



Forensic Science Queensland Act 2024

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Queensland

Forensic Science Queensland Act 2024

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Forensic Science Queensland Act 2024

An Act to establish the Director of Forensic Science Queensland and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Forensic Science Queensland Act 2024*.

2 Commencement

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

3 Main purpose of Act

- (1) The main purpose of this Act is to ensure high quality, reliable, independent and impartial forensic services for the administration of criminal justice in Queensland.
- (2) The purpose is primarily achieved by—
 - (a) establishing the Director of Forensic Science Queensland to lead the provision of forensic services; and
 - (b) establishing the Forensic Science Queensland Advisory Council to give advice and make recommendations about particular matters.

4 Act binds all persons

This Act binds all persons, including the State.

5 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

6 References to administration of criminal justice

A reference in this Act to the administration of criminal justice includes a reference to the investigation by a coroner, under the *Coroners Act 2003*, of the death of a person.

Part 2 Director of Forensic Science Queensland

Division 1 Appointment, functions and powers

7 Appointment

- (1) There must be a Director of Forensic Science Queensland.
- (2) The director is appointed by the Governor in Council on the recommendation of the Minister.
- (3) The Minister may recommend a person for appointment only if satisfied the person has—
 - (a) a tertiary qualification in a scientific discipline relevant to forensic services; and
 - (b) at least 10 years practical experience in providing forensic services.
- (4) However, a person must not be appointed as the director if the person—
 - (a) has a conviction, other than a spent conviction, for an indictable offence; or
 - (b) is an insolvent under administration.
- (5) The director is appointed under this Act and not under the *Public Sector Act 2022*.

8 Term of appointment

- (1) The director is appointed for the term, of not more than 5 years, stated in the director's instrument of appointment.
- (2) The director may be reappointed.

9 Conditions of appointment

- (1) The director is to be paid the remuneration and allowances decided by the Governor in Council on the recommendation of the Minister.
- (2) The director holds office on the terms and conditions decided by the Governor in Council to the extent the terms and conditions are not provided for by this Act.

10 Vacancy in office

- (1) The office of the director becomes vacant if the director—
 - (a) completes a term of office and is not reappointed; or
 - (b) resigns from office by signed notice given to the Minister at least 1 month before the resignation is to have effect; or
 - (c) is convicted of an indictable offence; or
 - (d) is an insolvent under administration; or
 - (e) is removed from office by the Governor in Council under subsection (3).
- (2) Also, if the director is suspended by the Minister under subsection (5), the office is vacant during the period of suspension.
- (3) The Governor in Council may, at any time, remove the director from office on the recommendation of the Minister.
- (4) The Minister may recommend the director's removal if the Minister is satisfied the director—
 - (a) has engaged in misconduct; or

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- (b) is incapable of performing the director's duties; or
 - (c) has neglected the director's duties or performed the duties incompetently; or
 - (d) is absent from duty without leave granted by the Minister; or
 - (e) has contravened section 20 or 21.
- (5) The Minister may suspend the director for not more than 6 months by signed notice given to the director if—
- (a) there is an allegation of misconduct against the director; or
 - (b) the Minister is satisfied a matter has arisen in relation to the director that may be grounds for removal under subsection (4).

11 Director must disclose insolvency

- (1) This section applies to a person who—
- (a) is appointed as the director; and
 - (b) during the term of the person's appointment, becomes an insolvent under administration.
- (2) The person must, unless the person has a reasonable excuse, immediately give written notice of the insolvency to the Minister.

Maximum penalty—100 penalty units.

12 Acting director

- (1) This section applies if—
- (a) there is a vacancy in the office of the director; or
 - (b) the director is absent from duty or otherwise unable to perform the director's functions.
- (2) The Minister may appoint a person to act as the director for a period of not more than 6 months.

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- (3) A person can not be appointed to act as the director unless the Minister could recommend the person for appointment as director under section 7.
 - (4) A person appointed to act as the director may be appointed to act as the director for a further period—
 - (a) if the appointment is continuous on 1 or more of the person’s previous appointments as acting director and the total period of continuous appointments is not more than 6 months—by the Minister; or
 - (b) otherwise—by the Governor in Council.
 - (5) This section does not limit the Governor in Council’s power under the *Acts Interpretation Act 1954*, section 25(1)(b)(iv) or (v).

13 Functions of director

- (1) The director’s functions are to support the administration of criminal justice in Queensland by—
 - (a) leading the provision of forensic services and advice about forensic services to the Queensland Police Service, the Director of Public Prosecutions, coroners and other entities who perform functions related to the administration of criminal justice; and
 - (b) ensuring forensic services and advice provided to the entities mentioned in paragraph (a) are—
 - (i) reliable, independent and impartial; and
 - (ii) based on high quality processes and techniques that comply with relevant standards and accreditation requirements; and
 - (c) ensuring research, development and innovation are undertaken to inform the provision of forensic services; and
 - (d) developing partnerships and collaborating with other entities to inform and support the provision of forensic services.

- (2) Also, the director has any other function—
 - (a) given to the director under this Act or another Act; or
 - (b) prescribed by regulation.
- (3) In this section—

coroner see the *Coroners Act 2003*, schedule 2.

14 Powers of director

- (1) The director has the power to do all things necessary or convenient to be done in performing the director's functions, including the power to—
 - (a) enter into an arrangement with a person or other entity to assist the director in the performance of the director's functions; and
 - (b) establish an advisory committee or subcommittee for the purpose of obtaining expert advice on the performance of the director's functions.
- (2) The director may direct Forensic Science Queensland to—
 - (a) provide scientific analysis in non-criminal matters in Queensland or other jurisdictions; and
 - (b) support the administration of criminal justice in other jurisdictions.
- (3) For subsection (2)(b), the reference to the *Coroners Act 2003* in section 6 includes a reference to a corresponding law of another jurisdiction.

Division 2 Criminal history checking

15 Criminal history report

- (1) This section applies to enable the Minister to decide whether a person is qualified to become, or continue as, the director.
- (2) The Minister may ask the police commissioner for—

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- (a) a written report about the criminal history of the person; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (3) However, the Minister may make the request only if the person has given the Minister written consent for the request.
 - (4) The police commissioner must comply with the request.
 - (5) However, the duty to comply with the request applies only to information in the possession of the police commissioner or to which the police commissioner has access.
 - (6) In this section—
criminal history, of a person, means the person’s criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

16 Charges and convictions must be disclosed by director

- (1) This section applies if a person who is appointed as the director is charged with, or convicted of, an indictable offence during the term of the person’s appointment.
- (2) The person must, unless the person has a reasonable excuse, immediately give written notice to the Minister about the charge or conviction.
Maximum penalty—100 penalty units.
- (3) The notice must state—
 - (a) the existence of the charge or conviction; and
 - (b) when the offence was committed or allegedly committed; and
 - (c) details adequate to identify the offence or alleged offence; and
 - (d) for a conviction—the sentence imposed on the person.

17 Confidentiality of criminal history information

- (1) This section applies to a person who—
 - (a) is or has been—
 - (i) the Minister; or
 - (ii) a public sector employee performing functions under, or relating to the administration of, this Act; and
 - (b) in that capacity, has acquired or has access to criminal history information.
- (2) The person must not disclose the criminal history information to anyone else, or use the information, other than under this section.

Maximum penalty—200 penalty units.

- (3) The person may disclose or use the criminal history information—
 - (a) to the extent the disclosure or use is—
 - (i) necessary to perform the person’s functions under or relating to this part; or
 - (ii) otherwise required or permitted under this Act or another law; or
 - (b) with the consent of the person to whom the criminal history information relates.
- (4) A person who possesses a report given to the Minister under section 15 or a notice given to the Minister under section 16 must ensure the report or notice is destroyed as soon as practicable after it is no longer needed for the purpose for which it was given.

- (5) In this section—

criminal history information means information contained in—

- (a) a report given to the Minister under section 15; or
- (b) a notice given to the Minister under section 16.

disclose includes give access to.

Division 3 Other provisions

18 Delegation

The director may delegate the director's functions and powers under this Act or another Act to an appropriately qualified staff member of Forensic Science Queensland.

19 Independence of director

In performing the director's functions and exercising the director's powers, the director is not subject to direction by the Minister.

20 Limitation on performing other work

The director must not, without the Minister's consent, perform paid work other than under this Act.

21 Conflicts of interest

If the director has an interest that conflicts, or may conflict, with the discharge of the director's functions, the director—

- (a) must disclose the nature of the interest and conflict to the Minister as soon as practicable after the relevant facts come to the director's knowledge; and
- (b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the Minister.

22 Preservation of rights

- (1) This section applies if a public sector employee is appointed as the director.

- (2) The person keeps all rights accrued or accruing to the person as a public sector employee as if service as the director were a continuation of service as a public sector employee.
- (3) At the end of the person's term of office or on resignation as the director, the person's service as the director is taken to be service of a like nature for deciding the person's rights as a public sector employee.

Part 3 Office and staff

23 Establishment

- (1) The Office of the Director of Forensic Science Queensland (*Forensic Science Queensland*) is established.
- (2) Forensic Science Queensland consists of—
 - (a) the director; and
 - (b) the staff of Forensic Science Queensland.

24 Function

The function of Forensic Science Queensland is to help the director perform the director's functions.

25 Staff

The staff of Forensic Science Queensland are employed under the *Public Sector Act 2022*.

Part 4 Forensic Science Queensland Advisory Council

Division 1 Establishment, functions and powers

26 Establishment

The Forensic Science Queensland Advisory Council is established.

27 Functions

- (1) The council has the following functions—
- (a) to monitor and review policies and procedures of Forensic Science Queensland relating to the administration of criminal justice;
 - (b) to give advice or make recommendations about the policies and procedures mentioned in paragraph (a);
 - (c) another function as directed by the Minister.
- (2) The council may give the advice or make the recommendations mentioned in subsection (1)(b) to the Minister or the director, on its own initiative or on request by the Minister.

28 Powers

The council has the power to do anything necessary or convenient to be done in performing the council's functions.

Division 2 Membership

29 Council members

- (1) The council consists of up to 11 members appointed by the Minister.
- (2) However, the Minister must appoint the following persons as council members—
 - (a) 1 person who is a representative of the Queensland Police Service;
 - (b) 1 person who is a representative of the Office of the Director of Public Prosecutions;
 - (c) 1 person who is a representative of Legal Aid Queensland;
 - (d) 1 person who holds qualifications, or has experience, relating to supporting victims of crime;
 - (e) 1 person who holds qualifications, or has experience, relating to forensic services and is not employed by the State;
 - (f) 1 person who is a practising lawyer and is not employed by the State.
- (3) Also, any other person appointed by the Minister as a council member must hold qualifications, or have experience, in at least 1 of the following fields—
 - (a) forensic services;
 - (b) policing;
 - (c) law;
 - (d) support for victims of crime;
 - (e) another field the Minister is satisfied is necessary or relevant to support the council's functions.
- (4) A person appointed as a council member under this section is appointed under this Act and not the *Public Sector Act 2022*.

(5) In this section—

Legal Aid Queensland means Legal Aid Queensland established under the *Legal Aid Queensland Act 1997*.

30 Chairperson

- (1) The Minister must appoint a council member to be the chairperson of the council.
- (2) A council member may be appointed as the chairperson at the same time the person is appointed as a council member.
- (3) The chairperson holds office for the term, ending not later than the end of the person's term of appointment as a council member, stated in the person's appointment as chairperson.
- (4) However, a person's appointment as chairperson ends if—
 - (a) during the term of the appointment the person stops being a council member; or
 - (b) the person resigns as chairperson by signed notice given to the Minister.

31 Deputy chairperson

- (1) The council members must appoint 1 of the members, other than the chairperson, to be the deputy chairperson.
- (2) The deputy chairperson holds office for the term, ending not later than the end of the person's term of appointment as a council member, decided by the council.
- (3) However, a person's appointment as deputy chairperson ends if—
 - (a) during the term of the appointment the person stops being a council member; or
 - (b) the person resigns as deputy chairperson by signed notice given to the council.

32 Term of appointment

- (1) A council member holds office for the term, not longer than 3 years, stated in the member's instrument of appointment.
- (2) The council member may be reappointed.

33 Conditions of appointment

- (1) A council member is to be paid the remuneration and allowances decided by the Minister.
- (2) The council member holds office on the terms and conditions decided by the Minister to the extent the terms and conditions are not provided for by this Act.

34 Vacancy in office

- (1) The office of a council member becomes vacant if the member—
 - (a) completes the member's term of office and is not reappointed; or
 - (b) resigns from office by signed notice given to the Minister; or
 - (c) is removed from office by the Minister under subsection (2).
- (2) The Minister may, by written notice given to the council member, terminate the member's appointment if—
 - (a) the member is absent from 3 consecutive meetings of council members—
 - (i) without the council's permission; and
 - (ii) without reasonable excuse; or
 - (b) the member is convicted of an indictable offence; or
 - (c) the Minister is satisfied the member has engaged in misconduct; or
 - (d) the member is an insolvent under administration; or

- (e) the Minister is satisfied the member is incapable of satisfactorily performing the member's duties.

Division 3 Meetings

35 Conduct of business

Subject to this division, the council may conduct its business, including council meetings, in the way the council considers appropriate.

36 Council meetings generally

The chairperson may convene a meeting of council members (a *council meeting*) as often as is necessary for the performance of the council's functions.

37 Minutes and other records

The council must keep—

- (a) minutes of council meetings; and
- (b) a record of its decisions and resolutions.

38 Presiding at council meetings

- (1) The chairperson is to preside at all council meetings at which the chairperson is present.
- (2) If the chairperson is not present at a council meeting, the deputy chairperson is to preside if present.
- (3) If the chairperson and deputy chairperson are not present at a council meeting, the member chosen by the members present is to preside.

Division 4 Miscellaneous

39 Advice and recommendations of council

- (1) This section applies if—
 - (a) the council gives advice or makes a recommendation about a matter to the Minister or the director; and
 - (b) the council’s decision on the matter is not unanimous.
- (2) The council’s advice or recommendation must include a fair summary of the views of each council member who did not agree with the decision.

Part 5 Confidentiality

40 Confidentiality of information

- (1) This section applies if a person gains confidential information through involvement in the administration of this Act because of being, or an opportunity given by being—
 - (a) the director; or
 - (b) a council member; or
 - (c) a staff member of Forensic Science Queensland; or
 - (d) a person assisting the council in the performance of its functions; or
 - (e) a person assisting the director under an arrangement; or
 - (f) a public sector employee or other person assisting the director.
- (2) The person must not disclose the information to anyone else, or use the information, other than under this section.
Maximum penalty—200 penalty units.
- (3) The person may disclose or use the information—
 - (a) to the extent the disclosure or use is—

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- (i) necessary to perform the person's functions under or relating to this Act; or
 - (ii) required or permitted by this Act or another law; or
 - (b) if the disclosure is—
 - (i) under an arrangement for the provision of forensic services; and
 - (ii) to the person or other entity that requested the forensic services under the arrangement; or
 - (c) for a proceeding in a court or tribunal; or
 - (d) if authorised by a court or tribunal in the interests of justice; or
 - (e) with the consent of the person to whom the information relates.
- (4) In this section—

arrangement means an arrangement mentioned in section 14(1)(a).

confidential information—

- (a) includes information about a person's affairs; but
- (b) does not include statistical or other information that could not reasonably be expected to result in the identification of the person to whom the information relates.

disclose includes give access to.

Part 6 Miscellaneous

41 Director and council not statutory bodies for particular Acts

The director and the council are not statutory bodies for the *Statutory Bodies Financial Arrangements Act 1982* or the *Financial Accountability Act 2009*.

42 Proceedings for offences

- (1) A proceeding for an offence against this Act is to be heard and decided summarily.
- (2) A proceeding for the offence 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.

43 Protection from civil liability

- (1) The Minister, the director or a council member is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents civil liability attaching to a person, the liability attaches instead to the State.
- (3) This section does not apply to a person who is a prescribed person under the *Public Sector Act 2022*, section 267.

Note—

For protection from civil liability in relation to prescribed persons under the *Public Sector Act 2022*, section 267, see section 269 of that Act.

44 Regulation-making power

The Governor in Council may make regulations under this Act.

Part 7 Transitional provisions

Division 1 Preliminary

45 Definitions for part

In this part—

certified agreement see the *Industrial Relations Act 2016*, schedule 5.

existing instruments means the following instruments as they were in effect immediately before the commencement—

- (a) a Queensland Health certified agreement;
- (b) a Queensland Health award;
- (c) a public sector directive;
- (d) a health employment directive.

health employment directive means a health employment directive issued by the chief executive under the *Hospital and Health Boards Act 2011*, section 51A.

health service employee means a person appointed as a health service employee under the *Hospital and Health Boards Act 2011*, section 67.

initial FSQ employee see section 46.

new certified agreement means a certified agreement made after the commencement.

public sector directive—

- (a) means a directive under the *Public Sector Act 2022*, schedule 2; and
- (b) includes—
 - (i) a joint directive made under section 226 of that Act; and

- (ii) a directive continued under section 307 or 308 of that Act.

Queensland Health means the department administering the *Hospital and Health Boards Act 2011*.

Queensland Health award means the following awards under the *Industrial Relations Act 2016*—

- (a) the Hospital and Health Service General Employees (Queensland Health) Award – State 2015;
- (b) the Health Practitioners and Dental Officers (Queensland Health) Award – State 2015;
- (c) another award that, immediately before the commencement, covered Queensland Health in relation to the employment of public service employees.

Queensland Health certified agreement means the following certified agreements—

- (a) the Queensland Public Health Sector Certified Agreement (No. 11) 2022;
- (b) the Health Practitioners and Dental Officers (Queensland Health) Certified Agreement (No. 4) 2022.

46 Application of part

- (1) This part applies to a person (an **initial FSQ employee**) who is employed by the department after the commencement as a staff member of Forensic Science Queensland, including a person who was a health service employee or public service employee immediately before being transferred to the department.
- (2) However, a person stops being an initial FSQ employee if a new certified agreement, covering the person as an employee of the department, takes effect.

Division 2 **Employment terms and conditions of initial FSQ employees**

47 Application of existing instruments

- (1) Subsection (2) applies to an initial FSQ employee who—
 - (a) was a health service employee immediately before being transferred to the department; or
 - (b) was a public service employee immediately before being transferred to the department.
- (2) The terms and conditions of employment of the initial FSQ employee are—
 - (a) for an initial FSQ employee mentioned in subsection (1)(a)—the terms and conditions that applied, immediately before the commencement, to health service employees under the existing instruments; or
 - (b) for an initial FSQ employee mentioned in subsection (1)(b)—the terms and conditions that applied, immediately before the commencement, to public service employees employed by Queensland Health under the existing instruments other than a health employment directive.
- (3) The terms and conditions of employment of an initial FSQ employee to whom subsection (2) does not apply are the terms and conditions that applied, immediately before the commencement, to health service employees under the existing instruments.
- (4) For subsections (2) and (3)—
 - (a) the *Hospital and Health Boards Act 2011*, sections 51B and 51C apply in relation to an existing instrument that is a health employment directive; and
 - (b) the *Public Sector Act 2022*, sections 228 and 229 apply in relation to an existing instrument that is a public sector directive; and

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- (c) to the extent an existing instrument applied to health service employees, or public service employees employed by Queensland Health, immediately before the commencement, the instrument is taken to apply to an initial FSQ employee; and
 - (d) to the extent an existing instrument applied to Queensland Health in relation to the employment of health service employees or public service employees immediately before the commencement, the instrument is taken to apply to the department in place of Queensland Health.
- (5) This section applies despite any other Act but subject to sections 48 to 51.

48 Change to existing instrument other than health employment directive

- (1) This section applies to an existing instrument other than a health employment directive.
- (2) To the extent a change to the existing instrument takes effect after the commencement, the change applies for the purposes of the instrument's application under section 47.

49 Revocation of existing public sector directive

- (1) This section applies if an existing instrument that is a public sector directive is revoked or otherwise stops having effect after the commencement.
- (2) The public sector directive stops applying under section 47.

50 Application of public sector directive made after commencement

- (1) The terms and conditions of employment of an initial FSQ employee are subject to a public sector directive made after the commencement if the directive states that it applies to initial FSQ employees.

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- (2) The *Public Sector Act 2022*, sections 228 and 229 apply in relation to a public sector directive mentioned in subsection (1).

51 Fixed term contracts not affected

- (1) This section applies if a fixed term contract was in effect for an initial FSQ employee to whom section 47(2) applies immediately before the employee was transferred to the department.
- (2) Nothing in this part affects the operation of the fixed term contract.

Division 3 Miscellaneous

52 Transfer of health service employee or public service employee

- (1) For initial FSQ employees to whom section 47(2) applies, the transfer to the department does not—
- (a) affect the employees' benefits, entitlements or remuneration; or
 - (b) prejudice the employees' existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
 - (c) interrupt continuity of service, except that the employees are not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or
 - (d) entitle the employees to a payment or other benefit from the State because the employees are no longer employed by Queensland Health.
- (2) This section does not limit the operation of the *Public Sector Act 2022*, chapter 4, part 4 in relation to the transfer of employees to the department as staff members of Forensic Science Queensland.

Schedule 1 Dictionary

section 5

council means the Forensic Science Queensland Advisory Council established under section 26.

council meeting see section 36.

council member means a member of the council.

director means the Director of Forensic Science Queensland appointed under section 7.

Forensic Science Queensland see section 23(1).

forensic services—

- (a) means the application of scientific methods of testing and analysis, and scientific interpretation, for either of the following purposes—
- (i) the investigation or prevention of crime;
 - (ii) the provision of expert evidence to inform decisions and findings relevant to the administration of criminal justice; and

Examples of decisions and findings for subparagraph (ii)—

- 1 a decision whether to prosecute a person for an offence
- 2 a finding of guilt by a court
- 3 a finding in a coroner's investigation under the *Coroners Act 2003*

Examples of scientific methods of testing and analysis—

DNA analysis, chemical analysis

- (b) includes a type of testing and analysis, or scientific interpretation, prescribed by regulation; and
- (c) does not include a type of testing and analysis, or scientific interpretation, prescribed by regulation.

misconduct means—

- (a) inappropriate or improper conduct in an official capacity; or
- (b) inappropriate or improper conduct in a private capacity that reflects seriously and adversely on Forensic Science Queensland or the council.

public sector employee see the *Public Sector Act 2022*, section 12.

scientific interpretation means the interpretation of the results of a scientific method of testing and analysis.