exercising or purporting to exercise a power; or	4 5
(b)	a person (the <i>other person</i>) acting under the direction or authority of an authorised person damages property.	6 7
(2)	The authorised person must immediately give notice of particulars of the damage to the person who appears to the authorised person to be the owner of the property.	8 9 10
(3)	If the authorised person believes the damage was caused by a latent defect in the property or circumstances beyond the authorised person's or other person's control, the authorised person may state the belief in the notice.	11 12 13 14
(4)	If, for any reason, it is impracticable to comply with subsection (2), the authorised person must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.	15 16 17 18
(5)	This section does not apply to damage the authorised person reasonably believes is trivial.	19 20
(6)	In this section—	21
	<i>owner</i> , of property, includes the person in possession or control of it.	22 23
422	Compensation	24
(1)	If a person incurs loss or expense because of the exercise or purported exercise of a power under part 2 or chapter 2, part 4 the person may claim compensation—	25 26 27
(a)	for the exercise or purported exercise of a power by or for the State—from the State; or	28 29
(b)	for the exercise or purported exercise of a power by or for a local government—from the local government.	30 31

(2)	Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under part 2 or chapter 2, part 4.	1 2 3 4
(3)	Compensation may be claimed and ordered to be paid in a proceeding—	5 6
(a)	brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or	7 8
(b)	for an offence against this Act brought against the person claiming compensation.	9 10
(4)	A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.	11 12 13
423	False or misleading statements	14
	A person must not state anything to an authorised person the person knows is false or misleading in a material particular.	15 16
	Maximum penalty—100 penalty units.	17
424	False or misleading documents	18
(1)	A person must not give an authorised person a document containing information the person knows is false or misleading in a material particular.	19 20 21
	Maximum penalty—100 penalty units.	22
(2)	Subsection (1) does not apply to a person if the person, when giving the document—	23 24
(a)	tells the authorised person, to the best of the person's ability, how it is false or misleading; and	25 26
(b)	if the person has, or can reasonably obtain, the correct information—gives the correct information.	27 28

425	Obstructing authorised persons	1
(1)	A person must not obstruct an authorised person in the exercise of a power, unless the person has a reasonable excuse.	2 3 4
	Maximum penalty—100 penalty units.	5
(2)	If a person has obstructed an authorised person and the authorised person decides to proceed with the exercise of the power, the authorised person must warn the person that—	6 7 8
(a)	it is an offence to obstruct the authorised person, unless the person has a reasonable excuse; and	9 10
(b)	the authorised person considers the person’s conduct is an obstruction.	11 12
426	Impersonation of authorised persons	13
	A person must not pretend to be an authorised person.	14
	Maximum penalty—100 penalty units.	15
Part 4	Approved inspection programs	16
427	Approved inspection program	17
(1)	The chief executive or a chief executive officer may approve a program (an <i>approved inspection program</i>) under which authorised persons may enter places to monitor compliance with a regulation made under section 61.	18 19 20 21
(2)	The chief executive may approve a program only if—	22
(a)	the regulation under section 61 is to be administered and enforced by the State only; or	23 24
(b)	the regulation under section 61 is to be administered and enforced by local governments only and the chief executive—	25 26 27
(i)	has agreed to do the thing in the administration or enforcement of this Act under section 14; or	28 29

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- (ii) is acting under section 15 in relation to the regulation. 1
2
- (3) A chief executive officer of a local government may approve a program for the local government's area only if— 3
4
- (a) the regulation under section 61 is to be administered and enforced by local governments only; or 5
6
- (b) if the regulation under section 61 is to be administered and enforced by the State only, the local government has agreed to do a thing in the administration or enforcement of this Act under section 14. 7
8
9
10
- (4) An approved inspection program must be a selective inspection program or systematic inspection program. 11
12
- (5) A selective inspection program provides for the selection, in accordance with the chief executive's or chief executive officer's approval, of places in an area to be entered and inspected under the approval. 13
14
15
16
- (6) A systematic inspection program provides for all places, or all places of a particular type, in an area, to be entered and inspected under the approval. 17
18
19
- (7) An approved inspection program must state the following— 20
- (a) the purpose of the program; 21
- (b) when the program starts; 22
- (c) for a selective inspection program, objective criteria for selecting places to be entered and inspected; 23
24
- (d) for a systematic inspection program, if a type of place is to be entered and inspected, a description of the type; 25
26
- (e) the period of not more than 3 months, or another period of not more than 6 months prescribed under a regulation, over which the program is to be carried out. 27
28
29
- (8) The only entry that may be made under an approved inspection program is by an authorised person under section 389. 30
31
32

428	Notice of proposed inspection program	1
(1)	At least 14 days, but not more than 28 days, before an approved inspection program starts, the chief executive or chief executive officer must publish the program by newspaper, radio or television in the area to which the approved inspection program relates.	2 3 4 5 6
(2)	The publication must state the following—	7
(a)	the area to which the approved inspection program relates;	8 9
(b)	in general terms, the purpose and scope of the program;	10
(c)	when the program starts;	11
(d)	the period over which the program is to be carried out;	12
(e)	who is to undertake the program.	13
429	Access to program	14
	From the publication of the notice about an approved inspection program until the end of the program, a copy of the program must, if asked for by a person, be provided to the person by the chief executive or chief executive officer on payment of a fee that is not more than the cost of providing the copy to the person.	15 16 17 18 19 20
Part 5	Analysis of things	21
430	Appointment and qualifications	22
(1)	The chief executive may appoint any of the following persons as a State analyst—	23 24
(a)	a public service officer or an employee of the department;	25 26
(b)	a health service employee;	27
(c)	a person prescribed under a regulation.	28

(2)	However, the chief executive may appoint a person as a State analyst only if the chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.	1 2 3 4
431	Appointment conditions	5
(1)	A State analyst holds office on any conditions stated in—	6
	(a) the State analyst's instrument of appointment; or	7
	(b) a signed notice given to the State analyst; or	8
	(c) a regulation.	9
(2)	In this section—	10
	<i>signed notice</i> means a notice signed by the chief executive.	11
432	When State analyst ceases to hold office	12
(1)	A State analyst ceases to hold office if any of the following happens—	13 14
	(a) the term of office stated in a condition of office ends;	15
	(b) under another condition of office, the State analyst ceases to hold office;	16 17
	(c) the State analyst's resignation under section 433 takes effect.	18 19
(2)	Subsection (1) does not limit the ways a State analyst may cease to hold office.	20 21
(3)	In this section—	22
	<i>condition of office</i> means a condition on which the State analyst holds office.	23 24
433	Resignation	25
	A State analyst may resign by signed notice given to the chief executive.	26 27

434	Chief executive may approve laboratory	1
	The chief executive may approve a laboratory to analyse	2
	things taken under this Act if the chief executive is satisfied	3
	the laboratory has the resources and expertise to conduct the	4
	analysis.	5
435	Analysis	6
	(1) If an authorised person takes a thing for analysis under this	7
	Act, the authorised person must as soon as practicable give it	8
	to a State analyst for analysis.	9
	(2) If a State analyst receives a thing for analysis under	10
	subsection (1), the State analyst must as soon as practicable—	11
	(a) analyse the thing; or	12
	(b) give the thing to an approved laboratory for analysis.	13
	(3) If the State analyst analyses the thing, the State analyst must,	14
	as soon as practicable after analysing it—	15
	(a) complete a certificate of analysis for it; and	16
	(b) give the certificate to the authorised person who took the	17
	thing for analysis.	18
	(4) If an approved laboratory analyses the thing, the State analyst	19
	must, as soon as practicable after it is analysed—	20
	(a) obtain a certificate of analysis for it from the approved	21
	laboratory; and	22
	(b) give the certificate to the authorised person who took the	23
	thing for analysis.	24
436	Certificate must indicate methodology used	25
	The certificate of analysis must include information about the	26
	methodology used to conduct the analysis.	27

Chapter 10	Legal proceedings	1
Part 1	Application	2
437	Application of ch 10	3
	This chapter applies to a proceeding under this Act.	4
Part 2	Evidence	5
438	Appointments and authority	6
	The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—	7
	(a) the chief executive’s appointment;	8
	(b) a chief executive officer’s appointment;	9
	(c) an authorised person’s appointment;	10
	(d) a contact tracing officer’s appointment;	11
	(e) an emergency officer’s appointment;	12
	(f) a designated medical officer’s appointment;	13
	(g) a state analyst’s appointment;	14
	(h) the authority of the chief executive, a local government, a chief executive officer, an authorised person, a contact tracing officer, an emergency officer, a designated medical officer or a state analyst, to do anything under this Act.	15
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439	Signatures	21
	A signature purporting to be the signature of the chief executive, a chief executive officer, an authorised person, a contact tracing officer, an emergency officer, a designated	22
		23
		24

medical officer or a state analyst is evidence of the signature it purports to be. 1
2

440 Evidentiary provisions 3

- (1) A certificate purporting to be signed by the chief executive or a chief executive officer and stating any of the following matters is evidence of the matter— 4
5
6
- (a) a stated document is one of the following things made, given, issued or kept under this Act— 7
8
- (i) an appointment, approval or decision; 9
- (ii) a notice or requirement; 10
- (iii) a record, or an extract from a record; 11
- (b) a stated document is another document kept under this Act; 12
13
- (c) a stated document is a copy of a thing mentioned in paragraph (a) or (b); 14
15
- (d) on a stated day, or during a stated period, an appointment as an authorised person, a contact tracing officer, an emergency officer, a designated medical officer or State analyst was, or was not, in force for a stated person; 16
17
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- (e) on a stated day, or during a stated period, an approval as an approved laboratory was, or was not, in force for a stated entity; 21
22
23
- (f) on a stated day, a stated person was given a stated notice under this Act; 24
25
- (g) on a stated day, a stated requirement was made of a stated person; 26
27
- (h) a stated amount is payable under this Act by a stated person and has not been paid. 28
29
- (2) A certificate of analysis for a thing taken for analysis under this Act stating any of the following matters is evidence of the matters— 30
31
32
- (a) the qualifications of the person (the *analyst*) who conducted the analysis; 33
34

misleading document, it is enough for a charge to state that
 the information or document was, without specifying which,
 ‘false or misleading’.

- 443 Recovery of costs of investigation** 4
- (1) This section applies if— 5
- (a) a court convicts a person of an offence against this Act; 6
 and 7
- (b) the State or a local government applies to the court for 8
 an order against the person for the payment of the costs 9
 the State or the local government has incurred in taking 10
 a thing or doing something else during the investigation 11
 of the offence; and 12
- (c) the court finds the State or local government has 13
 reasonably incurred the costs. 14
- (2) The court may order the person to pay the State or local 15
 government an amount equal to the costs if it is satisfied it 16
 would be just to make the order in the circumstances of the 17
 particular case. 18
- (3) This section does not limit the court’s powers under the 19
Penalties and Sentences Act 1992 or another law. 20
- 444 Application for order for payment of costs under s 443** 21
- (1) An application to a court under section 443 is, and any order 22
 made by the court on the application is a judgment, in the 23
 court’s civil jurisdiction. 24
- (2) Any issue on the application is to be decided on the balance of 25
 probabilities. 26
- 445 Forfeiture on conviction** 27
- (1) On conviction of a person for an offence against this Act, a 28
 court may order the forfeiture to the State or a local 29
 government of— 30
- (a) anything used to commit the offence; or 31
- (b) anything else the subject of the offence. 32

(2)	The court may make the order—	1
(a)	whether or not the thing has been seized; and	2
(b)	if the thing has been seized, whether or not the thing has been returned to its owner.	3 4
(3)	The court may make any order to enforce the forfeiture it considers appropriate.	5 6
(4)	This section does not limit the court's powers under the <i>Penalties and Sentences Act 1992</i> or another law.	7 8
446	Dealing with forfeited thing	9
(1)	On the forfeiture of a thing to the State or a local government, the thing becomes the State's or local government's property and may be dealt with by the State or local government as the State or local government considers appropriate.	10 11 12 13
(2)	Without limiting subsection (1), the State or local government may destroy the thing.	14 15
447	Responsibility for acts or omissions of representative	16
(1)	This section applies in a proceeding for an offence against this Act.	17 18
(2)	If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—	19 20
(a)	the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and	21 22 23
(b)	the representative had the state of mind.	24
(3)	An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.	25 26 27 28 29 30
(4)	In this section—	31

- representative* means— 1
- (a) for a corporation—an executive officer, employee or 2
agent of the corporation; or 3
 - (b) for an individual—an employee or agent of the 4
individual. 5
- state of mind* of a person includes— 6
- (a) the person’s knowledge, intention, opinion, belief or 7
purpose; and 8
 - (b) the person’s reasons for the intention, opinion, belief or 9
purpose. 10

- 448 Executive officers must ensure corporation complies 11
with Act 12**
- (1) The executive officers of a corporation must ensure the 13
corporation complies with this Act. 14
 - (2) If a corporation commits an offence against a provision of this 15
Act, each of the corporation’s executive officers also commits 16
an offence, namely, the offence of failing to ensure the 17
corporation complies with the provision. 18
- Maximum penalty—the penalty for the contravention of the 19
provision by an individual. 20
- (3) Evidence that the corporation has been convicted of an 21
offence against a provision of this Act is evidence that each of 22
the executive officers committed the offence of failing to 23
ensure the corporation complies with the provision. 24
 - (4) However, it is a defence for an executive officer to prove— 25
 - (a) if the officer was in a position to influence the conduct 26
of the corporation in relation to the offence, the officer 27
exercised reasonable diligence to ensure the corporation 28
complied with the provision; or 29
 - (b) the officer was not in a position to influence the conduct 30
of the corporation in relation to the offence. 31

449	Fines payable to local government	1
(1)	Subsection (2) applies if—	2
(a)	a proceeding for an offence about a matter is taken by a local government; and	3 4
(b)	a court imposes a fine for the offence.	5
(2)	The fine must be paid to the local government.	6
Part 4	Appeals	7
450	Who may appeal	8
(1)	An owner of a thing forfeited to a relevant entity under section 413(1) who is dissatisfied with the decision resulting in the forfeiture may appeal against the decision.	9 10 11
(2)	In this section—	12
	<i>relevant entity</i> see section 413(4).	13
451	Starting an appeal	14
(1)	An appeal may be started at—	15
(a)	the Magistrates Court nearest the place where the person lives or carries on business; or	16 17
(b)	a Magistrates Court at Brisbane.	18
(2)	The notice of appeal under the <i>Uniform Civil Procedure Rules 1999</i> must be filed with the registrar of the court within 28 days after—	19 20 21
(a)	if the person is given notice of the decision—the day the person is given the notice; or	22 23
(b)	if paragraph (a) does not apply—the day the person otherwise becomes aware of the forfeiture.	24 25
(3)	The court may, at any time, extend the time for filing the notice of appeal.	26 27

452	Hearing procedures	1
	In hearing the appeal, the court is not bound by the rules of evidence.	2 3
453	Appeal to District Court	4
	An appeal lies to the District Court from a decision of a Magistrates Court under this part, but only on a question of law.	5 6 7
Chapter 11	Miscellaneous	8
Part 1	Annual report on public health issues	9 10
454	Chief executive to give Minister annual report	11
(1)	The chief executive must give the Minister an annual report (a <i>public health report</i>) about public health issues for Queensland.	12 13 14
(2)	The public health report may be included in the department's annual report under the <i>Financial Administration and Audit Act 1977</i> .	15 16 17
(3)	If the public health report is not included in the department's annual report, the Minister must table the public health report in Parliament within 7 sitting days of receiving it.	18 19 20
Part 2	Other provisions	21
455	Manager of public health services for the State	22
(1)	There is to be a manager of public health services for the State.	23 24

(2)	The manager of public health services—	1
(a)	must be a doctor; and	2
(b)	is to be employed as a public service officer, or as a health service employee.	3 4
(3)	The manager of public health services must, subject to the chief executive, manage the delivery of services dealing with public health in the State, including, for example, services dealing with the prevention and control of disease and sickness and the prevention of injury.	5 6 7 8 9
456	Delegations	10
(1)	The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified person who is—	11 12 13
(a)	a public service officer or employee; or	14
(b)	a health service employee.	15
(2)	In this section—	16
	<i>appropriately qualified</i> includes having the qualifications, experience or standing appropriate to the exercise of the power.	17 18 19
	<i>Example of standing—</i>	20
	if a person is a public service employee of the department, the person's classification level in the department	21 22
457	Protecting prescribed persons from liability	23
(1)	A prescribed person is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.	24 25 26
(2)	If subsection (1) prevents a civil liability attaching to a prescribed person, the liability attaches instead to—	27 28
(a)	if the prescribed person is a chief executive officer, an authorised person appointed by a chief executive officer or a person acting under the direction of an authorised person appointed by a chief executive officer—the relevant local government; or	29 30 31 32 33

(b)	if paragraph (a) does not apply—the State.	1
(3)	In this section—	2
	<i>prescribed person</i> means—	3
(a)	the Minister; or	4
(b)	the chief executive; or	5
(c)	a chief executive officer; or	6
(d)	an authorised person; or	7
(e)	a contact tracing officer; or	8
(f)	an emergency officer; or	9
(g)	a person in charge of a public sector health service; or	10
(h)	a designated medical officer; or	11
(i)	a state analyst; or	12
(j)	a health service employee; or	13
(k)	a public service officer or employee; or	14
(l)	a person acting under the direction of a prescribed person.	15 16
458	Public officials for Police Powers and Responsibilities Act	17 18
	The following persons are declared to be public officials for the <i>Police Powers and Responsibilities Act 2000</i> —	19 20
(a)	the chief executive; or	21
(b)	an authorised person; or	22
(c)	a contact tracing officer; or	23
(d)	an emergency officer; or	24
(e)	a person in charge of a public sector health service; or	25
(f)	a designated medical officer.	26
459	Approval of forms	27
(1)	The chief executive may approve forms for use under this Act.	28

	(2) The chief executive officer of a local government may approve forms for use by the local government under this Act.	1 2
460	Service of documents	3
	(1) If a document is required or permitted under this Act to be given to a person, the document may be given to the person by fax transmission directed and sent to—	4 5 6
	(a) the last fax number given to the giver of the document by the person as the facsimile transmission number for service of documents on the person; or	7 8 9
	(b) the fax transmission number operated—	10
	(i) at the address of the person last known to the giver of the document; or	11 12
	(ii) if the person is a corporation, at the corporation's registered office under the Corporations Act.	13 14
	(2) A document given under subsection (1) is taken to have been given on the day the document is transmitted.	15 16
461	Compliance with provisions about explaining and giving documents	17 18
	(1) This section applies if, under a provision of this Act, a person is authorised or required to explain the terms and effects of an order or something else under this Act, or give information or a notice to—	19 20 21 22
	(a) a child; or	23
	(b) a child's parents, each of a child's parents or at least 1 of a child's parents.	24 25
	(2) Also, this section applies if a person is required to obtain the consent of a parent.	26 27
	(3) The person need only comply with the provision to the extent that is reasonably practicable in the circumstances.	28 29
	(4) Without limiting subsection (3), it is not, for example, reasonably practicable to comply with the provision in relation to a child's parents if, after reasonable inquiries, the	30 31 32

- | | | |
|-----|---|--------|
| (a) | impose a penalty of not more than 100 penalty units for a contravention of a provision of a regulation; and | 1
2 |
| (b) | set fees payable under this Act. | 3 |

Chapter 12 Savings and transitional 4

463 Manager of public health services 5

- | | | |
|-----|---|---------------------|
| (1) | This section applies to the person who, immediately before the commencement day, was the manager of public health services for the State under the <i>Health Act 1937</i> , section 8A. | 6
7
8 |
| (2) | Subject to this Act, the person continues as the manager of public health services for the State under section 455 on the same terms of appointment that applied to the person immediately before the commencement day. | 9
10
11
12 |
| (3) | In this section—

<i>commencement day</i> means the day section 455 commences. | 13

14 |

464 Notifiable conditions 15

- | | | |
|-----|---|----------------------|
| (1) | Section 70 applies to a doctor in relation to a clinical diagnosis notifiable condition or a provisional diagnosis notifiable condition if— | 16
17
18 |
| (a) | the doctor was required to give a notice to the chief executive under the <i>Health Act 1937</i> , section 32A(1), about a notifiable disease to which the condition relates; and | 19
20
21
22 |
| (b) | the doctor did not give the notice before the commencement day. | 23
24 |
| (2) | Section 71 applies to a person in charge of a hospital in relation to a clinical diagnosis notifiable condition or a provisional diagnosis notifiable condition if— | 25
26
27 |
| (a) | the person was required to give a notice to the chief executive under the <i>Health Act 1937</i> , section 32A(2)(b), | 28
29 |

about a notifiable disease to which the condition relates;	1
and	2
(b) the person did not give the notice before the commencement day.	3 4
(3) Section 72 applies to a person who is the director of a pathology laboratory in relation to a specimen if—	5 6
(a) the person was required to give a notice to the chief executive under the <i>Health Act 1937</i> , section 32A(4), relating to the specimen; and	7 8 9
(b) the person did not give the notice before the commencement day.	10 11
(4) Section 75 applies as if a reference to a notice given under chapter 3, part 2, division 2 included a reference to a notice given under the <i>Health Act 1937</i> , section 32A.	12 13 14
(5) If, immediately before the commencement day, a person had not complied with a requirement under the <i>Health Act 1937</i> , section 32A(9), to give further information to the chief executive, the requirement is taken to have been made under section 75(2).	15 16 17 18 19
(6) In this section—	20
<i>commencement day</i> means—	21
(a) for subsection (1)—the day section 70 commences; or	22
(b) for subsection (2)—the day section 71 commences; or	23
(c) for subsection (3)—the day section 72 commences; or	24
(d) for subsection (5)—the day section 75 commences.	25
465 Notifiable conditions register	26
The chief executive may include, in the Notifiable Conditions Register, the information held by the chief executive that was obtained from notices given under the <i>Health Act 1937</i> , section 32A.	27 28 29 30

466	Order for removal or detention of person with notifiable disease	1 2
(1)	This section applies to an order under the <i>Health Act 1937</i> , section 36(1) or (3) or 37, that was—	3 4
(a)	made less than 28 days before the commencement day; and	5 6
(b)	in force immediately before the commencement day.	7
(2)	The order continues in force as a detention order under chapter 3, part 5, division 4.	8 9
(3)	Subject to this Act, the order ends at the time stated in the order, or 28 days after it was made, whichever happens first.	10 11
(4)	In this section—	12
	<i>commencement day</i> means the day section 129 commences.	13
467	Order to cleanse and disinfect premises	14
(1)	This section applies to a notice under the <i>Health Act 1937</i> , section 38, in force immediately before the commencement day.	15 16 17
(2)	The notice continues in force as a public health order.	18
(3)	In this section—	19
	<i>commencement day</i> means the day section 23 commences.	20
468	Order closing a school	21
(1)	This section applies to an order under the <i>Health Act 1937</i> , section 47(7), that was—	22 23
(a)	made less than 1 month before the commencement day; and	24 25
(b)	in force immediately before the commencement day.	26
(2)	The order continues in force as an order under section 181.	27
(3)	Subject to this Act, the order ends at the time stated in the order, or 1 month after it was made, whichever happens first.	28 29
(4)	In this section—	30
	<i>commencement day</i> means the day section 181 commences.	31

-
- 469 Mandatory reporting** 1
- (1) Section 191 applies to a professional in relation to harm or 2
likely harm if the professional— 3
- (a) was required to give notice of the harm or likely harm 4
under the *Health Act 1937*, section 76KC; and 5
- (b) did not give the notice before the commencement day. 6
- (2) Section 192 applies to a professional in relation to harm or 7
likely harm if the professional— 8
- (a) orally gave notice about the harm or likely harm under 9
the *Health Act 1937*, section 76KC; and 10
- (b) did not give written notice about the harm or likely harm 11
under the *Health Act 1937*, section 76KD, before the 12
commencement day. 13
- (3) Section 194 applies to a professional in relation to harm or 14
likely harm if the professional gave the chief executive (child 15
safety) a notice about the harm or likely harm under the 16
Health Act 1937, section 76KC or 76KD. 17
- (4) Section 194(3) applies to a request for stated information 18
under the *Health Act 1937*, section 76KF that was not 19
complied with before the commencement day. 20
- (5) In this section— 21
- commencement day** means— 22
- (a) for subsection (1)—the day section 191 commences; or 23
- (b) for subsection (2)—the day section 192 commences; or 24
- (c) for subsection (3) or (4)—the day section 194 25
commences. 26
- 470 Temporary custody of children** 27
- (1) This section applies to an order under the *Health Act 1937*, 28
section 76L, that was in force immediately before the 29
commencement day. 30
- (2) The order continues in force as an order under section 197. 31
- (3) Subject to this Act, the order ends at the time stated in it, even 32
if that is more than 48 hours after it was made. 33

(4)	In this section—	1
	<i>commencement day</i> means the day section 197 commences.	2
471	Abatement of nuisance	3
(1)	This section applies to a notice under the <i>Health Act 1937</i> , section 79, requiring the abatement of a nuisance mentioned in section 77(a), (b), (c), (d) or (h) of that Act, that was in force immediately before the commencement day.	4 5 6 7
(2)	The notice continues in force as a public health order.	8
(3)	In this section—	9
	<i>commencement day</i> means the day section 23 commences.	10
472	Notice relating to sewer, stormwater drain or sanitary convenience	11 12
(1)	This section applies to a notice under the <i>Health Act 1937</i> , section 94(3), in force immediately before the commencement day.	13 14 15
(2)	The order continues in force as a public health order.	16
(3)	In this section—	17
	<i>commencement day</i> means the day section 23 commences.	18
473	Cancer notifications	19
(1)	Section 234(1) applies to the director of a pathology laboratory in relation to a pathological examination of a specimen of human origin carried out at the laboratory before the commencement day if—	20 21 22 23
(a)	the examination indicates that the person from whom the specimen was taken is or was suffering from cancer of a class to which the <i>Health Act 1937</i> , section 100C(2) applied; and	24 25 26 27
(b)	the director did not give a completed return for the person under the <i>Health Act 1937</i> , section 100C(2).	28 29
(2)	If, immediately before the commencement day, a medical practitioner had not given a completed return or copy of a	30 31

completed return to the chief executive under the *Health Act 1937*, section 100C(3), that subsection, as in force immediately before the commencement day, continues to apply to the medical practitioner.

(3) In this section—

commencement day means the day section 234 commences.

474 Cancer registers

(1) The chief executive may include in the Queensland Cancer Register—

(a) the contents of the old cancer register; and

(b) any of the following information held by the chief executive that, on the commencement day, had not yet been included in the old cancer register—

(i) information from a return mentioned in the *Health Act 1937*, section 100C;

(ii) information obtained under the *Health Act 1937*, section 100DC.

(2) In this section—

commencement day means the day section 230 commences.

old cancer register means the register that, before the commencement day, was kept under the *Health Act 1937*, section 100D.

475 Continued obligation to give cancer return

(1) This section applies if, immediately before the commencement day, a person had not complied with a requirement under the repealed provision to give a return to the chief executive.

(2) The repealed provision, as in force immediately before the commencement day, continues to apply to the person in relation to the return.

-
- (3) In this section— 1
commencement day means the day the *Health Act 1937*, 2
section 100C(1) is repealed under this Act 3
repealed provision means the *Health Act 1937*, 4
section 100C(1). 5
- 476 Contractor** 6
- (1) This section applies to an agreement with a person under the 7
Health Act 1937, section 100DA, that was in force 8
immediately before the commencement day (the *current* 9
agreement). 10
- (2) The current agreement continues in force under section 232 in 11
accordance with its terms, with any necessary changes, as if it 12
were an agreement to keep the Queensland Cancer Register. 13
- (3) While the current agreement is in force, the person with 14
whom it is made (the *current contractor*) is taken to be 15
prescribed under section 232. 16
- (4) Subsection (3) does not affect the power of the Governor in 17
Council to— 18
- (a) prescribe the current contractor under section 232 for a 19
time after the current agreement ends; or 20
- (b) prescribe another person under section 232, whether 21
before or after the current agreement ends. 22
- (5) In this section— 23
commencement day means the day section 232 commences. 24
- 477 Further information may be required about cancer 25
returns** 26
- (1) Section 236 applies as if a reference to a notification about 27
cancer included a return given, before the commencement 28
day, under the *Health Act 1937*, section 100C. 29
- (2) In this section— 30
commencement day means the day section 236 commences. 31

478	Continuing obligation to give further information about cancer return	1 2
(1)	This section applies if, immediately before the commencement day, a person had not complied with a notice given to the person under the <i>Health Act 1937</i> , section 100DC.	3 4 5 6
(2)	The notice is taken to have been given under section 236.	7
(3)	In this section—	8
	<i>commencement day</i> means the day section 236 commences.	9
479	Pap smear register	10
(1)	The chief executive may include the contents of the old pap smear register in the Pap Smear Register under section 253.	11 12
(2)	In this section—	13
	<i>commencement day</i> means the day section 253 commences.	14
	<i>old pap smear register</i> means the register that, before the commencement day, was kept under the <i>Health Act 1937</i> , section 100FC.	15 16 17
480	Duty of director to give pap smear information	18
(1)	This section applies if—	19
(a)	the director of a pathology laboratory was required to give information to the chief executive under the <i>Health Act 1937</i> , section 100FJ; and	20 21 22
(b)	immediately before the commencement day, the director had not given the information to the chief executive.	23 24
(2)	Section 259(2) and (3) apply to the information.	25
(3)	In this section—	26
	<i>commencement day</i> means the day section 259 commences.	27
481	Chief executive's duty to send notice	28
(1)	This section applies if, before the commencement day, the chief executive received information mentioned in the <i>Health</i>	29 30

	<i>Act 1937</i> , section 100FK(1), relating to a woman but did not send the woman a notice under that section.	1 2
(2)	The chief executive must send the woman a notice under section 260.	3 4
(3)	In this section— <i>commencement day</i> means the day section 260 commences.	5 6
482	Request to remove registered screening history	7
(1)	Section 263 applies to a request made under the <i>Health Act 1937</i> , section 100FM, if, immediately before the commencement day, the chief executive had not complied with the request.	8 9 10 11
(2)	In this section— <i>commencement day</i> means the day section 263 commences.	12 13
483	Request to change identifying information	14
(1)	Section 264 applies to a request under the <i>Health Act 1937</i> , section 100FN, if, immediately before the commencement day, the chief executive had not complied with the request.	15 16 17
(2)	In this section— <i>commencement day</i> means the day section 264 commences.	18 19
484	Request for registered screening history	20
(1)	Section 268(1) applies to a request under the <i>Health Act 1937</i> , section 100FP(2), if, immediately before the commencement day, the person receiving the request had not complied with it.	21 22 23
(2)	In this section— <i>commencement day</i> means the day section 268 commences.	24 25
485	Agreement to send out notices	26
(1)	This section applies to an agreement with a person under the <i>Health Act 1937</i> , section 100FV, that was in force immediately before the commencement day.	27 28 29

-
- (2) The agreement continues in force under section 277 in accordance with its terms, with any necessary changes, as if it were an agreement to send out the notices mentioned in that section. 1
2
3
4
- (3) In this section— 5
commencement day means the day section 277 commences. 6
- 486 Designated health practitioners** 7
- (1) This section applies to a person who was, immediately before the commencement day, a person designated as a health practitioner under the *Health Act 1937*, section 100FX. 8
9
10
- (2) The person is taken to be designated as a health practitioner under section 279. 11
12
- (3) In this section— 13
commencement day means the day section 279 commences. 14
- 487 Perinatal Statistics Collection** 15
- (1) The chief executive may include, in the Perinatal Statistics Collection, information from a return given, before the commencement day, under the *Health Act 1937*, section 100H. 16
17
18
19
- (2) In this section— 20
commencement day means the day section 215 commences. 21
- 488 Notification about delivery** 22
- (1) Section 217 applies to a person in relation to a delivery that happened before the commencement day if the person did not give the chief executive a return relating to the delivery under the *Health Act 1937*, section 100H. 23
24
25
26
- (2) In this section— 27
commencement day means the day section 217 commences. 28

489	Further information about perinatal statistics	1
(1)	The information that may be required under section 218 includes information relating to a delivery that happened before the commencement day.	2 3 4
(2)	In this section—	5
	<i>commencement day</i> means the day section 218 commences.	6
	<i>delivery</i> see section 214.	7
490	Notice to comply with standard about paint	8
(1)	This section applies to a notice to comply under the <i>Health Act 1937</i> , section 129H, in force immediately before the commencement day.	9 10 11
(2)	The notice continues in force as a public health order.	12
(3)	In this section—	13
	<i>commencement day</i> means the day section 23 commences.	14
491	Authority to conduct scientific research and studies	15
(1)	This section applies to a person who, immediately before the commencement day, was authorised to conduct scientific research and studies under the <i>Health Act 1937</i> , section 154M.	16 17 18 19
(2)	The chief executive is taken to have granted an application by the person under chapter 6, part 4, division 2, to be given health information held by the department for the research to which the authority applied.	20 21 22 23
(3)	The application is taken to have been granted for a period ending 2 years after the commencement day.	24 25
(4)	Subsection (3)—	26
(a)	applies subject to any earlier ending, under this Act, of the period for which the application is taken to have been granted; and	27 28 29
(b)	does not affect the making, or dealing with, of another application by the person under chapter 6, part 4.	30 31

(5) In this section—	1
<i>commencement day</i> means the day section 284 commences.	2
492 Offences	3
(1) Proceedings for an offence against a repealed provision may be started or continued, and a repealed provision necessary or convenient to be used in relation to the proceedings continues to apply, as if this Act had not commenced.	4 5 6 7
(2) For subsection (1), the <i>Acts Interpretation Act 1954</i> , section 20 applies, but does not limit the subsection.	8 9
(3) In this section—	10
<i>repealed provision</i> means a provision of the <i>Health Act 1937</i> omitted by this Act.	11 12
493 References to Health Act 1937	13
In an Act or other document, a reference to the <i>Health Act 1937</i> may, if the context permits, be taken to be a reference to this Act.	14 15 16
Chapter 13 Consequential and other amendments	17 18
494 Acts amended	19
Schedule 1 amends the Acts mentioned in it.	20

Schedule 1	Consequential Amendments	1
	section 494	2
Aboriginal Communities (Justice and Land Matters) Act 1984		3
		4
1 Section 180(7), definition <i>analyst</i>—		5
<i>omit, insert—</i>		6
<i>‘analyst means a State analyst under the Health Act 1937’.</i>		7
Ambulance Service Act 1991		8
1 Section 53C(c), ‘Health Act 1937—		9
<i>omit, insert—</i>		10
<i>‘Health Services Act 1991’.</i>		11
Child Protection Act 1999		12
1 Section 159P(4), definition <i>notifier</i>, ‘Health Act 1937, section 76KH’—		13
<i>omit, insert—</i>		14
<i>‘Public Health Act 2005, section 196’.</i>		15
		16

Schedule 1 (continued)

Commission for Children and Young People and Child Guardian Act 2000		1 2
1	Section 46, heading, ‘Health Act 1937’— <i>omit, insert—</i> ‘Public Health Act 2005’.	3 4 5
2	Section 46(3), definition <i>notifier</i>, paragraph (b), ‘Health Act 1937, section 76KH’— <i>omit, insert—</i> <i>‘Public Health Act 2005, section 196’.</i>	6 7 8 9
3	Section 89ZD(7), definition <i>genuine researcher</i>, paragraph (a)— <i>omit, insert—</i> ‘(a) a person for whom an application for health information has been granted under the <i>Public Health Act 2005</i> , chapter 6, part 4; or’.	10 11 12 13 14 15
Commonwealth Powers (Family Law—Children) Act 1990		16 17
1	Schedule, entry for <i>Health Act 1937</i>— <i>omit, insert—</i> <i>‘Public Health Act 2005</i> section 197 (Designated medical officer may make care and treatment order for child) section 201 (Designated medical officer may extend care and treatment order)’.	18 19

Schedule 1 (continued)

Community Services (Torres Strait) Act 1984		1
1	Section 190(7), definition <i>analyst</i>—	2
	<i>omit, insert—</i>	3
	‘ <i>analyst</i> means a State analyst under the <i>Health Act 1937</i> .’.	4
 Coroners Act 2003		 5
1	Section 53(2)(b)—	6
	<i>omit, insert—</i>	7
	‘(b) a document to the extent that it contains information obtained under any of the following provisions—	8 9
	(i) section 17; ⁴²	10
	(ii) the <i>Child Protection Act 1999</i> , section 159P; ⁴³	11
	(iii) the <i>Public Health Act 2005</i> , section 56 or 86. ⁴⁴ ’.	12
 2	 Section 53(7), definition <i>genuine researcher</i>, paragraph (a)—	 13 14
	<i>omit, insert—</i>	15
	‘(a) a person for whom an application for health information has been granted under the <i>Public Health Act 2005</i> , chapter 6, part 4; or’.	16 17 18

42 Section 17 (Disclosure of confidential information to Coroners Court)

43 *Child Protection Act 1999*, section 159P (Release of information for an investigation under the Coroners Act)

44 *Public Health Act 2005*, section 56 (Release of information for an investigation under the Coroners Act) or 86 (Release of information for an investigation under the Coroners Act)

Schedule 1 (continued)

3	Section 54(7)—	1
	<i>insert—</i>	2
	‘(c) a document, to the extent that it contains confidential information obtained under the <i>Public Health Act 2005</i> , section 56, ⁴⁵ may only be accessed under section 56(3) of that Act; and	3 4 5 6
	(d) a document, to the extent that it contains confidential information obtained under the <i>Public Health Act 2005</i> , section 86, ⁴⁶ may only be accessed under section 86(3) of that Act.’	7 8 9 10
4	Schedule 2, definition <i>confidential document</i>, from ‘under’ to ‘159P’—	11 12
	<i>omit, insert—</i>	13
	‘under any of the following provisions—	14
	(a) section 17; ⁴⁷	15
	(b) the <i>Child Protection Act 1999</i> , section 159P; ⁴⁸	16
	(c) the <i>Public Health Act 2005</i> , section 56 or 86. ⁴⁹ ’	17
5	Schedule 2, definition <i>health chief executive</i>, ‘<i>Health Act 1937</i>—	18 19
	<i>omit, insert—</i>	20
	‘ <i>Health Services Act 1991</i> ’.	21

45 *Public Health Act 2005*, section 56 (Release of information for an investigation under the Coroners Act)

46 *Public Health Act 2005*, section 86 (Release of information for an investigation under the Coroners Act)

47 Section 17 (Disclosure of confidential information to Coroners Court)

48 *Child Protection Act 1999*, section 159P (Release of information for an investigation under the Coroners Act)

49 *Public Health Act 2005*, section 56 (Release of information for an investigation under the Coroners Act) or 86 (Release of information for an investigation under the Coroners Act)

Schedule 1 (continued)

Corrective Services Act 2000		1
1	Section 20(4)(c), ‘Health Act 1937’— <i>omit, insert—</i> <i>‘Health Services Act 1991’.</i>	2 3 4
2	Section 251(3)(g), ‘within the meaning of the Health Act 1937’— <i>omit.</i>	5 6 7
3	Section 251(7)— <i>insert—</i> <i>‘analyst means a State analyst under the Health Act 1937.’.</i>	8 9 10
Evidence Act 1977		11
1	Section 95A(9), definition <i>chief executive</i>, ‘Health Act 1937’— <i>omit, insert—</i> <i>‘Health Services Act 1991’.</i>	12 13 14 15
2	Section 133A(1), ‘Health Act 1937’— <i>omit, insert—</i> <i>‘Health Services Act 1991’.</i>	16 17 18

Schedule 1 (continued)

Food Act 1981	1
1 Section 24(1) and (2)—	2
<i>omit, insert—</i>	3
‘(1) The chief executive may appoint an officer or employee of the department as an authorised officer.’	4 5
2 Section 24(3), ‘authorisation under subsection (2)’—	6
<i>omit, insert—</i>	7
‘appointment under subsection (1)’.	8
3 Section 24—	9
<i>insert—</i>	10
‘(3A) The chief executive officer of a local government may appoint any of the following persons as an authorised officer for the local government and its area—	11 12 13
(a) an employee of the local government;	14
(b) if another local government consents—an employee of the other local government;	15 16
(c) another person under contract to the local government.	17
‘(3B) The chief executive officers of 2 or more local governments may appoint an employee of, or another person under contract to, 1 of the local governments to be an authorised officer for the local governments’ areas.	18 19 20 21
‘(3C) A person may be appointed under this section for the Act generally or for stated provisions of the Act.’	22 23
4 Section 24(3) to (6)—	24
<i>renumber as section 24(2) to (8).</i>	25

Schedule 1 (continued)

5	Section 36(1)—	1
	<i>omit.</i>	2
6	Section 49(1), (3) and (5), ‘or the <i>Health Act 1937</i>—	3
	<i>omit.</i>	4
7	After section 57—	5
	<i>insert—</i>	6
‘58	Savings—authorised officers	7
	‘(1) A person who, immediately before the commencement day,	8
	was an authorised officer mentioned in repealed section 24(1)	9
	is taken to have been appointed as an authorised officer, under	10
	section 24 as in force from the commencement day, as	11
	follows—	12
	(a) if the person had been appointed under the <i>Health Act</i>	13
	<i>1937</i> by the chief executive (health), the person is taken	14
	to have been appointed under section 24(1) by the chief	15
	executive;	16
	(b) if the person had been appointed under the <i>Health Act</i>	17
	<i>1937</i> by a local government, the person is taken to have	18
	been appointed under section 24(3) by the chief	19
	executive officer of the local government;	20
	(c) if the person had been appointed under the <i>Health Act</i>	21
	<i>1937</i> by 2 or more local governments, the person is	22
	taken to have been appointed under section 24(4) by the	23
	chief executive officers of the local governments.	24
	‘(2) A person who, immediately before the commencement day,	25
	was an authorised officer mentioned in repealed section 24(2)	26
	is taken to have been appointed as an authorised officer, under	27
	section 24 as in force from the commencement day, as	28
	follows—	29
	(a) if the person was authorised under repealed	30
	section 24(2)(a), the person is taken to have been	31
	appointed under section 24(1) by the chief executive;	32

Schedule 1 (continued)

	(b) if the person was authorised under repealed section 24(2)(b), the person is taken to have been appointed under section 24(3) by the chief executive officer of the relevant local government.	1 2 3 4
	‘(3) A reference in this section to a repealed provision is a reference to the provision as in force before the commencement day.	5 6 7
	‘(4) In this section— <i>chief executive (health)</i> means the chief executive under the <i>Health Act 1937</i> . <i>commencement day</i> means the day the amendments of section 24 under the <i>Public Health Act 2005</i> , schedule 1, commence.	8 9 10 11 12 13
‘59	Savings—analysts	14
	‘(1) A person who, immediately before the commencement day, was authorised under repealed section 36(1) to carry out analyses for this Act is taken to have been authorised by the chief executive under section 36(2) as in force from the commencement day.	15 16 17 18 19
	‘(2) In this section— <i>commencement day</i> means the day the amendment of section 36 under the <i>Public Health Act 2005</i> , schedule 1, commences. <i>repealed section 36(1)</i> means section 36(1) as in force before the commencement day.’.	20 21 22 23 24 25
8	Schedule 3, definition <i>authorised officer</i>— <i>omit, insert</i> — ‘ <i>authorised officer</i> means a person appointed as an authorised officer under section 24.’.	26 27 28 29

Schedule 1 (continued)

Food Production (Safety) Act 2000		1
1	Schedule 2, definition <i>health chief executive</i>, ‘<i>Health Act 1937</i>’—	2 3
	<i>omit, insert—</i>	4
	‘ <i>Health Services Act 1991</i> ’.	5
 Gurulmundi Secure Landfill Agreement Act 1992		6
1	Section 6, ‘the <i>Health Act 1937</i> or any other enactment’—	7
	<i>omit, insert—</i>	8
	‘any Act’.	9
 Health Act 1937		10
1	Title, ‘to amend and consolidate the laws’—	11
	<i>omit, insert—</i>	12
	‘about particular matters’.	13
2	Section 5(1), definitions <i>air cushion vehicle, analyst, authorised person, British pharmaceutical codex, British veterinary codex, chief health officer, daily penalty, district, have in possession, house, inspector, licence, licensee, Local Government Act, manager, medical officer of health, notifiable disease, officer, opium, owner, paint, person, pesticide, prescribed, private health facility, private hospital, prohibited article, Queensland</i>	14 15 16 17 18 19 20 21

Schedule 1 (continued)

	Radium Institute, road, school, shoes, sole, State, stormwater drain and vessel—	1 2
	<i>omit.</i>	3
3	Section 5(1), definitions <i>chief executive (child safety), child, harm, parent, professional and registered nurse—</i>	4 5
	<i>omit.</i>	6
4	Section 5(1)—	7
	<i>insert—</i>	8
	<i>‘inspector means an inspector appointed under section 137.’.</i>	9
5	Section 5(1), definition <i>occupier</i>, ‘, and in the case of a vessel, the master or other person in charge thereof’—	10 11
	<i>omit.</i>	12
6	Section 5(1), definition <i>State analyst</i>, ‘, for a relevant provision or part 4A,’—	13 14
	<i>omit.</i>	15
7	Section 5(2)—	16
	<i>omit.</i>	17
8	Sections 7 to 15—	18
	<i>omit.</i>	19
9	Sections 16 to 18—	20
	<i>omit.</i>	21
10	Part 2, divisions 3 and 4—	22
	<i>omit.</i>	23

Schedule 1 (continued)

11	Part 3—	1
	<i>omit.</i>	2
12	Section 112—	3
	<i>omit.</i>	4
13	Part 4, divisions 3 to 5—	5
	<i>omit.</i>	6
14	Section 134(a) and (b), ‘3,—	7
	<i>omit.</i>	8
15	Section 135—	9
	<i>omit.</i>	10
16	Part 5—	11
	<i>omit.</i>	12
17	Sections 154O to 174—	13
	<i>omit.</i>	14
18	Sections 176 and 177—	15
	<i>omit.</i>	16
19	Section 178, ‘, or any local law’—	17
	<i>omit.</i>	18
20	Section 178(a) to (e)—	19
	<i>omit.</i>	20

Schedule 1 (continued)

21	Section 180(2)(a) to (e)— <i>omit.</i>	1 2
22	Section 180(2)(f), ‘, and daily penalties of not more than 4 penalty units,’— <i>omit.</i>	3 4 5
23	Section 181— <i>omit.</i>	6 7
24	Part 7— <i>omit.</i>	8 9
Health Services Act 1991		10
1	Section 2— <i>insert—</i> ‘ <i>chief health officer</i> means the chief health officer under section 57B.’.	11 12 13 14
2	Section 37(3)— <i>omit.</i>	15 16
3	Part 6, after division 1— <i>insert—</i>	17 18
‘Division 1A Chief health officer		19
‘57B Chief health officer		20
‘(1) There is to be a chief health officer for the State.		21

Schedule 1 (continued)

‘(2)	The chief health officer is to be employed as a public service officer, or as a health service employee.	1 2
‘(3)	The chief health officer must be a doctor.	3
‘57C	Function of chief health officer	4
	‘The function of the chief health officer is to provide high level medical advice to the chief executive and the Minister on health issues, particularly on standards, quality, ethics and research issues.’.	5 6 7 8
4	Section 60, definition <i>designated person</i>, paragraph (c)— <i>omit, insert—</i>	9 10
	‘(c) the chief health officer; or’.	11
5	Part 9, after division 4— <i>insert—</i>	12 13
‘Division 5	Transitional provision for <i>Public Health Act 2005</i>	14 15
‘82	Chief health officer	16
‘(1)	This section applies to the person who, immediately before the commencement day, was the chief health officer under the <i>Health Act 1937</i> , section 7.	17 18 19
‘(2)	Subject to this Act, the person continues as the chief health officer under section 57B on the same terms of appointment that applied to the person immediately before the commencement day.	20 21 22 23
‘(3)	In this section—	24
	<i>commencement day</i> means the day the omission of the <i>Health Act 1937</i> , section 7, under the <i>Public Health Act 2005</i> , schedule 1, commences.’.	25 26 27

Schedule 1 (continued)

Liquor Act 1992	1
1 Section 136(1)(b)(ii)—	2
<i>omit.</i>	3
2 Section 136(1)(c), ‘1 of the following offences’—	4
<i>omit, insert—</i>	5
‘an offence against this Act’.	6
3 Section 136(1)(c)(i) and (ii)—	7
<i>omit.</i>	8
 Medical Practitioners Registration Act 2001	 9
1 Schedule 3, definition <i>chief health officer</i>, ‘<i>Health Act 1937</i>’—	10
<i>omit, insert—</i>	11
‘ <i>Health Services Act 1991</i> , section 57B’.	12
	13
 Metropolitan Water Supply and Sewerage Act 1909	 14
1 Schedule 4, item 17A, ‘Subject to any regulations of the Department of Public Health, the’—	15
<i>omit, insert—</i>	16
‘The’.	17
	18

Schedule 1 (continued)

Plumbing and Drainage Act 2002		1
1	Section 9(a)(iii), ‘Health Act 1937’— <i>omit, insert—</i> <i>‘Health Services Act 1991’.</i>	2 3 4
Police Powers and Responsibilities Act 2000		5
1	Schedule 4, definition <i>health department</i>, ‘Health Act 1937’— <i>omit, insert—</i> <i>‘Health Services Act 1991’.</i>	6 7 8 9
Private Health Facilities Act 1999		10
1	Section 147(4)(d), ‘subsection (5)’— <i>omit, insert—</i> <i>‘(h) or subsection (6)’.</i>	11 12 13
2	Section 147(4)(e)— <i>omit.</i>	14 15
3	Section 147(4)(g)— <i>omit, insert—</i> <i>‘(g) the disclosure of the information is authorised by the chief executive under subsection (6).’.</i>	16 17 18 19

Schedule 1 (continued)

4	Section 147(5)—	1
	<i>omit.</i>	2
5	Schedule 3, definition <i>chief health officer</i>, ‘<i>Health Act 1937</i>—	3
	<i>omit, insert—</i>	4
	<i>‘Health Services Act 1991, section 57B’.</i>	5
		6
	Public Safety Preservation Act 1986	7
1	Schedule, definition <i>medical controller</i>, ‘<i>Health Act 1937</i>—	8
	<i>omit, insert—</i>	9
	<i>‘Health Services Act 1991’.</i>	10
		11
	Queensland Institute of Medical Research Act 1945	12
1	Section 2, definition <i>chief health officer</i>, ‘<i>Health Act 1937</i>—	13
	<i>omit, insert—</i>	14
	<i>‘Health Services Act 1991, section 57B’.</i>	15
		16

Schedule 1 (continued)

	Radiation Safety Act 1999	1
1	Schedule 2, definition <i>chief health officer</i>, ‘Health Act 1937’—	2
	<i>omit, insert—</i>	3
	<i>‘Health Services Act 1991, section 57B’.</i>	4
		5
	Residential Services (Accreditation) Act 2002	6
1	Section 4(5)(c)—	7
	<i>omit.</i>	8
	Transplantation and Anatomy Act 1979	9
1	Section 4(1), definition <i>chief health officer</i>, ‘Health Act 1937’—	10
	<i>omit, insert—</i>	11
	<i>‘Health Services Act 1991, section 57B’.</i>	12
		13

Schedule 2	Dictionary	1
	section 8	2
	<i>abnormal Pap smear</i> , for chapter 6, part 3, see section 251.	3
	<i>administering executive</i> means—	4
	(a) for a person appointed under this Act as an authorised person or contact tracing officer by the chief executive—the chief executive; or	5 6 7
	(b) for a person appointed under this Act as an authorised person by a chief executive officer—the chief executive officer; or	8 9 10
	(c) for a person appointed under this Act as an authorised person by 2 or more chief executive officers—the chief executive officers jointly.	11 12 13
	<i>anonymity code</i> , for chapter 3, see section 62.	14
	<i>approved form</i> means a form approved by the chief executive or the chief executive officer of a local government.	15 16
	<i>approved inspection program</i> see section 427.	17
	<i>approved laboratory</i> means a laboratory approved by the chief executive under section 434.	18 19
	<i>approved quality assurance committee</i> means a quality assurance committee declared to be an approved quality assurance committee under the <i>Health Services Act 1991</i> , section 31.	20 21 22 23
	<i>authorised person</i> means a person appointed as an authorised person under section 377.	24 25
	<i>baby</i> , for chapter 6, part 1, see section 214.	26
	<i>baby born alive</i> , for chapter 6, part 1, see section 214.	27
	<i>baby not born alive</i> , for chapter 6, part 1, see section 214.	28
	<i>behavioural order</i> means a behavioural order by a magistrate under chapter 3, part 5, division 3.	29 30
	<i>biomedical study</i> , for chapter 6, part 4, see section 280.	31

Schedule 2 (continued)

<i>business contact information</i> , for chapter 3, part 3, division 2, see section 98.	1 2
<i>business contact information requirement</i> , for chapter 3, part 3, division 2, see section 98.	3 4
<i>cancer</i> , for chapter 6, see section 229.	5
<i>care and treatment order</i> , for chapter 5, see section 158.	6
<i>carer</i> , for chapter 5, see section 158.	7
<i>centre based service</i> , for chapter 5, see section 158.	8
<i>chairperson</i> , for chapter 7, see section 293.	9
<i>chief executive (child safety)</i> , for chapter 5, see section 158.	10
<i>chief executive officer</i> means the chief executive officer of a local government.	11 12
<i>chief executive's authorisation</i> , for chapter 2, part 4, see section 36(2).	13 14
<i>chief executive's order</i> , for chapter 3, see section 112.	15
<i>chief health officer</i> see the <i>Health Services Act 1991</i> , section 57B.	16 17
<i>child</i> means an individual under 18 years.	18
<i>child care service</i> , for chapter 5, see section 158.	19
<i>clinical and applied study</i> , for chapter 6, part 4, see section 280.	20 21
<i>clinical diagnosis notifiable condition</i> see section 62.	22
<i>clinical information</i> , for chapter 6, part 3, see section 251.	23
<i>clinical management</i> , for chapter 6, part 3, see section 251.	24
<i>collection</i> , for part 6, division 1, see section 214.	25
<i>commencement</i> , for chapter 4, see section 147.	26
<i>confidential information</i> —	27
(a) for chapter 2, part 5, division 4, see section 53; or	28
(b) for chapter 3, part 2, division 3, see section 76; or	29
(c) for chapter 3, part 3, division 3, see section 104; or	30

Schedule 2 (continued)

(d) for chapter 5, part 2, division 3, see section 174; or	1
(e) for chapter 6, part 1, division 4, see section 219; or	2
(f) for chapter 6, part 2, division 4, see section 237; or	3
(g) for chapter 6, part 3, see section 251.	4
contact information , for chapter 3, part 3, division 2, see section 98.	5 6
contact information requirement , for chapter 3, part 3, division 2, see section 98.	7 8
contact tracing officer means a person appointed as a contact tracing officer under section 90.	9 10
contagious condition , for chapter 5, see section 158.	11
contractor , for chapter 6, part 2, see section 229.	12
controlled notifiable condition see section 63.	13
controlled notifiable conditions declaration , for chapter 8, see section 315.	14 15
controlled notifiable conditions order , for chapter 3, see section 62.	16 17
conviction means a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.	18 19
declared health service , for chapter 4, see section 147.	20
declared public health emergency , for chapter 8, see section 315.	21 22
delivery , for chapter 6, part 1, see section 214.	23
designated medical officer , for chapter 5, see section 158.	24
designated person , for chapter 6, part 1, see section 214.	25
designated pests means any of the following—	26
(a) mosquitoes;	27
(b) rats;	28
(c) mice;	29
(d) other animals prescribed under a regulation.	30

Schedule 2 (continued)

detention order —	1
(a) for chapter 3, means a detention order by a magistrate under chapter 3, part 5, division 4; or	2 3
(b) for chapter 8, see section 315.	4
director , of a pathology laboratory, means the person who has effective control of—	5 6
(a) the laboratory premises, whether or not the person has an interest in the premises; and	7 8
(b) the use of equipment used at the laboratory; and	9
(c) the work performed by the staff in the laboratory.	10
disclosure section , for chapter 6, part 3, see section 251.	11
document certification requirement see section 418(5).	12
document production requirement see section 418(6).	13
dwelling does not include land around a dwelling.	14
emergency notifiable condition , for chapter 8, see section 315.	15 16
emergency officer see section 315.	17
emergency officer (general) , for chapter 8, see section 315.	18
emergency officer (medical) , for chapter 8, see section 315.	19
enforcement order means an enforcement order made under chapter 2, part 3, division 3.	20 21
entity of the state means—	22
(a) for chapter 3, part 2, division 3, see section 76; or	23
(b) for chapter 6, part 1, division 4, see section 219; or	24
(c) for chapter 6, part 2, division 4, see section 237; or	25
(d) for chapter 6, part 3, see section 251.	26
environmental health event , for chapter 2, part 5, see section 47.	27 28
environmental health event register , for chapter 2, part 5, see section 48.	29 30

Schedule 2 (continued)

<i>epidemiological study</i> , for chapter 6, part 4, see section 280.	1
<i>evaluation and planning study</i> , for chapter 6, part 4, see section 280.	2 3
<i>executive officer</i> , of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.	4 5 6 7
<i>exotic disease</i> has the meaning given in the <i>Exotic Diseases in Animals Act 1981</i> .	8 9
<i>government entity</i> has the meaning given in the <i>Government Owned Corporations Act 1993</i> .	10 11
<i>harm</i> , for chapter 5, see section 158.	12
<i>health care facility</i> see section 149.	13
<i>health information held by the department</i> means—	14
(a) information held by the department about a person's health or the provision of a health service to a person; or	15 16
(b) information about a person's health or the provision of a health service to the person obtained by the department under this Act or another Act.	17 18 19
<i>health practitioner</i> , for chapter 6, part 3, see section 251.	20
<i>health service employee</i> means a person appointed under the <i>Health Services Act 1991</i> , section 24. ⁵⁰	21 22
<i>health service facility</i> , for chapter 5, see section 158.	23
<i>histological sample</i> , for chapter 6, part 3, see section 251.	24
<i>histology test</i> , for chapter 6, part 3, see section 251.	25
<i>home based service</i> , for chapter 5, see section 158.	26
<i>hospital</i> means a public sector hospital, a private health facility or the Mater Misericordiae Public Hospitals.	27 28

50 *Health Services Act 1991*, section 24 (Appointment of health service employees)

Schedule 2 (continued)

<i>human research ethics committee</i> means a committee formed	1
in accordance with requirements prescribed under a	2
regulation.	3
<i>ICMP</i> , for chapter 4, see section 147.	4
<i>identifying information</i> , for chapter 6, part 3, see section 251.	5
<i>information</i> —	6
(a) for chapter 2, part 5, division 4, see section 53; or	7
(b) for chapter 3, part 2, division 3, see section 76; or	8
(c) for chapter 3, part 3, division 3, see section 104; or	9
(d) for chapter 5, part 2, division 3, see section 174; or	10
(e) for chapter 6, part 1, division 4, see section 219; or	11
(f) for chapter 6, part 2, division 4, see section 237; or	12
(g) for chapter 6, part 3, see section 251.	13
<i>initial examination order</i> means an initial examination order	14
by a magistrate under chapter 3, part 5, division 2.	15
<i>invasive procedure</i> , for chapter 4, see section 147.	16
<i>issuing authority</i> means—	17
(a) if a matter is done by a person for a local government,	18
the local government; or	19
(b) if a matter is done by the chief executive or by a person	20
for the chief executive, the chief executive.	21
<i>licensee</i> , for chapter 5, see section 158.	22
<i>local government public health risk</i> , for chapter 2, see	23
section 10.	24
<i>midwife</i> , for chapter 6, part 1, see section 214.	25
<i>mobile premises</i> , for chapter 4, see section 147.	26
<i>monitoring and surveillance study</i> , for chapter 6, part 4, see	27
section 280.	28
<i>motor vehicle</i> means a vehicle for which registration is	29
required under the <i>Transport Operations (Road Use</i>	30

Schedule 2 (continued)

<i>Management—Vehicle Registration) Regulation 1999</i> and includes a caravan and a trailer.	1 2
<i>nominated person</i> , for chapter 6, part 3, see section 251.	3
<i>notice</i> means a written notice.	4
<i>notifiable condition</i> see section 64.	5
<i>Notifiable Conditions Register</i> see section 62.	6
<i>notifiable disease</i> see the <i>Stock Act 1915</i> .	7
<i>notification about cancer</i> , for chapter 6, part 2, see section 229.	8 9
<i>obstruct</i> includes hinder and attempt to obstruct or hinder.	10
<i>occupier</i> , of a place, includes a person who reasonably appears to be an occupier, or in charge, of the place.	11 12
<i>operator</i> , of a health care facility, for chapter 4, see section 147.	13 14
<i>owner</i> , of land, has the meaning given in the <i>Local Government Act 1993</i> , section 4.	15 16
<i>panel</i> , for chapter 7, see section 293.	17
<i>Pap smear</i> , for chapter 6, part 3, see section 251.	18
<i>Pap Smear Register</i> , for chapter 6, part 3, see section 251.	19
<i>Pap smear test</i> , for chapter 6, part 3, see section 251.	20
<i>parent</i> , of a child, for chapter 5, see section 158.	21
<i>pathological diagnosis notifiable condition</i> , for chapter 3, see section 62.	22 23
<i>pathology laboratory</i> includes premises used for the pathological examination of Pap smears, histological samples, blood or other specimens of human origin.	24 25 26
<i>pathology request notifiable condition</i> , for chapter 3, see section 62.	27 28
<i>Perinatal Statistics Collection</i> see section 214.	29
<i>person in charge</i> —	30
(a) for a school, for chapter 5, see section 158; or	31

Schedule 2 (continued)

(b) for a child care service, for chapter 5, see section 158.	1
<i>place</i> includes premises and vacant land.	2
<i>potable water</i> means water that is intended to be, or is likely to be, used for human consumption.	3 4
<i>premises</i> includes—	5
(a) a building or other structure; and	6
(b) a part of a building or other structure; and	7
(c) a vehicle; and	8
(d) a caravan.	9
<i>prescribed period</i> , for a contagious condition, for chapter 5, see section 158.	10 11
<i>prevention and control program</i> , for chapter 2, part 4, see section 36.	12 13
<i>private health facility</i> see <i>Private Health Facilities Act 1999</i> , section 8.	14 15
<i>professional</i> , for chapter 5, see section 158.	16
<i>provider</i> , for chapter 6, part 3, see section 251.	17
<i>provisional diagnosis notifiable condition</i> see section 62.	18
<i>public health emergency</i> , for chapter 8, see section 315.	19
<i>public health emergency area</i> , for chapter 8, see section 315.	20
<i>public health emergency order</i> , for chapter 8, see section 315.	21 22
<i>public health order</i> means a an order given by an authorised person under section 23.	23 24
<i>public health risk</i> see section 10.	25
<i>public sector health service</i> see the <i>Health Services Act 1991</i> , section 2.	26 27
<i>public sector hospital</i> see the <i>Health Services Act 1991</i> , section 2.	28 29
<i>Queensland Cancer Register</i> see section 229.	30

Schedule 2 (continued)

<i>reasonably suspects</i> means suspects on grounds that are reasonable in the circumstances.	1 2
<i>register</i> —	3
(a) for chapter 3, part 2, see section 62; or	4
(b) for chapter 6, part 2, see section 229; or	5
(c) for chapter 6, part 3, see section 251; or	6
(d) for chapter 6, part 4, see section 280.	7
<i>registered nurse</i> , for chapter 5, see section 158.	8
<i>registered screening history</i> , for a woman, for chapter 6, part 3, see section 251.	9 10
<i>registrar of titles</i> means the registrar of titles under the <i>Land Title Act 1994</i> .	11 12
<i>relevant person</i> means—	13
(a) for chapter 2, part 5, division 4, see section 53; or	14
(b) for chapter 3, part 2, division 3, see section 76; or	15
(c) for chapter 3, part 3, division 3, see section 104; or	16
(d) for chapter 5, part 2, division 3, see section 174; or	17
(e) for chapter 6, part 1, division 4, see section 219; or	18
(f) for chapter 6, part 2, division 4, see section 237; or	19
(g) for chapter 6, part 3, see section 251.	20
<i>repealed provision</i> means—	21
(a) for chapter 3, part 2, division 3, see section 76; or	22
(b) for chapter 3, part 3, division 3, see section 104; or	23
(c) for chapter 6, part 1, division 4, see section 219; or	24
(d) for chapter 6, part 2, division 4, see section 237; or	25
(e) for chapter 6, part 3, see section 251.	26
<i>research</i> , for chapter 6, part 4, see section 280.	27
<i>Research Register</i> , for chapter 6, part 4, see section 280.	28
<i>residential care facility</i> , for chapter 6, part 2, see section 229.	29

Schedule 2 (continued)

<i>school</i> , for chapter 5, see section 158.	1
<i>State public health risk</i> , for chapter 2, see section 10.	2
<i>structure</i> includes any building, wall, fence, water reservoir or drain and anything projecting from a structure.	3 4
<i>teacher</i> , for chapter 5, see section 158.	5
<i>third party</i> , for chapter 2, part 3, division 5, see section 33.	6
<i>vaccinated</i> , for chapter 5, see section 158.	7
<i>vaccine preventable condition</i> , for chapter 5, see section 158.	8
<i>vehicle</i> includes an aircraft and a vessel.	9
<i>witness requirement notice</i> , for chapter 7, see section 293.	10
<i>woman</i> , for chapter 6, part 3, see section 251.	11
<i>written</i> or <i>in writing</i> , for chapter 6, part 3, see section 251.	12