



Pharmacy Business Ownership Act 2001

Reprinted as in force on 1 July 2010

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Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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Queensland

Pharmacy Business Ownership Act 2001

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Pharmacy Business Ownership Act 2001

[as amended by all amendments that commenced on or before 1 July 2010]

An Act to provide for the regulation of pharmacy business ownership, and for other purposes

Part 1 Preliminary

Division 1 Introduction

1 Short title

This Act may be cited as the *Pharmacy Business Ownership Act 2001*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Division 2 Operation of Act

3 Act binds all persons

- (1) This Act binds all persons, including the State.
- (2) Nothing in this Act makes the State liable to be prosecuted for an offence.

6 Application of Act

This Act does not limit the application of the *Health Act 1937*.

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Division 3 Objects

8 Objects of Act

- (1) The objects of the Act are—
 - (a) to promote the professional, safe and competent provision of pharmacy services; and
 - (b) to maintain public confidence in the pharmacy profession.
- (2) The objects are to be achieved mainly by—
 - (a) limiting who may own a pharmacy business; and
 - (b) limiting the number of pharmacy businesses that may be owned by a person; and
 - (c) providing for compliance with this Act to be monitored and enforced.

Division 4 Interpretation

9 Definitions

The dictionary in the schedule defines particular words used in this Act.

Part 2 Ownership of pharmacy business

139A Definitions

In this part—

friendly society means a company—

-
- (a) that is registered under the Corporations Act under a name that includes the words ‘friendly society’; and
 - (b) that is not carrying on business for the dominant purpose of securing a profit or pecuniary gain for its members; and
 - (c) for which any object or intention of providing a dividend to its shareholders or members is a limited and not a dominant purpose; and
 - (d) that applies its property and income towards the objects of the company.

own, a pharmacy business, includes having a proprietary interest in the pharmacy business, but does not include having an interest in the pharmacy business arising under a bill of sale, mortgage, or other form of security, for the pharmacy business.

relative, of a pharmacist, means—

- (a) the pharmacist’s spouse; or
- (b) a child of the pharmacist who is at least 18 years of age.

139B Restriction on who may own pharmacy business

A person must not own a pharmacy business unless the person is—

- (a) a pharmacist; or
- (b) a corporation whose directors and shareholders are all pharmacists; or
- (ba) a corporation—
 - (i) whose directors and shareholders are a combination of pharmacists and relatives of the pharmacists; and
 - (ii) in which the majority of shares are held by pharmacists; and
 - (iii) in which only pharmacists hold voting shares; or

[s 139C]

- (c) a friendly society that, at the commencement of this section, operates a pharmacy business in the State or another State; or
- (d) a friendly society that is an amalgamation of 2 or more friendly societies mentioned in paragraph (c); or
- (e) Mater Misericordiae Health Services Brisbane Limited ACN 096 708 922.

Maximum penalty—200 penalty units.

139C Pharmacist whose registration is suspended or cancelled may own pharmacy business for limited period

- (1) This section applies if—
 - (a) an individual who is a pharmacist—
 - (i) owns a pharmacy business; or
 - (ii) is a director of or a shareholder in a corporation that owns a pharmacy business; and
 - (b) the individual's registration is suspended or cancelled under the Health Practitioner Regulation National Law.
- (2) Despite section 139B, the individual or corporation may continue to own the pharmacy business for the period or periods approved by the chief executive.
- (3) In deciding whether to grant an approval under subsection (2), the chief executive must have regard to—
 - (a) the objects of this Act; and
 - (b) the financial circumstances of the pharmacy business.
- (4) Each period approved by the chief executive under subsection (2) must not be more than 3 months.
- (5) An individual or corporation who owns a pharmacy business under an approval granted under this section—
 - (a) must give the chief executive notice of the name of the pharmacist under whose personal supervision and

management the pharmacy business will be carried on under section 141; and

- (b) if the person is an individual—must not personally provide a pharmacy service; and
- (c) must comply with any other condition the chief executive reasonably believes is necessary to give effect to this Act and included in the approval.

Maximum penalty for subsection (5)—200 penalty units.

139D Person who stops being pharmacist's spouse may continue as director or shareholder for limited period

- (1) This section applies if—
 - (a) a person is a director or shareholder of a corporation that owns a pharmacy business because of being the spouse of a pharmacist; and
 - (b) the person stops being the pharmacist's spouse.
- (2) Despite section 139B, the corporation may continue to own the pharmacy business—
 - (a) during the period starting on the day the person stops being the pharmacist's spouse and ending 1 year after that day; or
 - (b) during the longer period decided by the chief executive having regard to—
 - (i) the objects of the Act; and
 - (ii) the financial circumstances of the pharmacy business.

139E Executor, administrator or trustee of pharmacist's estate may own pharmacy business for limited period

- (1) This section applies if, immediately before his or her death, a pharmacist owned a pharmacy business.

[s 139F]

- (2) Despite section 139B, the executor, administrator or trustee of the estate of the deceased pharmacist may continue to operate the business—
 - (a) during the period starting on the day the pharmacist dies and ending 1 year after that day; or
 - (b) during the longer period decided by the chief executive having regard to—
 - (i) the objects of the Act; and
 - (ii) the financial circumstances of the pharmacy business.

139F Friendly society that demutualises may own pharmacy business for limited period

- (1) This section applies if—
 - (a) a company that is a friendly society owns a pharmacy business; and
 - (b) the company demutualises.
- (2) Despite section 139B, the company may own the pharmacy business for 6 months after the day of the demutualisation.
- (3) In this section—

demutualisation, of a company, means a modification of the constitution of the company, or an issue of shares—
 - (a) that will result in or allow a modification of the mutual structure of the company; and
 - (b) to which the Corporations Act, schedule 4, part 5, applies.

139G Trustee, liquidator, receiver or administrator does not commit offence against s 139B

- (1) Subsection (2) applies if—
 - (a) a pharmacist who owns, or is the director of or a shareholder in a corporation that owns, a pharmacy

-
- business becomes an insolvent under administration;
and
- (b) the property of the pharmacist vests in, or comes under the control of, a trustee because of the pharmacist becoming an insolvent under administration.
- (2) The trustee does not commit an offence against section 139B because of the trusteeship.
 - (3) Subsection (4) applies if a corporation that owns a pharmacy business is—
 - (a) in liquidation or receivership; or
 - (b) under administration.
 - (4) The liquidator, receiver or administrator does not commit an offence against section 139B because of being the corporation's liquidator, receiver or administrator.
 - (5) In this section—
insolvent under administration see the Corporations Act, section 9.

139H Restriction on number of pharmacy businesses in which a person may have beneficial interest

- (1) A pharmacist must not have a beneficial interest in more than 5 pharmacy businesses at the same time.
Maximum penalty—200 penalty units.
- (2) For subsection (1), a pharmacist has a beneficial interest in a pharmacy business if the pharmacist—
 - (a) owns the pharmacy business; or
 - (b) is a director of, or shareholder in, a corporation that owns the pharmacy business.
- (3) A corporation must not own more than 5 pharmacy businesses at the same time.
Maximum penalty—200 penalty units.

[s 139I]

- (4) A friendly society must not own more than 6 pharmacy businesses at the same time.

Maximum penalty—200 penalty units.

- (5) Mater Misericordiae Health Services Brisbane Limited ACN 096 708 922 must not own more than 6 pharmacy businesses at the same time.

Maximum penalty—200 penalty units.

139I Certain arrangements about control of pharmacy business void

- (1) A bill of sale, mortgage, lease, franchise, agency or other service or commercial arrangement for a pharmacy business is void to the extent it—

(a) gives to a person, other than the owner of the business—

(i) the right to control in whole or part the way in which the business is carried on; or

(ii) the right to receive any consideration that varies according to the profits or takings of the business; or

(b) requires goods or services for the business to be obtained from a stated person or body.

- (2) However, subsection (1) does not apply to a bill of sale, mortgage or other form of security to the extent it gives rights to an administrator, receiver, or receiver and manager.

141 Pharmacy business to be carried on under supervision of pharmacist

- (1) A person who owns a pharmacy business that is not carried on under the personal supervision and management of a pharmacist commits an offence against this Act.

Maximum penalty—50 penalty units.

- (2) For the purposes of subsection (1), a pharmacy business is not carried on under the personal supervision and management of

a pharmacist unless the pharmacist is personally present in the premises at which the business is carried out at all times when the premises are open for business, other than for a period of not more than 1 hour in a day or another period approved by the chief executive.

- (3) In deciding under subsection (2) whether to approve another period, the chief executive must have regard to the needs of users of the professional services provided by the pharmacy business.

141A Notification of change of ownership of a pharmacy business

- (1) Within 21 days after a change of ownership of a pharmacy business, each relevant person must give to the chief executive a notice of the change in the approved form and accompanied by the prescribed fee.

Maximum penalty—50 penalty units.

- (2) In this section—

relevant person, for a change of ownership of a pharmacy business, means—

- (a) a person who starts to own the business; and
(b) a person who ceases to own the business.

141B Notification of change of ownership particulars of a pharmacy business

- (1) Within 21 days after a change of ownership particulars of a pharmacy business, a person who owns the pharmacy business must give to the chief executive a notice of the change in the approved form and accompanied by the prescribed fee.

Maximum penalty—50 penalty units.

- (2) In this section—

ownership particulars includes—

- (a) the name or location of the pharmacy business; or

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- (b) if the person is a corporation, other than a corporation mentioned in section 139B(c) to (e)—
 - (i) the directors or shareholders of the corporation; or
 - (ii) the shareholdings of the shareholder of the corporation; or
- (c) if the person owns a pharmacy in a partnership—the share held by the partner.

Part 3 Investigation and enforcement

Division 1 Inspectors

142 Functions of inspectors

An inspector has the function of conducting investigations and inspections to enforce compliance with this Act.

143 Powers of inspectors

For this Act, an inspector has the powers given to the person under this Act.

144 Limitation on powers of inspectors

The powers of an inspector may be limited under a condition of appointment.

Division 2 **Appointment of inspectors and other matters**

145 Appointment and qualifications

- (1) The chief executive may appoint any of the following persons as an inspector—
 - (a) an officer of the department;
 - (b) a health service employee.
- (2) However, the chief executive may appoint a person as an inspector only if the chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.

146 Appointment conditions

- (1) An inspector holds office on the conditions stated in the instrument of appointment.
- (2) An inspector ceases holding office—
 - (a) if the appointment provides for a term of appointment—at the end of the term; or
 - (b) if the conditions of appointment provide—on ceasing to hold another office (the *main office*) stated in the appointment conditions.
- (3) An inspector may resign by signed notice of resignation given to the chief executive.
- (4) However, an inspector may not resign from the office of inspector (the *secondary office*) if a condition of the inspector's employment to the main office requires the inspector to hold the secondary office.

147 Identity cards

- (1) The chief executive must give an identity card to each inspector.

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- (2) The identity card must—
 - (a) contain a recent photograph of the inspector; and
 - (b) be signed by the inspector; and
 - (c) identify the person as an inspector for this Act; and
 - (d) include an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other Acts.

148 Failure to return identity card

A person who ceases to be an inspector must return the person's identity card to the chief executive within 7 days after the person ceases to be an inspector, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

149 Production or display of inspector's identity card

- (1) An inspector may exercise a power in relation to someone else (the *other person*) only if the inspector—
 - (a) first produces the inspector's identity card for the other person's inspection; or
 - (b) has the identity card displayed so it is clearly visible to the other person.
- (2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the inspector must produce the identity card for the other person's inspection at the first reasonable opportunity.A

Division 3 Powers of inspectors

Subdivision 1 Entry of places

150 Power to enter places

- (1) An inspector may enter a place if—
 - (a) its occupier consents to the entry; or
 - (b) it is a public place and the entry is made when the place is open to the public; or
 - (c) the entry is authorised by a warrant.
- (2) For the purpose of asking the occupier of a place for consent to enter, an inspector may, without the occupier's consent or a warrant—
 - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
 - (b) enter part of the place the inspector reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

Subdivision 2 Procedure for entry

151 Entry with consent

- (1) This section applies if an inspector intends to ask an occupier of a place to consent to the inspector or another inspector entering the place under section 150(1)(a).
- (2) Before asking for the consent, the inspector must tell the occupier—
 - (a) the purpose of the entry; and
 - (b) that the occupier is not required to consent.
- (3) If the consent is given, the inspector may ask the occupier to sign an acknowledgment of the consent.

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- (4) The acknowledgment must state—
 - (a) the occupier has been told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
 - (b) the purpose of the entry; and
 - (c) the occupier gives the inspector consent to enter the place and exercise powers under this part; and
 - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgment, the inspector must immediately give a copy to the occupier.
- (6) A court must find the occupier of a place did not consent to an inspector entering the place under this part if—
 - (a) an issue arises in a proceeding before the court whether the occupier of the place consented to the entry under section 150(1)(a); and
 - (b) an acknowledgment mentioned in subsection (4) is not produced in evidence for the entry; and
 - (c) it is not proved by the person relying on the lawfulness of the entry that the occupier consented to the entry.

152 Application for warrant

- (1) An inspector may apply to a magistrate for a warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the inspector 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.

153 Issue of warrant

- (1) The magistrate may issue a warrant 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
 - (b) the evidence is at the place, or may be at the place within the next 7 days.
- (2) The warrant must state—
 - (a) that a stated inspector may, with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for entry; and
 - (ii) exercise the inspector's powers under this part; and
 - (b) the offence for which the warrant is sought; and
 - (c) the evidence that may be seized under the warrant; and
 - (d) the hours of the day or night when the place may be entered; and
 - (e) the date, within 14 days after the warrant's issue, the warrant ends.

154 Special warrants

- (1) An inspector may apply for a warrant (a *special warrant*) by phone, fax, radio or another form of communication if the inspector considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the inspector's remote location.
- (2) Before applying for the special warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.
- (3) The inspector may apply for the special warrant before the application is sworn.

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- (4) After issuing the special warrant, the magistrate must immediately fax a copy (the *facsimile warrant*) to the inspector if it is reasonably practicable to fax the copy.
- (5) If it is not reasonably practicable to fax a copy to the inspector—
 - (a) the magistrate must tell the inspector—
 - (i) what the terms of the special warrant are; and
 - (ii) the date and time the special warrant was issued; and
 - (b) the inspector must complete a form of warrant (a *warrant form*) and write on it—
 - (i) the magistrate's name; and
 - (ii) the date and time the magistrate issued the special warrant; and
 - (iii) the terms of the special warrant.
- (6) The facsimile warrant, or the warrant form properly completed by the inspector, authorises the entry and the exercise of the other powers stated in the special warrant issued.
- (7) The inspector must, at the first reasonable opportunity, send to the magistrate—
 - (a) the sworn application; and
 - (b) if the inspector completed a warrant form, the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the special warrant.
- (9) A court must find the exercise of the power by an inspector was not authorised by a special warrant if—
 - (a) an issue arises in a proceeding before the court whether the exercise of the power was authorised by a special warrant mentioned in subsection (1); and
 - (b) the special warrant is not produced in evidence; and

- (c) it is not proved by the person relying on the lawfulness of the entry that the inspector obtained the special warrant.

155 Warrants—procedure before entry

- (1) This section applies if an inspector named in a warrant issued under this part for a place is intending to enter the place under the warrant.
- (2) Before entering the place, the inspector must do or make a reasonable attempt to do the following things—
 - (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 inspector's identity card or other document evidencing the inspector's appointment;
 - (b) give the person a copy of the warrant or, if the entry is authorised by a facsimile warrant or warrant form mentioned in section 154(6), a copy of the facsimile warrant or warrant form;
 - (c) tell the person the inspector is permitted by the warrant to enter the place;
 - (d) give the person an opportunity to allow the inspector immediate entry to the place without using force.
- (3) However, the inspector need not comply with subsection (2) if the inspector believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

Subdivision 3 Powers after entry

156 General powers after entering places

- (1) This section applies to an inspector who enters a place.
- (2) However, if an inspector enters a place to get the occupier's consent to enter premises, this section applies to the inspector

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only if the consent is given or the entry is otherwise authorised.

- (3) For enforcing compliance with this Act, the inspector may—
- (a) search any part of the place; or
 - (b) inspect, measure, test, photograph or film any part of the place or anything at the place; or
 - (c) take a thing, or a sample of or from a thing, for analysis or testing; or
 - (d) take an extract from, or copy, a document at the place; or
 - (e) take into or onto the place any person, equipment and materials the inspector reasonably requires for exercising a power under this part; or
 - (f) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the inspector's powers under paragraphs (a) to (e); or
 - (g) require the occupier of the place, or a person at the place, to give the inspector information to help the inspector ascertain whether this Act is being complied with.
- (4) When making a requirement mentioned in subsection (3)(f) or (g), the inspector must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

157 Failure to help inspector

- (1) A person required to give reasonable help under section 156(3)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) If an individual is required under section 156(3)(f) to give information, or produce a document, it is a reasonable excuse for the individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

158 Failure to give information

- (1) A person of whom a requirement is made under section 156(3)(g) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) It is a reasonable excuse for an individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

Subdivision 4 Power to seize evidence

159 Seizing evidence at a place that may be entered without consent or warrant

An inspector who enters a place that may be entered under this division without the consent of the occupier and without a warrant, may seize a thing at the place if the inspector reasonably believes the thing is evidence of an offence against this Act.

160 Seizing evidence at a place that may only be entered with consent or warrant

- (1) This section applies if—
- (a) an inspector is authorised to enter a place under this division only with the consent of the occupier of the place or a warrant; and
 - (b) the inspector enters the place after obtaining the necessary consent or warrant.
- (2) If the inspector enters the place with the occupier's consent, the inspector may seize a thing at the place if—
- (a) the inspector reasonably believes the thing is evidence of an offence against this Act; and

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

161 Securing seized things

Having seized a thing, an inspector may—

- (a) move the thing from the place where it was seized (the *place of seizure*); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it.

Examples of restricting access to a thing—

- 1 sealing a thing and marking it to show access to it is restricted
- 2 sealing the entrance to a room where the seized thing is situated and marking the entrance to show access to the room is restricted

162 Tampering with seized things

If an inspector restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an inspector's approval.

Maximum penalty—100 penalty units.

163 Powers to support seizure

- (1) To enable a thing to be seized, an inspector may require the person in control of it—
 - (a) to take it to a stated reasonable place by a stated reasonable time; and
 - (b) if necessary, to remain in control of it at the stated place for a reasonable time.
- (2) The requirement—
 - (a) must be made by notice in the approved form; or
 - (b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by notice in the approved form as soon as practicable.
- (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.
- (4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—50 penalty units.

164 Receipts for seized things

- (1) As soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the inspector must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.
- (3) The receipt must describe generally each thing seized and its condition.
- (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.

165 Forfeiture of seized things

- (1) A seized thing is forfeited to the State if the inspector who seized the thing—
 - (a) can not find its owner, after making reasonable inquiries; or
 - (b) can not return it to its owner, after making reasonable efforts; or
 - (c) reasonably believes it is necessary to retain the thing to prevent it being used to commit an offence against this Act.
- (2) In applying subsection (1)—
 - (a) subsection (1)(a) does not require the inspector to make inquiries if it would be unreasonable to make inquiries to find the owner; and
 - (b) subsection (1)(b) does not require the inspector to make efforts if it would be unreasonable to make efforts to return the thing to its owner.
- (3) If the inspector makes a decision under subsection (1)(c), resulting in the seized thing being forfeited to the State, the inspector must immediately give the owner an information notice for the decision.
- (4) Subsection (3) does not apply if—
 - (a) the inspector can not find the owner, after making reasonable inquiries; or
 - (b) it is impracticable or would be unreasonable to give the information notice.
- (5) Regard must be had to a thing's nature, condition and value—
 - (a) in deciding—
 - (i) whether it is reasonable to make inquiries or efforts; and
 - (ii) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable; or

-
- (b) in deciding whether it would be unreasonable to give the information notice.

166 Forfeiture on conviction

- (1) On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—
 - (a) anything used to commit the offence; or
 - (b) anything else the subject of the offence.
- (2) The court may make the order—
 - (a) whether or not the thing has been seized; and
 - (b) if the thing has been seized, whether or not the thing has been returned to its owner.
- (3) The court may make any order to enforce the forfeiture it considers appropriate.
- (4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

167 Dealing with forfeited things etc.

- (1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.
- (2) Without limiting subsection (1), the chief executive may destroy or dispose of the thing.
- (3) Despite subsection (1), the chief executive must not deal with the thing in a way that could prejudice the outcome of—
 - (a) a review by QCAT under section 181; or
 - (b) an appeal, relevant to the thing, of which the chief executive is aware.

168 Return of seized things

- (1) If a seized thing has not been forfeited, the inspector must return it to its owner—
 - (a) at the end of 6 months; or
 - (b) 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.
- (2) Despite subsection (1), unless the thing has been forfeited, the inspector must immediately return a thing seized as evidence to its owner if the inspector stops being satisfied its continued retention as evidence is necessary.

169 Access to seized things

- (1) Until a seized thing is forfeited or returned, an inspector must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

Subdivision 5 Power to obtain information

170 Power to require name and address

- (1) This section applies if—
 - (a) an inspector finds a person committing an offence against this Act; or
 - (b) an inspector finds a person in circumstances that lead, or has information that leads, the inspector to reasonably suspect the person has just committed an offence against this Act.
- (2) The inspector may require the person to state the person's name and residential address.

- (3) When making the requirement, the inspector 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.
- (4) The inspector may require the person to give evidence of the correctness of the stated name or residential address if the inspector reasonably suspects the stated name or address is false.
- (5) A requirement under subsection (2) or (4) is called a *personal details requirement*.

171 Failure to give name or address

- (1) A person of whom a personal details requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) A person does not commit an offence against subsection (1) if—
 - (a) the person was required to state the person's name and residential address by an inspector who suspected the person had committed an offence against this Act; and
 - (b) the person is not proved to have committed the offence.

172 Power to require production of documents

- (1) An inspector may require a person to make available for inspection by an inspector, or produce to the inspector for inspection, at a reasonable time and place nominated by the inspector a document issued to the person under this Act.
- (2) The inspector may keep the document to copy it.
- (3) The inspector must return the document to the person as soon as practicable after copying it.
- (4) While the document is in the inspector's possession, the inspector must allow it to be inspected or copied, at a

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reasonable time, by a person who would be entitled to inspect or copy it were it not in the inspector's possession.

- (5) A requirement under subsection (1) is called a *document production requirement*.

173 Failure to produce document

- (1) A person of whom a document production requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) It is not a reasonable excuse for an individual not to comply with a document production requirement if complying with the requirement might tend to incriminate the individual.

174 Power to require information

- (1) This section applies if an inspector reasonably believes—
- (a) an offence against this Act has been committed; and
 - (b) a person may be able to give information about the offence.
- (2) The inspector may, by notice given to the person, require the person to give information, including a document, about the offence to the inspector at a stated reasonable time and place.
- (3) The person must comply with a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (4) For this section, it is a reasonable excuse for an individual to fail to give information that giving the information might tend to incriminate the individual.

Division 4 General enforcement matters

175 Notice of damage

- (1) This section applies if—
 - (a) an inspector damages property when exercising or purporting to exercise a power; or
 - (b) a person (the *other person*) acting under the direction of an inspector damages property.
- (2) The inspector must immediately give notice of particulars of the damage to the person who appears to the inspector to be the owner of the property.
- (3) If the inspector believes the damage was caused by a latent defect in the property or circumstances beyond the inspector's or other person's control, the inspector may state the belief in the notice.
- (4) If, for any reason, it is impracticable to comply with subsection (2), the inspector must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (5) This section does not apply to damage the inspector reasonably believes is trivial.
- (6) In this section—

owner, of property, includes the person in possession or control of it.

176 Compensation

- (1) A person may claim from the chief executive the cost of repairing or replacing property damaged because of the exercise or purported exercise of a power under any of the following subdivisions of division 3—
 - subdivision 1 (Entry of places)
 - subdivision 3 (Powers after entry)

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- subdivision 4 (Power to seize evidence).
- (2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under the subdivision.
 - (3) Compensation may be claimed and ordered to be paid in a proceeding—
 - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
 - (b) for an offence against this Act brought against the person claiming compensation.
 - (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.

177 False or misleading information

A person must not give information to an inspector the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

178 False or misleading documents

- (1) A person must not give an inspector a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
 - (a) tells the inspector, to the best of the person's ability, how it is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information, gives the correct information.

179 Obstructing inspectors

- (1) A person must not obstruct an inspector in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) If a person has obstructed an inspector and the inspector decides to proceed with the exercise of the power, the inspector must warn the person that—

(a) it is an offence to obstruct the inspector, unless the person has a reasonable excuse; and

(b) the inspector considers the person's conduct is an obstruction.

- (3) In this section—

obstruct includes hinder and attempt to obstruct or hinder.

180 Impersonation of inspectors

A person must not pretend to be an inspector.

Maximum penalty—50 penalty units.

181 Review of decision by QCAT

An owner of a thing forfeited to the State under section 165(1)(c) who is dissatisfied with the decision resulting in the forfeiture may apply, as provided under the QCAT Act, to QCAT for a review of the decision.

Part 4 Legal proceedings

Division 1 Evidence

186 Application of division

This division applies to a proceeding under this Act.

187 Appointments and authority

It is not necessary to prove—

- (a) an inspector's appointment; or
- (b) the chief executive's appointment; or
- (c) the authority of an inspector or the chief executive to do anything under this Act.

188 Signatures

A signature purporting to be the signature of an inspector or the chief executive is evidence of the signature it purports to be.

189 Evidentiary provisions

A certificate purporting to be signed by the chief executive and stating any of the following matters is evidence of the matter—

- (a) a stated document is one of the following things made, given, issued or kept under this Act—
 - (i) an appointment, approval or decision;
 - (ii) a notice, direction or requirement;
- (b) on a stated day, or during a stated period, an appointment as an inspector was, or was not, in force for a stated person;

- (c) on a stated day, a stated person was given a stated notice or direction under this Act;
- (d) on a stated day, a stated requirement was made of a stated person.

Division 2 Proceedings

190 Summary offences

An offence against this Act is a summary offence.

193 Limitation on time for starting summary proceedings

A proceeding for a summary offence against this Act by way of summary proceeding under the *Justices Act 1886* must start—

- (a) within 1 year after the commission of the offence; or
- (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

194 Allegations of false or misleading information or documents

In any proceeding for an offence against this Act defined as involving false or misleading information, or a false or misleading document, it is enough for a charge to state that the information or document was, without specifying which, 'false or misleading'.

196 Responsibility for acts or omissions of representatives

- (1) This section applies in a proceeding for an offence against this Act.
- (2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

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- (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
 - (b) the representative had the state of mind.
- (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.
- (4) In this section—
- representative* means—
- (a) for a corporation—an executive officer, employee or agent of the corporation; or
 - (b) for an individual—an employee or agent of the individual.
- state of mind* of a person includes—
- (a) the person's knowledge, intention, opinion, belief or purpose; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.

197 Executive officers must ensure corporation complies with Act

- (1) The executive officers of a corporation must ensure the corporation complies with this Act.
- (2) If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure the corporation complies with the provision.
- (4) However, it is a defence for an executive officer to prove—
 - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence, the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
 - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

Part 5 Miscellaneous

198 Protecting officials from liability

- (1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.
- (3) In this section—

official means—

 - (a) the chief executive; or
 - (b) an inspector; or
 - (c) an officer of the department; or
 - (d) a health service employee; or
 - (e) a person acting under the direction of someone mentioned in paragraphs (a) to (d).

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199 Approval of forms

The chief executive may approve forms for use under this Act.

200 Delegation by chief executive

(1) The chief executive may delegate the chief executive's functions under this Act to an appropriately qualified officer of the department or employee of the department.

(2) In this section—

appropriately qualified, for an officer or employee to whom a function may be delegated, includes having the qualifications, experience or standing appropriate for the function.

Example of standing for an officer or employee—

the officer or employee's classification or level in the department

functions includes powers.

201 Disclosure of documents or information to the Pharmacy Board of Australia

(1) The chief executive may disclose documents or information obtained under this Act to a relevant entity.

(2) However, the chief executive may disclose documents or information under subsection (1) only if the chief executive is satisfied—

(a) the documents or information will be collected, stored and used by the relevant entity to which it is disclosed in a way that ensures the privacy of the persons to whom it relates is protected; and

(b) the provision of the documents or information to the relevant entity is necessary for the relevant entity to perform its functions.

(3) In this section—

Pharmacy Board of Australia means the Pharmacy Board of Australia established under the Health Practitioner Regulation National Law.

relevant entity means—

- (a) the Pharmacy Board of Australia; and
- (b) an entity established under the *National Health Act 1953* (Cwlth).

202 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) Without limiting subsection (1), a regulation may—
 - (a) prescribe fees payable under the Act; and
 - (b) provide for a maximum penalty of 20 penalty units for a contravention of a regulation.

Part 6 Transitional provisions for the Health Legislation (Health Practitioner Regulation National Law) Amendment Act 2010

203 Definitions

In this part—

amending law means the *Health Legislation (Health Practitioner Regulation National Law) Amendment Act 2010*, part 9.

board means the board established under the pre-amended Act, section 10.

commencement means the commencement of this section.

pre-amended Act means this Act as in force before the commencement.

204 Records relating to pharmacy businesses

- (1) This section applies to a record held by the board under the pre-amended Act, part 4, division 6A or 7 immediately before the commencement.
- (2) The record is taken to be a record of the department.

205 Offences

- (1) From the commencement, a proceeding for an offence under the pre-amended Act, part 4, division 6A or 7, may be continued and finished by the chief executive.
- (2) For this section, the *Acts Interpretation Act 1954*, section 20 applies, but does not limit the section.

206 Inspectors appointed under pre-amended Act

- (1) From the commencement, a person who was appointed as an inspector under the pre-amended Act, section 145 stops being an inspector.
- (2) The person must comply with section 148.

Schedule Dictionary

section 9

amending law, for part 6, see section 203.

board, for part 6, see section 203.

commencement, for part 6, see section 203.

convicted, of an offence, means being found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction is recorded.

document production requirement see section 172(5).

executive officer, 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.

facsimile warrant see section 154(4).

friendly society, for part 2, see section 139A.

health service employee means a person appointed as a health service employee under the *Health Services Act 1991*, section 24.

information notice, for a decision of the board or an inspector, is a notice stating the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the person to whom the notice is given has a right to have the decision reviewed by QCAT;
- (d) how, and the period within which, the person may apply for the review;
- (e) the right the person has to have the operation of the decision stayed under the QCAT Act, section 22.

inspector means a person who is appointed as an inspector under section 145.

notice means written notice.

occupier, of a place, includes a person who reasonably appears to be an occupier, or in charge, of the place.

own, for part 2, see section 139A.

personal details requirement see section 170(5).

pharmacist means a person registered under the Health Practitioner Regulation National Law to practise in the profession of pharmacy, other than as a student.

pharmacy business means—

- (a) a business providing pharmacy services; but
- (b) does not include—
 - (i) a business operated by the State at a public sector hospital; or
 - (ii) another business at a hospital that provides pharmacy services only to patients at the hospital.

place includes premises, vacant land and a vehicle.

place of seizure see section 161.

pre-amended Act, for part 6, see section 203.

premises includes—

- (a) a building or other structure; and
- (b) a part of a building or other structure; and
- (c) land where a building or other structure is situated.

public place means a place that the public is entitled to use, is open to the public or is used by the public, whether or not on payment of money.

relative, for part 2, see section 139A.

user, of a pharmacist's services, includes a person who used the services.

warrant form see section 154(5)(b).

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2010. Future amendments of the Pharmacy Business Ownership Act 2001 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1 rv	2003 Act No. 9	1 February 2002	1 February 2002

Reprint No.	Amendments included	Effective	Notes
1A	2003 Act No. 45	27 August 2003	
1B	2005 Act No. 10	29 April 2005	
1C	2006 Act No. 25	1 July 2006	
1D	2006 Act No. 46	15 December 2006	
1E	2006 Act No. 46	1 March 2007	R1E withdrawn, see R2
2	—	1 March 2007	
2A	2009 Act No. 9	1 July 2009	
2B	2009 Act No. 24	1 December 2009	
2C	2009 Act No. 44	1 January 2010	
2D	2010 Act No. 14	21 April 2010	

Reprint No.	Amendments included	Effective	Notes
2E	2010 Act No. 14	1 July 2010	

5 Tables in earlier reprints

Name of table	Reprint No.
Corrected minor errors	1

6 List of legislation

Pharmacy Business Ownership Act 2001 No. 12 (prev Pharmacists Registration Act 2001)

date of assent 11 May 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 2002 (2001 SL No. 261)

Notes—(1) This Act contains provisions that were relocated from the Pharmacy Act 1976 (2001 No. 12 s 246 sch 3).

(2) ss 5, 30, 32, 34–35 are relocated to the Pharmacists Registration Act 2001 pt 10, div 3 and renumbered as ss 237–241 (2001 No. 12 s 246 sch 3).

amending legislation—

Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3

date of assent 28 June 2001

ss 1–2 commenced on date of assent

sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

Health Legislation Amendment Act 2001 No. 78 s 1 pt 14

date of assent 15 November 2001

commenced on date of assent

Health and Other Legislation Amendment Act 2003 No. 9 ss 1–2, 67 sch

date of assent 28 March 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 2002 (see s 2)

Trans-Tasman Mutual Recognition (Queensland) Act 2003 No. 45 ss 1–2, 15 sch

date of assent 27 August 2003

commenced on date of assent (see s 2)

Health Legislation Amendment Act 2005 No. 10 pts 1, 5

date of assent 1 April 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 29 April 2005 (2005 SL No. 72)

Health Quality and Complaints Commission Act 2006 No. 25 ss 1–2(1), 241(1) sch 3

date of assent 29 May 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2006 (see s 2(1))

Health Legislation Amendment Act 2006 No. 46 pts 1, 12

date of assent 10 November 2006

ss 1–2 commenced on date of assent

ss 180–182, 187, 189, 193 commenced 1 March 2007 (2006 SL No. 309)

remaining provisions commenced 15 December 2006 (2006 SL No. 309)

Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 80)

Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 7 pt 17

date of assent 26 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2009 (2009 SL No. 252)

Health and Other Legislation Amendment Act 2009 No. 44 ss 1, 2(3), pt 14

date of assent 3 November 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2010 (2009 SL No. 290)

Health Legislation (Health Practitioner Regulation National Law) Amendment Act 2010 No. 14 pts 1, 9

date of assent 21 April 2010

ss 1–2, 118 commenced on date of assent (see s 2(b))

remaining provisions commenced 1 July 2010 (see s 2)

7 List of annotations

Long title amd 2010 No. 14 s 81

Short title

s 1 amd 2010 No. 14 s 82

The legislative scheme

s 4 om 2010 No. 14 s 83

Board's decisions to accord with decisions of certain bodies under the Health Practitioners (Professional Standards) Act 1999

s 5 amd 2009 No. 24 s 1180
 om 2010 No. 14 s 83

Mutual recognition legislation not affected

s 6 amd 2003 No. 45 s 15 sch

Mutual recognition legislation not affected

s 7 om 2010 No. 14 s 83

Objects of Act

s 8 sub 2010 No. 14 s 84

Definitions

s 9 amd 2010 No. 14 s 85

Division 1—Establishment and functions

div hdg om 2010 No. 14 s 86 (incl in prev pt 2)

Establishment of board

s 10 om 2010 No. 14 s 86

Board's relationship with the State

s 11 om 2010 No. 14 s 86

Functions of board

s 12 om 2010 No. 14 s 86

Board's independence etc.

s 13 om 2010 No. 14 s 86

Powers of board

s 14 om 2010 No. 14 s 86

Delegation by board

s 15 amd 2006 No. 46 s 179
 om 2010 No. 14 s 86

Division 2—Membership

div 2 (ss 16–27) om 2010 No. 14 s 86 (incl in prev pt 2)

Division 3—Board business

div 3 (ss 28–33) om 2010 No. 14 s 86 (incl in prev pt 2)

Division 4—Board committees

div 4 (ss 34–35) om 2010 No. 14 s 86 (incl in prev pt 2)

Division 5—Disclosure of interests by board members and committee members

div 5 (s 36) om 2010 No. 14 s 86 (incl in prev pt 2)

Division 6—Directions by Minister

div 6 (s 37) om 2010 No. 14 s 86 (incl in prev pt 2)

Division 7—Annual reports

div hdg om 2010 No. 14 s 86 (incl in prev pt 2)

Matters to be included in annual report

s 38 amd 2009 No. 9 s 136 sch 1
 om 2010 No. 14 s 86

Division 8—Other provisions about the board

div hdg om 2010 No. 14 s 86 (incl in prev pt 2)

Board is statutory body under the Financial Accountability Act 2009

prov hdg amd 2009 No. 9 s 136 sch 1
s 39 amd 2009 No. 9 s 136 sch 1
 om 2010 No. 14 s 86

Board is statutory body under the Statutory Bodies Financial Arrangements Act 1982

s 40 om 2010 No. 14 s 86

Board's common seal

s 41 om 2010 No. 14 s 86

Division 1—Preliminary

div 1 (s 42) om 2010 No. 14 s 86 (incl in prev pt 3)

Division 2—Applications for general registration

div hdg om 2010 No. 14 s 86 (incl in prev pt 3)

Subdivision 1—Applications

sdiv hdg om 2010 No. 14 s 86 (incl in prev pt 3 div 2)

Procedural requirements for applications

s 43 amd 2001 No. 78 s 162
 om 2010 No. 14 s 86

Subdivision 2—Eligibility for general registration

sdiv hdg om 2010 No. 14 s 86 (incl in prev pt 3 div 2)

Eligibility

s 44 om 2010 No. 14 s 86

When applicant is qualified for general registration

s 45 om 2010 No. 14 s 86

Fitness to practise the profession

s 46 amd 2001 No. 78 s 163
 om 2010 No. 14 s 86

Training required for general registration

s 47 om 2010 No. 14 s 86

Practice required for general registration

s 48 om 2010 No. 14 s 86

Experience in the practice of the profession

s 49 om 2010 No. 14 s 86

Subdivision 3—Inquiries into applications**sdiv hdg** om 2010 No. 14 s 86 (incl in prev pt 3 div 2)**Board’s powers before deciding applications****s 50** om 2010 No. 14 s 86**Appointment of appropriately qualified person to conduct health assessment****s 51** amd 2001 No. 78 s 164
om 2010 No. 14 s 86**Report about health assessment****s 52** om 2010 No. 14 s 86**Use of assessment report****s 53** amd 2009 No. 24 s 1181
om 2010 No. 14 s 86**Payment for health assessments and reports****s 54** om 2010 No. 14 s 86**Subdivision 4—Decision on applications****sdiv 4 (ss 55–58)** om 2010 No. 14 s 86 (incl in prev pt 3 div 2)**Subdivision 5—Information in certificates of general registration****sdiv 5 (s 59)** om 2010 No. 14 s 86 (incl in prev pt 3 div 2)**Subdivision 6—Period of general registration****sdiv hdg** om 2010 No. 14 s 86 (incl in prev pt 3 div 2)**Period****s 60** amd 2006 No. 46 s 180
om 2010 No. 14 s 86**Subdivision 7—Conditions of general registration****sdiv 7 (ss 61–62)** om 2010 No. 14 s 86 (incl in prev pt 3 div 2)**Division 3—Provisional general registration****div hdg** om 2010 No. 14 s 86 (incl in prev pt 3)**Meaning of “authorised person” for div 3****s 63** om 2010 No. 14 s 86**Provisional general registration of a person****s 64** om 2010 No. 14 s 86**Confirmation or cancellation of provisional general registration****s 65** om 2010 No. 14 s 86**Procedure after cancellation of provisional general registration****s 66** om 2010 No. 14 s 86**Form of certificate of provisional general registration****s 67** om 2010 No. 14 s 86

Endnotes

Period

s 68 amd 2009 No. 44 s 109
 om 2010 No. 14 s 86

Board decides to register provisional general registrant as a general registrant

s 69 om 2010 No. 14 s 86

Board decides to refuse to register provisional general registrant as a general registrant

s 70 om 2010 No. 14 s 86

Deemed refusal by board to register provisional general registrant as a general registrant

s 71 om 2010 No. 14 s 86

Division 4—Renewal of general registrations

div hdg om 2010 No. 14 s 86 (incl in prev pt 3)

Subdivision 1—Preliminary

sdiv hdg om 2010 No. 14 s 86 (incl in prev pt 3 div 4)

Non-application of div 4 to short-term registration

s 71A ins 2006 No. 46 s 181
 om 2010 No. 14 s 86

Meaning of “recency of practice requirements”

s 72 om 2010 No. 14 s 86

Subdivision 2—Applications for renewal of general registrations

sdiv hdg om 2010 No. 14 s 86 (incl in prev pt 3 div 4)

Notification of imminent expiry of registration

s 73 om 2010 No. 14 s 86

Procedural requirements for applications

s 74 amd 2001 No. 78 s 165
 om 2010 No. 14 s 86

General registration taken to be in force while application is considered

s 75 om 2010 No. 14 s 86

Subdivision 3—Decision on applications

sdiv 3 (ss 76–79) om 2010 No. 14 s 86 (incl in prev pt 3 div 4)

Division 5—Restoration of general registrations

div hdg om 2010 No. 14 s 86 (incl in prev pt 3)

Non-application of div 5 to short-term registration

s 79A ins 2006 No. 46 s 182
 om 2010 No. 14 s 86

Application of div 4, sdivs 1 and 3

s 80 om 2010 No. 14 s 86

When application for restoration of a general registration may be made

s 81 om 2010 No. 14 s 86

Procedural requirements for applications

s 82 om 2010 No. 14 s 86

Period of restored registration

s 83 om 2010 No. 14 s 86

Conditions of expired registration

s 84 om 2010 No. 14 s 86

When recency of practice conditions take effect

s 85 om 2010 No. 14 s 86

Division 6—Cancellation of general registrations

div hdg om 2010 No. 14 s 86 (incl in prev pt 3)

Grounds for cancellation

s 86 sub 2009 No. 44 s 110

om 2010 No. 14 s 86

Show cause notice

s 87 om 2010 No. 14 s 86

Representations about show cause notices

s 88 om 2010 No. 14 s 86

Ending showcause process without further action

s 89 om 2010 No. 14 s 86

Cancellation

s 90 om 2010 No. 14 s 86

Return of cancelled certificate of general registration to board

s 91 om 2010 No. 14 s 86

Division 7—Reviewing conditions of general registrations

div hdg om 2010 No. 14 s 86 (incl in prev pt 3)

Subdivision 1—Review of conditions imposed by the board or QCAT

sdiv hdg amd 2009 No. 24 s 1182

om 2010 No. 14 s 86 (incl in prev pt 3 div 7)

Review of conditions

s 92 om 2010 No. 14 s 86

How registrant may start a review

s 93 amd 2009 No. 24 s 1183

om 2010 No. 14 s 86

Review of conditions during review period

s 94 om 2010 No. 14 s 86

Board's powers before making decision

s 95 om 2010 No. 14 s 86

Endnotes

Application of ss 51–54

s 96 om 2010 No. 14 s 86

Deemed withdrawal of applications etc.

s 97 om 2010 No. 14 s 86

Decision

s 98 om 2010 No. 14 s 86

When decision takes effect

s 99 amd 2006 No. 46 s 183
om 2010 No. 14 s 86

Failure by board to make decision on application

s 100 amd 2006 No. 46 s 184; 2009 No. 44 s 111
om 2010 No. 14 s 86

Failure by board to make decision on review agreed to under s 94

s 101 amd 2006 No. 46 s 185; 2009 No. 44 s 112
om 2010 No. 14 s 86

Further decision required if certain conditions changed

s 102 om 2010 No. 14 s 86

Subdivision 2—Recording change, or removal, of conditions

sdiv hdg om 2010 No. 14 s 86 (incl in prev pt 3 div 7)

Amending, replacing, or issuing new, certificate of general registration

s 103 sub 2006 No. 46 s 186
amd 2009 No. 44 s 113
om 2010 No. 14 s 86

Division 8—Special purpose registrations

div hdg om 2010 No. 14 s 86 (incl in prev pt 3)

Subdivision 1—Applications for special purpose registration

sdiv 1 (ss 104–111) om 2010 No. 14 s 86 (incl in prev pt 3 div 8)

Subdivision 2—Renewal of special purpose registrations

sdiv hdg om 2010 No. 14 s 86 (incl in prev pt 3 div 8)

Non-application of sdiv 2 to short-term registration

s 111A ins 2006 No. 46 s 187
om 2010 No. 14 s 86

Application for div 4, sdivs 2 and 3

s 112 om 2010 No. 14 s 86

Matters that may be considered in deciding whether to renew special purpose registrations

s 113 om 2010 No. 14 s 86

Imposition of conditions by board

s 114 om 2010 No. 14 s 86

Period of renewed special purpose registration

s 115 om 2010 No. 14 s 86

Subdivision 3—Cancellation of special purpose registrations

sdiv hdg om 2010 No. 14 s 86 (incl in prev pt 3 div 8)

Application of div 6

s 116 om 2010 No. 14 s 86

Grounds for cancellation

s 117 amd 2009 No. 44 s 114
om 2010 No. 14 s 86

Subdivision 4—Removal of conditions

sdiv hdg om 2010 No. 14 s 86 (incl in prev pt 3 div 8)

Removal

s 118 amd 2006 No. 46 s 188
om 2010 No. 14 s 86

Division 9—General provisions about registrations

div hdg om 2010 No. 14 s 86 (incl in prev pt 3)

Person is taken to be registered under this part

s 119 om 2010 No. 14 s 86

Surrender of registrations

s 120 om 2010 No. 14 s 86

Replacement of certificates of registration

s 121 om 2010 No. 14 s 86

Certified copy of certificates of registration

s 122 om 2010 No. 14 s 86

Notification of change in circumstances

s 123 om 2010 No. 14 s 86

Notification of certain events to interstate regulatory authorities and other entities

s 124 amd 2006 No. 25 s 241(1) sch 3
om 2010 No. 14 s 86

Short-term registration

s 124A ins 2006 No. 46 s 189
om 2010 No. 14 s 86

Division 1—Restricted titles and holding out

div 1 (ss 125–129) om 2010 No. 14 s 88 (incl in prev pt 4)

Division 2—Notification of business names and other details

div hdg om 2010 No. 14 s 88 (incl in prev pt 4)

Notification of business names etc.

s 130 amd 2001 No. 45 s 29 sch 3
om 2010 No. 14 s 88

Endnotes

Notification of change in business names etc.

s 131 om 2010 No. 14 s 88

Division 3—Advertising

div 3 (ss 132–133) om 2010 No. 14 s 88 (incl in prev pt 4)

Division 4—Registrants’ autonomy

div 4 (s 134) om 2010 No. 14 s 88 (incl in prev pt 4)

Division 5—Court orders and injunctions

div 5 (ss 135–136) om 2010 No. 14 s 88 (incl in prev pt 4)

Division 6—Reprisals

div 6 (ss 137–139) om 2010 No. 14 s 88 (incl in prev pt 4)

Division 6A—Ownership of pharmacy business

div hdg ins 2005 No. 10 s 46
om 2010 No. 14 s 89 (incl in prev pt 4)

PART 2—OWNERSHIP OF PHARMACY BUSINESS

pt hdg prev pt 2 hdg om 2010 No. 14 s 86
pres pt 2 hdg (prev pt 4 hdg) sub 2010 No. 14 s 87
renum 2010 No. 14 s 101

Definitions

s 139A ins 2005 No. 10 s 46
amd 2010 No. 14 s 90(1)
def “own” amd 2006 No. 46 s 190
def “relative” sub 2010 No. 14 s 90(2)–(3)

Restriction on who may own pharmacy business

s 139B ins 2005 No. 10 s 46
amd 2010 No. 14 s 91

Pharmacist whose registration is suspended or cancelled may own pharmacy business for limited period

prov hdg amd 2010 No. 14 s 92(1)
s 139C ins 2005 No. 10 s 46
amd 2010 No. 14 s 92(2)–(6)

Person who stops being pharmacist’s spouse may continue as director or shareholder for limited period

prov hdg amd 2010 No. 14 s 93(1)
s 139D ins 2005 No. 10 s 46
amd 2010 No. 14 s 93

Executor, administrator or trustee of pharmacist’s estate may own pharmacy business for limited period

prov hdg amd 2010 No. 14 s 94(1)
s 139E ins 2005 No. 10 s 46
amd 2010 No. 14 s 94(2)–(3)

Friendly society that demutualises may own pharmacy business for limited period

s 139F ins 2005 No. 10 s 46

Trustee, liquidator, receiver or administrator does not commit offence against s 139B

s 139G ins 2005 No. 10 s 46
sub 2006 No. 46 s 191
amd 2010 No. 14 s 95

Restriction on number of pharmacy businesses in which a person may have beneficial interest

s 139H ins 2005 No. 10 s 46
amd 2010 No. 14 s 96

Certain arrangements about control of pharmacy business void

s 139I ins 2005 No. 10 s 46
amd 2006 No. 46 s 192

Division 7—Other provisions

div hdg om 2010 No. 14 s 97 (incl in prev pt 4)

Payment, or acceptance of payment, for referrals prohibited

s 140 om 2010 No. 14 s 98

Pharmacy business to be carried on under supervision of pharmacist

prov hdg amd 2005 No. 10 s 47(1); 2010 No. 14 s 99(1)
s 141 amd 2005 No. 10 s 47(2); 2010 No. 14 s 99

Notification of change of ownership of a pharmacy business

s 141A ins 2010 No. 14 s 100

Notification of change of ownership particulars of a pharmacy business

s 141B ins 2010 No. 14 s 100

PART 3—INVESTIGATION AND ENFORCEMENT

pt hdg prev pt 3 hdg om 2010 No. 14 s 86
pres pt 3 hdg (prev pt 5 hdg) renum 2010 No. 14 s 101

Appointment and qualifications

s 145 sub 2010 No. 14 s 102

Appointment conditions

s 146 amd 2010 No. 14 s 103

Identity cards

s 147 amd 2010 No. 14 s 104

Failure to return identity card

s 148 amd 2010 No. 14 s 105

Dealing with forfeited things etc.

s 167 amd 2009 No. 24 s 1184; 2010 No. 14 s 106

Compensation

s 176 amd 2010 No. 14 s 107

Review of decision by QCAT

s 181 sub 2009 No. 24 s 1185; 2010 No. 14 s 109

Particular matters relating to powers of QCAT

s 182 sub 2009 No. 24 s 1185
om 2010 No. 14 s 110

Hearing procedures

s 183 om 2009 No. 24 s 1185

Powers of court on appeal

s 184 om 2009 No. 24 s 1185

Appointment of assessors

s 185 om 2009 No. 24 s 1185

PART 4—LEGAL PROCEEDINGS

pt hdg (prev pt 7 hdg) renum 2010 No. 14 s 111

Appointments and authority

s 187 sub 2010 No. 14 s 112

Signatures

s 188 sub 2010 No. 14 s 112

Evidentiary provisions

s 189 amd 2010 No. 14 s 113

Summary offences

s 190 sub 2010 No. 14 s 114

Proceedings for indictable offences

s 191 om 2010 No. 14 s 115

Limitation on who may summarily hear indictable offence

s 192 om 2010 No. 14 s 115

Penalties to be paid to board

s 195 om 2010 No. 14 s 116

PART 5—MISCELLANEOUS

pt hdg ins 2010 No. 14 s 117

Protecting officials from liability

s 198 sub 2010 No. 14 s 117

Approval of forms

s 199 sub 2010 No. 14 s 117

Delegation by chief executive

s 200 sub 2010 No. 14 s 117

Disclosure of documents or information to the Pharmacy Board of Australia

s 201 amd 2001 No. 78 s 166
sub 2010 No. 14 s 117

Regulation-making power

s 202 amd 2009 No. 9 s 136 sch 1
sub 2010 No. 14 s 117

**PART 6—TRANSITIONAL PROVISIONS FOR THE HEALTH LEGISLATION
(HEALTH PRACTITIONER REGULATION NATIONAL LAW)
AMENDMENT ACT 2010**

pt hdg prev pt 6 hdg sub 2009 No. 24 s 1185
om 2010 No. 14 s 108
pres pt 6 hdg ins 2010 No. 14 s 117

Definitions

s 203 sub 2010 No. 14 s 117

Records relating to pharmacy businesses

s 204 sub 2010 No. 14 s 117

Offences

s 205 sub 2010 No. 14 s 117

Inspectors appointed under pre-amended Act

s 206 sub 2010 No. 14 s 117

Dealing with certain health records seized under s 159 or 160

s 207 om 2010 No. 14 s 117

How board may deal with health records

s 208 om 2010 No. 14 s 117

Disclosure of documents or information relating to ownership of pharmacy businesses

s 208A ins 2010 No. 14 s 118
om 2010 No. 14 s 117

Destruction of health records

s 209 om 2010 No. 14 s 117

Continuing professional education programs

s 210 om 2010 No. 14 s 117

Protecting officials from liability

s 211 om 2010 No. 14 s 117

False or misleading information or documents

s 212 sub 2009 No. 44 s 115
om 2010 No. 14 s 117

Certificates etc. not to be false or misleading

s 213 om 2010 No. 14 s 117

Application of provisions

s 214 om 2010 No. 14 s 117

Approval of forms

s 215 om 2010 No. 14 s 117

Examination fees

s 216 om 2010 No. 14 s 117

Regulation-making power

s 217 om 2010 No. 14 s 117

PART 8—REGISTER, RECORDS AND INFORMATION

pt hdg om 2010 No. 14 s 117

Division 1—Register

div hdg om 2010 No. 14 s 117

Division 2—Records to be kept

div hdg om 2010 No. 14 s 117

Division 3—Information

div hdg om 2010 No. 14 s 117

PART 9—MISCELLANEOUS

pt hdg om 2010 No. 14 s 117

Division 1—Abandoned, and other, health records

div hdg om 2010 No. 14 s 117

Division 2—Continuing professional education of registrants

div hdg om 2010 No. 14 s 117

Division 3—Other provisions

div hdg om 2010 No. 14 s 117

PART 10—REPEAL, TRANSITIONAL AND SAVINGS PROVISIONS

pt hdg om 2010 No. 14 s 117

Division 1—Repeal

div 1 (s 218) om 2010 No. 14 s 117

Division 2—Transitional provisions

div 2 (ss 219–236) om 2010 No. 14 s 117

Division 3—Savings provisions

div hdg om 2005 No. 10 s 48

Definitions

prov hdg sub 1992 No. 66 s 68(1)

s 237 (prev 1976 No. 73 s 5) amd 2001 No. 12 s 246 sch 3

renum and reloc 2001 No. 12 s 246 sch 3

om 2005 No. 10 s 48

def “**association of persons**” reloc 2001 No. 12 s 246 sch 3

om 2005 No. 10 s 48

def “**Friendly Societies (Queensland) Code**” ins 1999 No. 27 s 76 sch 1 pt 3

reloc 2001 No. 12 s 246 sch 3

om 2005 No. 10 s 48

def “**friendly society**” ins 1999 No. 27 s 76 sch 1 pt 3

amd 2001 No. 12 s 246 sch 3 (amd 2003 No. 9 s 67 sch (retro)); 2001 No. 45 s 29 sch 3

reloc 2001 No. 12 s 246 sch 3

om 2005 No. 10 s 48

- def **“pharmacy”** amd 2001 No. 12 s 246 sch 3
 reloc 2001 No. 12 s 246 sch 3
 om 2005 No. 10 s 48
- def **“practice of pharmacy”** or **“pharmacy practice”** amd 2001 No. 12 s 246 sch 3
 reloc 2001 No. 12 s 246 sch 3
 om 2005 No. 10 s 48
- def **“transfer date”** ins 1999 No. 27 s 76 sch 1 pt 3
 reloc 2001 No. 12 s 246 sch 3
 om 2005 No. 10 s 48

Limitations upon ownership of and pecuniary interests in pharmacy practices

- s 238** (prev 1976 No. 73 s 30) amd 1978 No. 38 s 2; 1999 No. 27 s 76 sch 1 pt 3;
 2001 No. 12 s 246 sch 3
 renum and reloc 2001 No. 12 s 246 sch 3
 om 2005 No. 10 s 48

Practice of pharmacy

- s 239** (prev 1976 No. 73 s 32) amd 1995 No. 58 s 4 sch 1; 1998 No. 41 s 14(1) sch 1;
 2001 No. 12 s 246 sch 3
 renum and reloc 2001 No. 12 s 246 sch 3
 om 2005 No. 10 s 48

Continuation of practice of deceased registrant

- prov hdg** amd 2001 No. 12 s 246 sch 3
s 240 (prev 1976 No. 73 s 34) amd 2001 No. 12 s 246 sch 3
 renum and reloc 2001 No. 12 s 246 sch 3
 om 2005 No. 10 s 48

Continuation of practices of certain registrants whose names have been removed from the register

- prov hdg** amd 2001 No. 12 s 246 sch 3
s 241 (prev 1976 No. 73 s 35) amd 2001 No. 12 s 246 sch 3
 renum and reloc 2001 No. 12 s 246 sch 3
 om 2005 No. 10 s 48

Continuation of approvals under s 30 of the repealed Act

- s 242** om 2005 No. 10 s 48

Continuation of approvals under s 35 of the repealed Act

- s 243** om 2005 No. 10 s 48

Continuation of certain provisions of regulation under repealed Act

- s 244** om 2005 No. 10 s 48

PART 11—CONSEQUENTIAL AND OTHER AMENDMENTS

- pt 11 (ss 245–247)** om R1 (see RA ss 7(1)(k) and 40)

SCHEDULE—DICTIONARY

- sch** (prev sch 4) sub 2010 No. 14 s 119
 def **“amending law”** ins 2010 No. 14 s 119
 def **“appellant”** om 2009 No. 24 s 1186(1)

Endnotes

- def **“board”** ins 2010 No. 14 s 119
- def **“commencement”** ins 2010 No. 14 s 119
- def **“convicted”** ins 2010 No. 14 s 119
- def **“criminal history”** ins 2001 No. 78 s 167
om 2010 No. 14 s 119
- def **“document production requirement”** ins 2010 No. 14 s 119
- def **“executive officer”** ins 2010 No. 14 s 119
- def **“facsimile warrant”** ins 2010 No. 14 s 119
- def **“friendly society”** ins 2005 No. 10 s 49
sub 2010 No. 14 s 119
- def **“health service employee”** ins 2010 No. 14 s 119
- def **“information notice”** amd 2009 No. 24 s 1186(2)
sub 2010 No. 14 s 119
- def **“inspector”** ins 2010 No. 14 s 119
- def **“notice”** ins 2010 No. 14 s 119
- def **“occupier”** ins 2010 No. 14 s 119
- def **“own”** ins 2005 No. 10 s 49
sub 2010 No. 14 s 119
- def **“personal details requirement”** ins 2010 No. 14 s 119
- def **“pharmacist”** ins 2010 No. 14 s 119
- def **“pharmacy business”** ins 2005 No. 10 s 49
sub 2010 No. 14 s 119
- def **“place”** ins 2010 No. 14 s 119
- def **“place of seizure”** ins 2010 No. 14 s 119
- def **“pre-amended Act”** ins 2010 No. 14 s 119
- def **“premises”** ins 2010 No. 14 s 119
- def **“public place”** ins 2010 No. 14 s 119
- def **“relative”** ins 2005 No. 10 s 49
sub 2010 No. 14 s 119
- def **“renewable registration”** amd 2006 No. 46 s 193(2)
om 2010 No. 14 s 119
- def **“review period”** amd 2009 No. 24 s 1186(3)
om 2010 No. 14 s 119
- def **“short-term registration”** ins 2006 No. 46 s 193(1)
om 2010 No. 14 s 119
- def **“user”** ins 2010 No. 14 s 119
- def **“warrant form”** ins 2010 No. 14 s 119

SCHEDULE 1—DECISIONS FOR WHICH INFORMATION NOTICES MUST BE GIVEN

om 2010 No. 14 s 119

SCHEDULE 2—CONSEQUENTIAL AMENDMENTS OF ACTS

om R1 (see RA s 40)

SCHEDULE 3—AMENDMENT OF PHARMACY ACT 1976

om R1 (see RA s 40)

8 List of forms notified or published in the gazette

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

Form P101 Version July 2009—General Registration as a pharmacist: Guide and application

pubd gaz 3 July 2009 p 930

Form P301 Version February 2002—Application for Special Purpose Registration as a Pharmacist in Queensland

pubd gaz 8 February 2002 pp 439–41

Form P401 Version October 2004—Application from Graduates completing Supervised Practice, for General Registration as a Pharmacist in Queensland

pubd gaz 4 February 2005 p 338

Form P1401 Version February 2002—Notice of Expiry of Registration and Application for Restoration of General Registration as a Pharmacist in Queensland

pubd gaz 8 February 2002 pp 439–41

Form P1601 Version February 2002—Application for Review of Conditions on Registration

pubd gaz 8 February 2002 pp 439–41

Form Ph401 Version March 2002—Application for Renewal of General Registration as a Pharmacist in Queensland

pubd gaz 4 February 2005 p 338

Form PN163 Version February 2002—Notice to Produce or Safeguard Evidence

pubd gaz 8 February 2002 pp 439–41

9 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in an editor's note to the text.