



Queensland

Health and Other Legislation Amendment Bill 2016



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Health and Other Legislation Amendment Bill 2016

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2016

A Bill

for

An Act to amend the Criminal Code, the *Hospital and Health Boards Act 2011*, the *Public Health Act 2005* and the *Queensland Institute of Medical Research Act 1945* and the legislation mentioned in schedule 1 for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Health and Other Legislation
Amendment Act 2016*. 4
5

Part 2 Amendment of Criminal Code 6

Clause 2 Code amended 7

This part amends the Criminal Code. 8

Clause 3 Amendment of s 6 (Carnal knowledge) 9

Section 6(2), ‘sodomy’— 10

omit, insert— 11

anal intercourse 12

Clause 4 Omission of s 208 (Unlawful sodomy) 13

Section 208— 14

omit. 15

**Clause 5 Amendment of s 213 (Owner etc. permitting abuse of
children on premises)** 16
17

(1) Section 213(1), from ‘prescribed age’ to ‘208,’— 18

omit, insert— 19

age of 16 years to be in or upon the premises for 20

	the purpose of any person, whether a particular person or not, doing an act in relation to the child (a <i>proscribed act</i>) defined to constitute an offence in section	1 2 3 4
(2)	Section 213(3)(a), ‘208 or’— <i>omit.</i>	5 6
(3)	Section 213(4) and (6)— <i>omit.</i>	7 8
(4)	Section 213(5)— <i>renumber</i> as section 213(4).	9 10
Clause 6	Amendment of s 215 (Carnal knowledge with or of children under 16)	11 12
	Section 215(6)— <i>omit.</i>	13 14
Clause 7	Amendment of s 216 (Abuse of persons with an impairment of the mind)	15 16
(1)	Section 216(1), after ‘knowledge’— <i>insert</i> — with or	17 18 19
(2)	Section 216(5), definition <i>carnal knowledge</i> — <i>omit.</i>	20 21
Clause 8	Amendment of s 219 (Taking child for immoral purposes)	22
(1)	Section 219(1), from ‘prescribed age’ to ‘208,’— <i>omit, insert</i> — age of 16 years and is not the husband or wife of that person for the purpose of any person, whether a particular person or not, doing an act in relation	23 24 25 26 27

[s 9]

	to the child (a <i>proscribed act</i>) defined to	1
	constitute an offence in section	2
(2)	Section 219(3)(a), ‘208 or’—	3
	<i>omit.</i>	4
(3)	Section 219(4) and (6)—	5
	<i>omit.</i>	6
(4)	Section 219(5)—	7
	<i>renumber</i> as section 219(4).	8
Clause 9	Amendment of s 229B (Maintaining a sexual relationship with a child)	9
		10
(1)	Section 229B(1) and (5), ‘prescribed age’—	11
	<i>omit, insert—</i>	12
	age of 16 years	13
(2)	Section 229B(10), definition <i>offence of a sexual nature</i> ,	14
	‘208,’—	15
	<i>omit.</i>	16
(3)	Section 229B(10), definition <i>prescribed age</i> —	17
	<i>omit.</i>	18
Clause 10	Amendment of s 578 (Charge of offence of a sexual nature)	19
		20
(1)	Section 578(1), ‘208,’—	21
	<i>omit.</i>	22
(2)	Section 578(1A)—	23
	<i>omit.</i>	24
(3)	Section 578(4), ‘208,’—	25
	<i>omit.</i>	26

Clause 11	Amendment of s 636 (Evidence of blood relationship)	1
	Section 636(1), definition <i>prescribed offence</i> , paragraph (b), '208,'—	2 3
	<i>omit.</i>	4
Clause 12	Insertion of new pt 9, ch 95	5
	Part 9—	6
	<i>insert</i> —	7
	Chapter 95 Transitional provision for Health and Other Legislation Amendment Act 2016	8 9 10 11
	735 References to particular offences	12
	(1) An amended provision applies as if a reference to section 215 in the amended provision included a reference to—	13 14 15
	(a) the Criminal Code, section 208 as in force at any time before its repeal by the <i>Health and Other Legislation Amendment Act 2016</i> ; and	16 17 18
	(b) the Criminal Code, section 209 as in force at any time before its repeal by the <i>Criminal Code and Other Acts Amendment Act 2008</i> .	19 20 21
	(2) The definition <i>prescribed offence</i> in section 636(1) applies as if it included a reference to an offence defined in a provision mentioned in subsection (1)(a) or (b).	22 23 24 25
	(3) In this section—	26
	<i>amended provision</i> means any of the following provisions as in force on or after the commencement—	27 28 29

[s 13]

- (a) section 229B(10), definition *offence of a sexual nature*; 1
2
(b) section 578(1) and (4). 3

Part 3 **Amendment of Hospital and Health Boards Act 2011** 4
5

Clause 13 Act amended 6
This part amends the *Hospital and Health Boards Act 2011*. 7

Clause 14 Amendment of s 139 (Definitions for pt 7) 8
(1) Section 139, definitions *confidential information* and *designated person*— 9
omit. 10
11
(2) Section 139— 12
insert— 13
confidential information means— 14
(a) information, acquired by a person in the 15
person's capacity as a designated person, 16
from which a person who is receiving or has 17
received a public sector health service could 18
be identified; or 19
(b) information accessed by a prescribed health 20
practitioner under section 161C(2). 21
designated person see section 139A. 22
prescribed health practitioner means— 23
(a) a relevant health practitioner, other than a 24
person mentioned in section 139A(1), who 25
is prescribed by regulation; or 26
(b) a person who was a relevant health 27
practitioner mentioned in paragraph (a). 28

prescribed information system means an information system prescribed by regulation.

relevant health practitioner means an individual who is registered under the Health Practitioner Regulation National Law to practise a health profession, other than as a student.

Clause 15 Insertion of new s 139A

After section 139—

insert—

139A Meaning of *designated person*

(1) *Designated person* means a person who is—

(a) a public service employee employed in the department; or

(b) a health service employee; or

(c) the chief health officer; or

(d) the director of mental health; or

(e) a health professional (other than a person mentioned in paragraphs (a) to (d)) engaged in delivering a public sector health service, whether at a public sector health service facility or another place; or

(f) a member of a board of a Service; or

(g) a person (other than a person mentioned in paragraph (a) or (b)) engaged temporarily to provide administrative support services for a Service or the department; or

(h) a person being educated or trained at a public sector health service facility as part of the requirements for—

(i) registration, enrolment or other authorisation (however described) to practise as a health professional; or

[s 16]

	(ii) completion of a course of study qualifying a person for registration, enrolment or authorisation mentioned in subparagraph (i); or	1 2 3 4
	(i) a person providing education or training at a public sector health service facility to a person mentioned in paragraph (h); or	5 6 7
	(j) a contractor who accesses confidential information under a contract to provide information and communication technology or information management services to a Service or the department; or	8 9 10 11 12
	(k) a volunteer carrying out duties at a public sector health service facility on behalf of a Service or the department; or	13 14 15
	(l) an inspector; or	16
	(m) another person prescribed under a regulation for this paragraph to be a designated person.	17 18
	(2) Any person who was a person mentioned in subsection (1) is also a <i>designated person</i> .	19 20
Clause 16	Insertion of new pt 7, div 2, sdiv 1, hdg	21
	Part 7, division 2, before section 142—	22
	<i>insert—</i>	23
	Subdivision 1 Prohibited disclosure of confidential information	24 25
Clause 17	Amendment of s 142 (Confidential information must not be disclosed)	26 27
	(1) Section 142, heading, after ‘disclosed’—	28
	<i>insert—</i>	29
	by designated persons	30

-
- (2) Section 142(2), after ‘designated person’— 1
insert— 2
or a prescribed health practitioner 3

Clause 18 Insertion of new s 142A and pt 7, div 2, sdiv 2, hdg 4

After section 142— 5

insert— 6

**142A Confidential information must not be 7
disclosed by prescribed health practitioners 8**

- (1) A prescribed health practitioner must not 9
disclose, directly or indirectly, confidential 10
information to another person unless the 11
disclosure is required or permitted under this Act. 12

Maximum penalty—600 penalty units. 13

- (2) For subsection (1), another person includes 14
another prescribed health practitioner or a 15
designated person. 16

- (3) Subsection (1) applies even if the person who 17
could be identified from the disclosure of 18
confidential information is deceased. 19

**Subdivision 2 Permitted disclosure of 20
confidential information 21**

**Clause 19 Amendment of s 143 (Disclosure required or permitted by 22
law) 23**

- (1) Section 143(2)— 24

insert— 25

- (e) information provided to a prescribed health 26
practitioner by a designated person by 27
giving the prescribed health practitioner 28

[s 20]

	access to a prescribed information system	1
	for the purposes of section 161C.	2
(2)	Section 143—	3
	<i>insert—</i>	4
(3)	A prescribed health practitioner may disclose	5
	confidential information if the disclosure is	6
	required or permitted by an Act or law.	7
Clause 20	Amendment s 144 (Disclosure with consent)	8
	Section 144, after ‘designated person’—	9
	<i>insert—</i>	10
	or prescribed health practitioner	11
Clause 21	Amendment of s 145 (Disclosure of confidential information for care or treatment of person)	12
	Section 145, after ‘designated person’—	13
	<i>insert—</i>	14
	or prescribed health practitioner	15
Clause 22	Amendment of s 146 (Disclosure to person who has sufficient interest in health and welfare of person)	16
	Section 146(1), after ‘designated person’—	17
	<i>insert—</i>	18
	or prescribed health practitioner	19
Clause 23	Amendment of s 147 (Disclosure to lessen or prevent serious risk to life, health or safety)	20
	Section 147, after ‘designated person’—	21
	<i>insert—</i>	22
	or prescribed health practitioner	23
		24
		25
		26

Clause 24	Amendment of s 148 (Disclosure for the protection, safety or wellbeing of a child)	1 2
	Section 148—	3
	<i>insert—</i>	4
	(2) A prescribed health practitioner may disclose confidential information if—	5 6
	(a) the relevant chief executive believes, on reasonable grounds, the disclosure is necessary for the protection, safety or wellbeing of a child; and	7 8 9 10
	(b) the confidential information relates to someone other than the child mentioned in paragraph (a); and	11 12 13
	(c) the relevant chief executive has, in writing, authorised the disclosure.	14 15
Clause 25	Insertion of new s 150A	16
	After section 150—	17
	<i>insert—</i>	18
	150A Disclosure for purposes related to approved research	19 20
	(1) This section applies if the relevant chief executive gives a person (a <i>researcher</i>) written approval to carry out research.	21 22 23
	(2) A designated person may disclose confidential information about a person (a <i>participant</i>) for the purpose of conducting the research if—	24 25 26
	(a) the disclosure is to the researcher; and	27
	(b) the participant is an adult who has impaired capacity for consenting to participation in the research; and	28 29 30
	(c) the tribunal under the <i>Guardianship and Administration Act 2000</i> or another person	31 32

[s 26]

	authorised under a law to make decisions for	1
	the participant consents to the participant's	2
	participation in the research.	3
	<i>Example of a person authorised under a law—</i>	4
	A statutory health attorney for an adult's health	5
	matter under the <i>Powers of Attorney Act 1998</i> .	6
	(3) In this section—	7
	<i>impaired capacity</i> has the same meaning as	8
	impaired capacity under the <i>Guardianship and</i>	9
	<i>Administration Act 2000</i> .	10
	<i>research</i> see the <i>Public Health Act 2005</i> , section	11
	280, definition <i>research</i> .	12
Clause 26	Amendment of s 154 (Disclosure to or by relevant chief executive)	13
	Section 154, after 'designated person'—	14
	<i>insert—</i>	15
	or prescribed health practitioner	16
Clause 27	Amendment of s 155 (Disclosure to health practitioner registration board)	18
	Section 155, after 'designated person'—	19
	<i>insert—</i>	20
	or prescribed health practitioner	21
Clause 28	Amendment of s 156 (Disclosure to health ombudsman)	23
	Section 156, after 'designated person'—	24
	<i>insert—</i>	25
	or prescribed health practitioner	26

Clause 29	Amendment of s 157 (Disclosure to person performing functions under Coroners Act 2003)	1 2
	Section 157, after ‘designated person’—	3
	<i>insert—</i>	4
	or prescribed health practitioner	5
Clause 30	Amendment of s 159 (Disclosure to Australian Red Cross Society)	6 7
	Section 159, after ‘designated person’—	8
	<i>insert—</i>	9
	or prescribed health practitioner	10
Clause 31	Insertion of new pt 7, div 4	11
	Part 7—	12
	<i>insert—</i>	13
	Division 4	14
	Access by prescribed health practitioner to prescribed information system	15 16 17
	161C Prescribed health practitioner may access prescribed information system and particular information	18 19 20
	(1) A prescribed health practitioner may access a prescribed information system.	21 22
	(2) A prescribed health practitioner must not access information contained in a prescribed information system unless—	23 24 25
	(a) the information is necessary for the prescribed health practitioner to facilitate the care or treatment of an individual; or	26 27 28

[s 32]

	(b) the prescribed health practitioner accesses the information incidentally while accessing information mentioned in paragraph (a).	1 2 3
	Maximum penalty—600 penalty units.	4
	(3) A prescribed health practitioner must comply with all conditions prescribed by regulation in relation to accessing a prescribed information system and any information contained in the system.	5 6 7 8 9
	Maximum penalty—600 penalty units.	10
Clause 32	Amendment of sch 2 (Dictionary)	11
	Schedule 2—	12
	<i>insert—</i>	13
	<i>prescribed health practitioner</i> , for part 7, see section 139.	14 15
	<i>prescribed information system</i> , for part 7, see section 139.	16 17
	<i>relevant health practitioner</i> , for part 7, see section 139.	18 19
Part 4	Amendment of Public Health Act 2005	20 21
Clause 33	Act amended	22
	This part amends the <i>Public Health Act 2005</i> .	23
Clause 34	Amendment of s 158 (Definitions for ch 5)	24
	(1) Section 158, definition <i>recognised immunisation provider—omit</i> .	25 26

-
- (2) Section 158— 1
insert— 2
recognised vaccination provider, for part 2, 3
division 1AA, see section 160A. 4

Clause 35 Amendment of s 160A (Definitions for div 1AA) 5

- (1) Section 160A, definition *recognised immunisation provider*— 6
omit. 7
- (2) Section 160A— 8
insert— 9
recognised vaccination provider, see the 10
Australian Immunisation Register Act 2015 11
(Cwlth), section 4. 12
- (3) Section 160A, definition *immunisation history statement*, 13
paragraph (a)— 14
omit, insert— 15
(a) an immunisation history statement as 16
recorded on the ACI register as defined 17
under the *Australian Immunisation Register* 18
Act 2015 (Cwlth), section 4; or 19
- (4) Section 160A, definition *immunisation history statement*, 20
paragraph (b), ‘recognised immunisation’— 21
omit, insert— 22
recognised vaccination 23
- (5) Section 160A, definition *immunisation status “up to date”*, 24
paragraphs (b) and (c), ‘recognised immunisation’— 25
omit, insert— 26
recognised vaccination 27

[s 36]

Clause 36	Insertion of new ch 5, pt 4	1
	Chapter 5—	2
	<i>insert—</i>	3
	Part 4	4
	Disclosure of information for school health programs	5
		6
	213AA Definitions for part	7
	In this part—	8
	<i>health service</i> see the <i>Hospital and Health Boards Act 2011</i> , section 15.	9
		10
	<i>health service chief executive</i> see the <i>Hospital and Health Boards Act 2011</i> , section 33.	11
		12
	<i>school health program</i> , in relation to students of a school, means a program carried out for the purpose of providing a dental health service or an immunisation health service for the students.	13
		14
		15
		16
	<i>school health program provider</i> , in relation to a school health program, means a Service, or an entity engaged by a Service, that carries out the school health program.	17
		18
		19
		20
	<i>school principal</i> includes a delegate of the principal.	21
		22
	<i>Service</i> means a Hospital and Health Service established under the <i>Hospital and Health Boards Act 2011</i> , section 17.	23
		24
		25
	<i>student</i> , of a school, means a child who is enrolled in the school.	26
		27
	213AB Application of part	28
	This part applies in relation to a school health program provider carrying out, or preparing to	29
		30

carry out, a school health program for students. 1

213AC Identifying school health program providers 2

- (1) If the school health program provider is a Service, 3
the health service chief executive of the Service 4
must give the school principal notice stating that 5
the Service is the school health program provider. 6
- (2) If the school health program provider is an entity 7
engaged by a Service, the health service chief 8
executive of the Service must give the school 9
principal notice stating that the entity is the school 10
health program provider. 11

213AD Disclosure of information about students 12

- (1) For carrying out a function under the school 13
health program, the school health program 14
provider may ask the school principal to provide 15
the following information— 16
- (a) the name and date of birth of a student; 17
- (b) the name, telephone number, email address 18
and postal address of a parent or guardian of 19
a student; 20
- (c) any other information prescribed by 21
regulation about a student. 22
- (2) The school principal must, within a reasonable 23
period, disclose the information requested if the 24
school principal receives, or has received, a notice 25
under section 213AC stating that the Service or 26
entity that requested the information is the school 27
health program provider. 28
- (3) However, the school principal may refuse to 29
disclose any information about the student if the 30
school principal considers the disclosure is not in 31
the best interests of the student. 32

[s 36]

- (4) If, under subsection (3), the school principal
refuses to disclose information about 1 or more
students, the school principal must give the school
health program provider notice stating how many
students have had information withheld for the
school health program.

**213AE Application of Information Privacy Act 2009
to contracted service providers**

- (1) This section applies to a school health program
provider that is not—
- (a) an agency under the *Information Privacy
Act 2009*, section 18; or
- (b) a health agency under the *Information
Privacy Act 2009*, schedule 5.
- (2) For the purposes of the *Information Privacy Act
2009*, chapter 2, part 4—
- (a) the school health program provider is taken
to be a bound contracted service provider;
and
- (b) the agreement to provide a school health
program between the Service and the school
health program provider is taken to be a
service arrangement; and
- (c) the Service is the contracting agency.

**213AF Delegation by health service chief executive
for this part**

- A health service chief executive may delegate the
health service chief executive's functions under
this part to an appropriately qualified—
- (a) employee of the Service; or
- (b) health service employee employed in the
department and working for the Service.

Clause 37	Amendment of sch 2 (Dictionary)	1
(1)	Schedule 2, definitions <i>health service</i> , <i>health information held by a health agency</i> and <i>recognised immunisation provider</i> —	2
	<i>omit.</i>	3
		4
(2)	Schedule 2—	5
	<i>insert</i> —	6
	<i>health information held by a health agency</i> —	7
	(a) means—	8
	(i) information held by the agency about a person’s health or the provision of a health service to a person; or	9
		10
		11
	(ii) information about a person’s health or the provision of a health service to the person obtained by the agency under this Act or another Act; or	12
		13
		14
		15
	(iii) for chapter 6, part 4, information about a person’s health or the provision of a health service to a person held or obtained by a contractor for the contractor to keep the Queensland Cancer Register; and	16
		17
		18
		19
		20
		21
	(b) includes information about a person who is deceased.	22
		23
	<i>health service</i> —	24
	(a) for chapter 5, part 4, see section 213AA; or	25
	(b) for chapter 6, part 1A, see section 228C.	26
	<i>health service chief executive</i> , for chapter 5, part 4, see section 213AA.	27
		28
	<i>recognised vaccination provider</i> , for chapter 5, part 2, division 1AA, see section 160A.	29
		30
	<i>school health program</i> , for chapter 5, part 4, see section 213AA.	31
		32

[s 38]

	<i>school health program provider</i> , for chapter 5, part 4, see section 213AA.	1 2
	<i>school principal</i> , for chapter 5, part 4, see section 213AA.	3 4
	<i>Service</i> , for chapter 5, part 4, see section 213AA.	5
	<i>student</i> , for chapter 5, part 4, see section 213AA.	6
Part 5	Amendment of Queensland Institute of Medical Research Act 1945	7 8 9
Clause 38	Act amended	10
	This part amends the <i>Queensland Institute of Medical Research Act 1945</i> .	11 12
Clause 39	Replacement of s 19 (Bonuses to discoverers)	13
	Section 19—	14
	<i>omit, insert—</i>	15
	19 Bonuses to discoverers and inventors	16
	(1) The Council may pay an amount (a <i>bonus</i>) to a successful discoverer or inventor working, or who has worked, as an officer and employee or under the auspices of the Council.	17 18 19 20
	(2) Without limiting subsection (1), a bonus is an amount paid in addition to the discoverer's or inventor's salary and allowances (if any).	21 22 23
	(3) However, subsection (4) applies if the Council intends to pay a bonus to a discoverer or inventor in a financial year and the total amount of bonuses paid to all discoverers and inventors in the financial year—	24 25 26 27 28

[s 40]

	(a) is more than \$10m before the payment is made; or	1 2
	(b) will be more than \$10m because of the payment.	3 4
	(4) Before the Council pays the bonus, the Council must obtain the approval of the Governor in Council.	5 6 7
Part 6	Minor and consequential amendments	8 9
Clause 40	Legislation amended	10
	Schedule 1 amends the legislation it mentions.	11

Schedule 1	Legislation amended	1	
	section 40	2	
	Child Protection (Offender Reporting) Act 2004	3	
1	Part 7—	4	
	<i>insert—</i>	5	
	Division 4	Transitional provision for Health and Other Legislation Amendment Act 2016	6 7 8 9
	88 Sch 1 references to the Criminal Code, s 215	10	
	Schedule 1 applies as if the reference to the Criminal Code, section 215 included a reference to—	11 12 13	
	(a) the Criminal Code, section 208 as in force at any time before its repeal by the <i>Health and Other Legislation Amendment Act 2016</i> ; and	14 15 16	
	(b) the Criminal Code, section 209 as in force at any time before its repeal by the <i>Criminal Code and Other Acts Amendment Act 2008</i> .	17 18 19	
2	Schedule 1, item 9(a), entry for section 208—	20	
	<i>omit.</i>	21	

Corrective Services Act 2006		1
1	Schedule 1, entry for the Criminal Code, section 208—	2
	<i>omit.</i>	3
2	Schedule 1—	4
	<i>insert—</i>	5
	Criminal Code provision repealed by Health and Other Legislation Amendment Act 2016	6
		7
	section 208 (Unlawful sodomy)	8
 Criminal Organisation Act 2009		9
1	Section 7(2), from ‘would be’—	10
	<i>omit, insert—</i>	11
	would have been an offence against section 208 as	12
	in force immediately before its repeal by the	13
	<i>Health and Other Legislation Amendment Act</i>	14
	<i>2016.</i>	15
 Criminal Practice Rules 1999		16
1	Schedule 3, form 113—	17
	<i>omit.</i>	18

Disability Services Act 2006

1 Schedule 2, item 4, entry for the Criminal Code, section 208—

omit.

2 Schedule 3, item 1, entry for the Criminal Code—

insert—

208 Unlawful sodomy as the provision was in force from time to time before its repeal by the *Health and Other Legislation Amendment Act 2016*

3 Schedule 4, item 4, entry for the Criminal Code, section 208—

omit.

4 Schedule 5, item 1, entry for the Criminal Code—

insert—

208 Unlawful sodomy as the provision was in force from time to time before its repeal by the *Health and Other Legislation Amendment Act 2016* for an offence committed before 1 July 1997, only if committed against a child or a person with an impairment of the mind

5	Schedule 6, item 4, entry for the Criminal Code, section 208—	1 2
	<i>omit.</i>	3
6	Schedule 7—	4
	<i>insert—</i>	5
Criminal Code		
Provision of Code	Relevant heading	Qualification relating to the provision of the Act
208	Unlawful sodomy	as the provision was in force from time to time before its repeal by the <i>Health and Other Legislation Amendment Act 2016</i> for an offence committed before 1 July 1997, only if committed against a child or a person with an impairment of the mind
District Court of Queensland Act 1967		6
1	Section 61(2)(b), ‘208,’—	7
	<i>omit.</i>	8
2	Insertion of new s 151	9
	After section 150—	10
	<i>insert—</i>	11
	151 Transitional provision for Health and Other Legislation Amendment Act 2016	12 13
	Section 61 applies as if the reference in section 61(2)(b) to the Criminal Code, section 215 included a reference to the Criminal Code, section 208 as in force at any time before its repeal by the <i>Health and Other Legislation Amendment Act</i>	14 15 16 17 18

	<i>2016.</i>	1
	Evidence Act 1977	2
1	Section 21M(3), definition <i>prescribed special offence</i>, '208,'—	3 4
	<i>omit.</i>	5
2	Part 9—	6
	<i>insert—</i>	7
	Division 6 Health and Other Legislation Amendment Act 2016	8 9 10
	147 <i>Prescribed special offence</i> taken to include references to Criminal Code, ss 208 and 209	11 12
	The definition <i>prescribed special offence</i> in section 21M(3) applies as if it included a reference to—	13 14 15
	(a) the Criminal Code, section 208 as in force at any time before its repeal by the <i>Health and Other Legislation Amendment Act 2016</i> ; and	16 17 18
	(b) the Criminal Code, section 209 as in force at any time before its repeal by the <i>Criminal Code and Other Acts Amendment Act 2008</i> .	19 20 21

	Penalties and Sentences Act 1992	1
1	Section 15E(4), definition <i>offence of a sexual nature</i>, '208,'—	2
	<i>omit.</i>	3
		4
2	Part 14—	5
	<i>insert—</i>	6
	Division 13	7
	Transitional provision for	8
	Health and Other	9
	Legislation Amendment	10
	Act 2016	
	240 <i>Offence of a sexual nature</i> taken to include	11
	references to Criminal Code, ss 208 and 209	12
	The definition <i>offence of a sexual nature</i> in	13
	section 15E(4) applies as if the reference to the	14
	Criminal Code, section 215 included a reference	15
	to—	16
	(a) the Criminal Code, section 208 as in force at	17
	any time before its repeal by the <i>Health and</i>	18
	<i>Other Legislation Amendment Act 2016</i> ; and	19
	(b) the Criminal Code, section 209 as in force at	20
	any time before its repeal by the <i>Criminal</i>	21
	<i>Code and Other Acts Amendment Act 2008</i> .	22
3	Schedule 1, entry for the Criminal Code, item 5—	23
	<i>omit.</i>	24
4	Schedule 1—	25
	<i>insert—</i>	26

Schedule 1

	Criminal Code (Provision repealed by Health and Other Legislation Amendment Act 2016)	1 2 3
	1 section 208 (Unlawful sodomy)	4
5	Schedule 1A, entry for the Criminal Code, section 208— <i>omit.</i>	5 6
6	Schedule 1A— <i>insert—</i>	7 8
	Criminal Code (Provision repealed by Health and Other Legislation Amendment Act 2016)	9 10 11
Section	Section heading	
208	Unlawful sodomy	
7	Schedule 2, entry for the Criminal Code, section 208— <i>omit.</i>	12 13
8	Schedule 2— <i>insert—</i>	14 15

Criminal Code (Provision repealed by Health and Other Legislation Amendment Act 2016)	1 2 3
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Section	Section heading
208	Unlawful sodomy

Police Powers and Responsibilities Act 2000	4
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1	Section 538(1)(d)— <i>omit.</i>	5 6
2	Section 538(1)(e), 'girl'— <i>omit, insert—</i> child	7 8 9
3	Section 538(1), note, '208 (Unlawful sodomy),'— <i>omit.</i>	10 11

Private Employment Agents Act 2005	12
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1	Section 39(3), definition <i>offence of a sexual nature</i> , '208,'— <i>omit.</i>	13 14 15
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2	Part 8—	1
	<i>insert—</i>	2
	53 Transitional provision for <i>Health and Other Legislation Amendment Act 2016</i>	3 4
	The definition <i>offence of a sexual nature</i> in section 39(3) applies as if it included a reference to—	5 6 7
	(a) the Criminal Code, section 208 as in force at any time before its repeal by the <i>Health and Other Legislation Amendment Act 2016</i> ; and	8 9 10
	(b) the Criminal Code, section 209 as in force at any time before its repeal by the <i>Criminal Code and Other Acts Amendment Act 2008</i> .	11 12 13
	Transport Operations (Passenger Transport) Act 1994	14
1	Schedule 1A, part 1, division 1, item 1—	15
	<i>omit.</i>	16
2	Schedule 1A, part 1—	17
	<i>insert—</i>	18
	Division 3A Provision of the Criminal Code repealed by the Health and Other Legislation Amendment Act 2016	19 20 21 22 23
	1 section 208 (Unlawful sodomy) unless, when the offence was committed, the offender was aged between 17 and 20 (both inclusive) and the person	24 25 26

	in relation to whom the offence was committed	1
	was not a person with an impairment of the mind	2
	and was aged between 14 and 17 (both inclusive)	3
	Vicious Lawless Association Disestablishment Act 2013	4 5
1	After section 11—	6
	<i>insert—</i>	7
	12 Transitional provision for Health and Other Legislation Amendment Act 2016	8 9
	The definition <i>declared offence</i> in section 3	10
	applies as if it included a reference to the Criminal	11
	Code, section 208 as in force at any time before its	12
	repeal by the <i>Health and Other Legislation</i>	13
	<i>Amendment Act 2016</i> .	14
2	Schedule 1, entry for the Criminal Code, section 208—	15
	<i>omit.</i>	16
	Working with Children (Risk Management and Screening) Act 2000	17 18
1	Schedule 2, item 4, entry for the Criminal Code, section 208—	19 20
	<i>omit.</i>	21
2	Schedule 3, item 1, entry for the Criminal Code—	22
	<i>insert—</i>	23

Schedule 1

208	Unlawful sodomy	as the provision was in force from time to time before its repeal by the <i>Health and Other Legislation Amendment Act 2016</i>	
3	Schedule 4, item 4, entry for the Criminal Code, section 208—		1
	<i>omit.</i>		2
			3
4	Schedule 5, item 1, entry for the Criminal Code—		4
	<i>insert—</i>		5
208	Unlawful sodomy	as the provision was in force from time to time before its repeal by the <i>Health and Other Legislation Amendment Act 2016</i> for an offence committed before 1 July 1997, only if committed against a child or a person with an impairment of the mind	
5	Schedule 6, item 4, entry for the Criminal Code, section 208—		6
	<i>omit.</i>		7
			8
6	Schedule 6A—		9
	<i>insert—</i>		10

Criminal Code

Provision of Code	Relevant heading	Qualification relating to the provision of the Act
208	Unlawful sodomy	as the provision was in force from time to time before its repeal by the <i>Health and Other Legislation Amendment Act 2016</i> for an offence committed before 1 July 1997, only if committed against a child or a person with an impairment of the mind

Youth Justice Act 1992

			1
1	Section 170(4), definition <i>offence of a sexual nature</i>, ‘208,’—		2
	<i>omit.</i>		3
			4
2	Part 11—		5
	<i>insert—</i>		6
	Division 13	Transitional provision for Health and Other Legislation Amendment Act 2016	7
			8
			9
			10
	369 Particular definitions are taken to include reference to Criminal Code, s 208		11
			12
	The following apply as if each provision included a reference to the Criminal Code, section 208 as in force at any time before its repeal by the <i>Health and Other Legislation Amendment Act 2016</i> —		13
			14
			15
			16

Schedule 1

	(a) definition <i>offence of a sexual nature</i> in section 170(4);	1 2
	(b) definition <i>disqualifying offence</i> in section 226C(4).	3 4
3	Schedule 5, entry for the Criminal Code, section 208(2)— <i>omit.</i>	5 6

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