



Queensland

Health Legislation Amendment Bill 2016

Includes amendments agreed during Consideration



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2016

A Bill

for

An Act to amend the Food Act 2006, the Health Ombudsman Act 2013, the Hospital and Health Boards Act 2011, the Pest Management Act 2001, the Public Health Act 2005 and the Transplantation and Anatomy Act 1979 for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Health Legislation Amendment Act 2016*.

Part 2 Amendment of Food Act 2006

2 Act amended

This part amends the *Food Act 2006*.

3 Amendment of s 9 (How main purposes are primarily achieved)

(1) Section 9(d)—

renumber as section 9(e).

(2) Section 9—

insert—

(d) providing for the display of nutritional information for food; and

4 Amendment of s 22 (Provisions that are administered only by the State)

(1) Section 22(1)(d)—

renumber as section 22(1)(e).

(2) Section 22(1)—

insert—

- (d) chapter 6A;

5 Insertion of new ch 6A

After chapter 6—

insert—

Chapter 6A Display of nutritional information for food

164A Application of ch 6A

This chapter applies to the sale of food by retail.

164B Definitions

In this chapter—

menu means a menu, in printed or electronic form, that—

- (a) lists or otherwise shows 1 or more items of food; and
- (b) is either—
 - (i) on a board, poster, leaflet or similar thing at the premises from which the items of food shown on the menu are sold; or
 - (ii) distributed or available outside of the premises from which the items of food shown on the menu are sold.

ready-to-eat food means food in a state in which it is ordinarily consumed, but does not include nuts in the shell or raw fruit or vegetables that are intended to be hulled, peeled or washed by the consumer.

[s 5]

standard food item see section 164C.

standard food outlet see section 164D.

164C Meaning of *standard food item*

- (1) A *standard food item* is an item of ready-to-eat food that—
 - (a) is sold in servings that are standardised for portion and content; and
 - (b) is either—
 - (i) listed or otherwise shown on a menu; or
 - (ii) displayed for sale with a price tag or label or an identifying tag or label.
- (2) Also, a *standard food item* includes any item of ready-to-eat food prescribed by regulation.
- (3) If a number of standard food items are shown or displayed for sale as a combination, the combination is to be treated as a single standard food item.
- (4) If an item of food mentioned in subsection (1) or (2) is shown or displayed for sale in different standard sizes or portions, each standard size or portion of the item of food is to be treated as a separate standard food item.

Examples of different standard sizes or portions—

small, medium, large

- (5) Despite subsection (1), a *standard food item* does not include an item of ready-to-eat food that is prepackaged in a way prescribed by regulation.

164D Meaning of *standard food outlet*

- (1) A *standard food outlet*, of a food business, is premises at which standard food items are sold by the food business if—
 - (a) the business sells standard food items at other premises or while operating in a chain of food businesses that sell standard food items; and
 - (b) at least 1 of the standard food items sold at the premises has been standardised for portion and content so as to be substantially the same as standard food items of that type sold at the other premises or by the other businesses in the chain.
- (2) For subsection (1)(a), a food business is operating in a chain of food businesses that sell standard food items if—
 - (a) the business is operating as one of a group of food businesses that sell standard food items under franchise arrangements with a parent business or under common ownership or control; or
 - (b) the business sells standard food items under the same trading name as a group of other food businesses that sell standard food items.

164E Requirement to display nutritional information

- (1) This section applies to a standard food outlet of a prescribed licensable food business.
- (2) The proprietor of the standard food outlet must ensure that—

[s 5]

- (a) the following nutritional information is displayed for standard food items sold at the outlet—
 - (i) the average energy content of the standard food items, expressed in kilojoules, and an average energy intake statement;
 - (ii) other nutritional information prescribed by regulation; and
 - (b) the nutritional information is worked out in the way prescribed by regulation; and
 - (c) the nutritional information is displayed in the way and at the places prescribed by regulation.
- (3) A person must not intentionally contravene subsection (2).
Maximum penalty—500 penalty units.
- (4) A person must not contravene subsection (2).
Maximum penalty—100 penalty units.
- (5) For subsection (2)(b), a regulation may prescribe the way in which nutritional information is worked out by applying, adopting or incorporating a provision of the food standards code.
- (6) In this section—
average energy intake statement means a statement about the average adult daily energy intake prescribed by regulation.
prescribed licensable food business means a licensable food business prescribed by regulation.

164F Voluntary display of nutritional information to meet certain requirements

- (1) This section applies to a standard food outlet of a food business, other than a standard food outlet to which section 164E applies.
- (2) The proprietor of the standard food outlet must not display nutritional information mentioned in section 164E(2)(a) for standard food items sold at the outlet unless the nutritional information—
 - (a) is worked out in the way prescribed by regulation; and
 - (b) is displayed in the way and at the places prescribed by regulation.

Maximum penalty—100 penalty units.

164G Explanatory material about nutritional information

A regulation may make provision about the display or distribution by a standard food outlet of explanatory material or any other material about nutritional information for food.

6 Amendment of s 252 (Alternative verdicts for serious food offences)

- (1) Section 252, heading, ‘serious food’—
omit, insert—
particular
- (2) Section 252—
insert—
- (3) If, on the trial of a person charged with an offence against section 164E(3), the trier of fact is not satisfied the person committed the offence

[s 7]

but is satisfied the person committed an offence against section 164E(4)—

- (a) the trier of fact may find the person not guilty of the offence charged but guilty of an offence against section 164E(4); and
- (b) the person is liable to be punished for that offence.

7 Amendment of s 272 (Confidentiality of information)

Section 272(4)—

omit.

8 Insertion of new s 272A

After section 272—

insert—

272A Disclosure of information

- (1) The chief executive may, in writing, authorise a relevant person to disclose information relating to a food business, including confidential information, gained by a person in administering or performing a function under this Act.
- (2) The chief executive may act under subsection (1) only if the chief executive has reasonable grounds to believe disclosing the information is necessary—
 - (a) to prevent or reduce the possibility of a serious danger to public health; or
 - (b) to mitigate the adverse consequences of a serious danger to public health.
- (3) Without limiting subsection (1), the chief executive may authorise a relevant person to disclose—

- (a) information identifying food sold in connection with the food business, including, for example, its brand or pack size; and
 - (b) details of action a consumer of the food may take; and
 - (c) information identifying the food business and its location; and
 - (d) details of the nature of the serious danger to public health.
- (4) In this section—
- relevant person* means the following—
- (a) the chief health officer;
 - (b) an appropriately qualified—
 - (i) public service officer or employee of the department; or
 - (ii) health service employee.

9 Amendment of s 276 (Delegation by chief executive)

- (1) Section 276(1), ‘part 4,’—
- omit, insert—*
- part 4 or section 272A,
- (2) Section 276(2)—
- omit, insert—*
- (2) The chief executive may delegate the chief executive’s powers under section 272A to the chief health officer.

10 Insertion of new ch 12, pt 4

Chapter 12—

insert—

Part 4 Transitional provision for Health Legislation Amendment Act 2016

303 Application of ch 6A

Chapter 6A does not apply to the proprietor of a food business until 12 months after the commencement.

11 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

chief health officer means the chief health officer under the *Hospital and Health Boards Act 2011*, section 52.

confidential information means information, other than information that is publicly available—

- (a) about a person's personal affairs or reputation; or
- (b) that would be likely to damage the commercial activities of a person to whom the information relates.

menu, for chapter 6A, see section 164B.

ready-to-eat food, for chapter 6A, see section 164B.

standard food item, for chapter 6A, see section 164C.

standard food outlet, for chapter 6A, see section 164D.

Part 3 Amendment of Health Ombudsman Act 2013

12 Act amended

This part amends the *Health Ombudsman Act 2013*.

13 Insertion of new s 118A

After section 118—

118A Temporary appointment to public panel of assessors

- (1) This section applies if the Minister reasonably believes it is necessary to urgently appoint an individual as a member of the public panel of assessors because the principal registrar has advised the Minister that—
 - (a) none of the panel members will be available for the hearing of a disciplinary proceeding; or
 - (b) a panel member of a particular gender is required under section 130 for a hearing of a disciplinary proceeding and—
 - (i) none of the panel members are of that gender; or
 - (ii) the panel members of that gender will not be available to hear the matter.
- (2) Despite section 118(1), the Minister may appoint an individual to the public panel of assessors for a period of not more than 6 months.
- (3) An individual is qualified for appointment to the panel under this section only if the individual is qualified for appointment to the panel under section 118(3).

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- (4) As soon as practicable after making the appointment, the Minister must publish notice of the appointment in the gazette.

14 Amendment of s 119 (Temporary appointment of panel of assessors)

- (1) Section 119, heading, ‘of panel’—

omit, insert—

to professional panel

- (2) Section 119—

insert—

- (4) As soon as practicable after making the appointment, the Minister must publish notice of the appointment in the gazette.

15 Amendment of s 122 (Duration of appointment)

Section 122, note—

omit, insert—

Note—

See also sections 118A(2) and 119(2) for a member of a panel appointed under those sections.

16 Amendment of sch 1 (Dictionary)

Schedule 1, definition *support service*, examples of a corporate support service—

omit, insert—

Examples of a corporate support service—

- a human resource management service
- an information and communication technology support service

Part 4 Amendment of Hospital and Health Boards Act 2011

17 Act amended

This part amends the *Hospital and Health Boards Act 2011*.

18 Insertion of new s 24A

After section 24—

insert—

24A Temporary members of board

- (1) This section applies if the Minister reasonably believes it is necessary to urgently appoint a person as a member of a board because—
 - (a) the board does not consist of at least 5 members; or
 - (b) the Minister considers the members of the board do not have the skills, knowledge or experience to perform the board's functions effectively and efficiently; or
 - (c) none of the members of the board are clinicians.
- (2) Despite section 23(1), the Minister may—
 - (a) appoint a person as a member of the board for a period of not more than 6 months; and
 - (b) reappoint the person as a member of the board once for a period of not more than 6 months.
- (3) Subsection (2) applies despite the *Acts Interpretation Act 1954*, section 25(1)(c).
- (4) The Minister may appoint a person as a member of the board only if the Minister considers the

[s 19]

person has the skills, knowledge and experience mentioned in section 23(2).

- (5) As soon as practicable after making the appointment, the Minister must publish notice of the appointment in the gazette.
- (6) In this section—
clinician see section 23(4).

19 Amendment of s 26 (Conditions of appointment)

- (1) Section 26(1)—

insert—

Note—

See also section 24A(2) for a member of a board appointed under that section.

- (2) Section 26(2), from ‘appointment fixed’—

omit, insert—

appointment fixed by—

- (a) for a member appointed under section 23—the Governor in Council; or
- (b) for a member appointed under section 24A—the Minister.

Part 5 Amendment of Pest Management Act 2001

20 Act amended

This part amends the *Pest Management Act 2001*.

21 Amendment of s 128 (Delegation by chief executive)

(1) Section 128(1), from ‘qualified’—

omit, insert—

qualified—

(a) officer of the department; or

(b) health service employee.

(2) Section 128(3)—

omit.

Part 6 Amendment of Public Health Act 2005

22 Act amended

This part amends the *Public Health Act 2005*.

23 Amendment of s 158 (Definitions for ch 5)

Section 158, definition *registered nurse*—

omit.

24 Amendment of s 214 (Definitions for pt 1)

Section 214, definition *midwife*—

omit.

25 Amendment of s 251 (Definitions for pt 3)

(1) Section 251, definition *health practitioner*, paragraph (b)—

omit, insert—

(b) a registered nurse; or

[s 26]

(2) Section 251, definition *health practitioner*, paragraph (c)—
renumber as paragraph (d).

(3) Section 251, definition *health practitioner*—
insert—

(c) a midwife; or

26 Amendment of s 284 (Decision about application)

Section 284(4) to (8)—
renumber as section 284(3) to (7).

27 Amendment of s 285 (What notice must state)

Section 285(1), ‘section 284(4)’—
omit, insert—

section 284(3)

28 Amendment of s 291 (Restriction on disclosure of information)

Section 291(2)(a), ‘section 284(4)’—
omit, insert—

section 284(3)

29 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *midwife* and *registered nurse*—
omit.

(2) Schedule 2—
insert—

midwife means a person registered under the
Health Practitioner Regulation National Law to

practise in the nursing and midwifery profession as a midwife, other than as a student.

registered nurse means a person registered under the Health Practitioner Regulation National Law—

- (a) to practise in the nursing and midwifery profession as a nurse, other than as a student; and
- (b) in the registered nurses division of that profession.

Part 7 **Amendment of Transplantation and Anatomy Act 1979**

30 **Act amended**

This part amends the *Transplantation and Anatomy Act 1979*.

31 **Amendment of s 42AB (Trading of tissue by, with or for exempt entity)**

Section 42AB(2), definition *blood products*—

omit, insert—

blood products—

- (a) means blood products under the *National Blood Authority Act 2003* (Cwlth), section 3, definition *blood products and services*, paragraph (a); and
- (b) does not include cord blood.