

Proclamation – Health and Other Legislation Amendment Act 2022

Explanatory notes for SL 2022 No. 86

made under the

Health and Other Legislation Amendment Act 2022

General Outline

Short title

Proclamation commencing provisions of the *Health and Other Legislation Amendment Act 2022* that are not in force.

Authorising law

Section 2 of the *Health and Other Legislation Amendment Act 2022*.

Policy objectives and the reasons for them

The objective of the Proclamation is to commence the provisions of the *Health and Other Legislation Amendment Act 2022* (Amendment Act) that are not in force, on 1 July 2022 and 15 September 2022. Commencement of these provisions will support the delivery of health services in Queensland and ensure that health portfolio legislation operates effectively.

The Proclamation will commence provisions that make the following amendments on 1 July 2022:

- amendments to the *Ambulance Service Act 1991*, to ensure the framework for managing confidential information is robust, clear and aligns with the *Hospital and Health Boards Act 2011*;
- amendments to the Hospital and Health Boards Act, to enable additional categories of allied health professionals to access The Viewer to achieve better health outcomes for patients, and allow designated persons and prescribed health professionals to disclose confidential information to a person performing functions under the *Mental Health Act 2016*;
- amendments to the Mental Health Act to:
 - clarify how the Mental Health Court can proceed if there is a dispute of facts on which an expert has based their opinion;

- improve the process for approving electroconvulsive therapy by providing additional protections and ensuring patients’ views, wishes and preferences are taken into account to the greatest extent practicable;
- ensure the provisions about apprehension and transfer of absent patients are effective and align with least restrictive practice;
- clarify the requirements for the interstate transfer of patients who have been placed under a forensic or treatment support order;
- promote a stronger rights-based approach for decisions about patient transfers between services;
- allow the Mental Health Review Tribunal (MHRT) to approve requests for international transfers of patients who have been placed under a forensic or treatment support order;
- strengthen the confidentiality provisions to ensure the obligations for all people performing functions under the Mental Health Act are clear and consistent;
- extend the duty of confidentiality to experts engaged to provide reports to the Mental Health Court or MHRT;
- improve support for victims of unlawful acts; and
- make other minor amendments to improve the operation of the Mental Health Act;
- amendments to the *Radiation Safety Act 1999* to remove the requirement to prescribe by regulation the identity verification documents required for particular applications and instead allow the chief executive to determine the identity documents required for any applications that are prescribed by regulation;
- amendments to the *Transplantation and Anatomy Act 1979* to exclude human milk from the definition of *tissue*, to ensure sick and pre-term infants can be efficiently provided donated human milk to prevent or treat serious health conditions; and
- minor amendments to the Ambulance Service Act, Mental Health Act and Radiation Safety Act to reflect current drafting practice and update cross-references to other provisions within the relevant Act.

The Proclamation fixes 15 September 2022 as the date of commencement for all remaining provisions of the Amendment Act. These amendments relate to the *Public Health (Infection Control for Personal Appearance Services) Act 2003*, and extend the timeframe for renewal of licences for higher risk personal appearance services businesses, allow applications for restoration of licences and make minor drafting changes. The additional period before commencement will allow local government additional time to implement these changes.

Achievement of policy objectives

The policy objective is achieved by fixing the following dates for commencement of the provisions of the Amendment Act that are not in force:

- 1 July 2022 for part 3, divisions 1-3, 5 and 6, and for schedule 1, part 2 as applicable to the Ambulance Service Act, Mental Health Act and Radiation Safety Act; and
- 15 September 2022 for all provisions that are not in force and not otherwise commenced under the Proclamation (amendments to the Public Health (Infection Control for Personal Appearance Services) Act).

Consistency with policy objectives of authorising law

The Proclamation is consistent with the policy objectives of the Amendment Act.

Inconsistency with policy objectives of other legislation

No inconsistency with the policy objectives of other legislation has been identified.

Alternative ways of achieving policy objectives

The Proclamation is the only effective means of achieving the policy objective.

Benefits and costs of implementation

Commencement of the Amendment Act in two stages takes into account the operational needs of impacted external stakeholders, providing them with appropriate lead time to support implementation. The amendments that will be commenced by the Proclamation can be met through existing budgets.

Consistency with fundamental legislative principles

As outlined in the Explanatory Notes to the Amendment Act, the Amendment Act is consistent with fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*. The Proclamation does not engage any additional fundamental legislative principles.

Consultation

A wide range of stakeholders were consulted in the development of the Amendment Act. Queensland Health consulted external stakeholders who will be involved in implementing the amendments that this Proclamation commences, including the Mental Health Court, Mental Health Review Tribunal, and local governments. The dates fixed in the Proclamation consider these stakeholders' operational circumstances.

The Proclamation was assessed by Queensland Health, in accordance with *The Queensland Government Guide to Better Regulation*, as being excluded from regulatory impact assessment under exclusion category (g), on the basis that the Proclamation is of a machinery nature, as it is required to bring an Act or sections of an Act into operation. Therefore, consultation with the Office of Best Practice Regulation, Queensland Treasury is not required.