



Queensland

# Public Health Act 2005

Reprinted as in force on 16 January 2006

Reprint No. 1

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- (2) A person does not commit an offence against section 266<sup>44</sup> merely because the person does something under the arrangement.

**279 Chief executive may designate particular persons as health practitioners**

The chief executive may, by gazette notice, designate a person who performs procedures to obtain Pap smears as a health practitioner for this part.

*Example—*

an enrolled nurse working in a remote area

## **Part 4 Research**

### **Division 1 Definitions**

**280 Definitions for pt 4**

In this part—

*biomedical study* means a study of the biological determinants of health and disease that establishes the biological basis for preventing, treating and curing disease.

*clinical and applied study* means a study of the effectiveness of strategies to diagnose and treat disease or illness.

*epidemiological study* means a study of the distribution and determinants of health-related states or events in particular populations.

*evaluation and planning study* means a study for—

- (a) appraising or measuring the value of a health intervention; or

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44 Section 266 (Confidentiality of information)



**282 Application to chief executive for information**

- (1) A person may apply in writing to the chief executive to be given health information held by the department for research being conducted by the person or by an entity of which the person is a member.
- (2) The application must state the following—
  - (a) a description of the research that includes—
    - (i) the purpose of the research; and
    - (ii) the methodology of the research;
  - (b) the type of information required, including whether information identifying a person is required;
  - (c) if information identifying a person is required—
    - (i) the reasons the identifying information is required; and
    - (ii) how the privacy of an individual identified will be protected;
  - (d) if the information will be needed at intervals during the research, details of the intervals;
  - (e) the name of the person or entity proposing to conduct the research;
  - (f) the names of all persons who will be given the information for the research;
  - (g) the duration of the research;
  - (h) the views of a human research ethics committee about the research including contact details for the committee.

**283 Further information or documents to support application**

- (1) This section applies if the chief executive considers further information is required to help the chief executive decide an application for health information held by the department.
- (2) The chief executive may, by notice given to the applicant, require the applicant to give the chief executive, within the reasonable time stated in the notice, further information or a document about the application.

- (3) The requirement may only relate to information or a document that is necessary and reasonable to help the chief executive decide the application.
- (4) If the applicant fails to comply with the requirement within the stated time, the applicant is taken to have withdrawn the application.

#### **284 Decision about application**

- (1) The chief executive must consider the application for health information held by the department as soon as practicable and either grant or refuse the application.
- (2) The chief executive may grant the application only if the chief executive is satisfied the giving of the health information held by the department is in the public interest, having regard to—
  - (a) the opportunities the research will provide for increased knowledge and improved health outcomes; and
  - (b) the privacy of individuals to whom the health information relates.
- (3) If the application asks for information identifying a person, the chief executive may grant the application only if the chief executive is satisfied the identification of the person is necessary for the relevant research.
- (4) If the chief executive decides to grant the application, the chief executive must immediately give notice of the decision under section 285 to the applicant.
- (5) An application may be granted subject to the conditions the chief executive considers necessary or desirable including, for example, the following—
  - (a) that the person or entity conducting the research must pay the State's reasonable costs of giving the information;
  - (b) that information given for research must be handled in a confidential and secure way;
  - (c) that measures must be put in place to ensure researchers are aware of and comply with ethical requirements relevant to the conduct of the research;

- (d) that measures must be put in place to provide feedback to the chief executive on the progress and results of the research.
- (6) If the chief executive decides to grant an application subject to conditions, the chief executive must immediately give the applicant notice of, and the reasons for, the conditions.
- (7) If the chief executive decides to refuse the application, the chief executive must immediately give the applicant notice of the refusal and the reasons for the refusal.

**285 What notice must state**

- (1) The notice under section 284(4) must state the following—
  - (a) the name of the person or entity conducting the research;
  - (b) the names of all persons who may be given the information for the research;
  - (c) a description of the research, including the purpose and methodology of the research;
  - (d) the type of information to be given and, if the information is to be given at intervals, details of the intervals;
  - (e) if the application was granted subject to conditions, the conditions;
  - (f) the period for which the application has been granted.
- (2) If an application is granted subject to a condition, the applicant must comply with the condition, unless the applicant has a reasonable excuse.

Maximum penalty for subsection (2)—50 penalty units.

**286 Notification of change of persons being given information**

- (1) This section applies if the names of persons who will be given the information for the research changes.

- (2) The person for the time being in charge of the research must give notice to the chief executive as soon as practicable after the change.

Maximum penalty—20 penalty units.

**287 Chief executive may rescind decision to give information**

- (1) This section applies if this part is contravened in relation to health information given under this part.
- (2) The chief executive may rescind the chief executive's decision to give the information.

**Division 3 Establishment of register**

**288 Register of approved applications for health information held by the department**

- (1) The chief executive must establish and keep a register of granted applications for health information held by the department stating—
  - (a) the type of information to be given for the research; and
  - (b) a description of the research; and
  - (c) the name of the person or entity conducting the research; and
  - (d) the period for which the application has been granted.
- (2) The register may be kept in a form the chief executive considers appropriate, including an electronic form.
- (3) The register is to be known as the Research Register.

**289 Access to register**

- (1) The chief executive must give a person access to the register and, if requested, a copy of all or part of the register.
- (2) The chief executive may charge a reasonable fee for copying the register.

## **Division 4                      Use and disclosure of information supplied for research**

### **290      Restriction on inconsistent use of information**

A person given health information held by the department under this part must not use the information for a purpose inconsistent with the research for which the information is provided.

Maximum penalty—50 penalty units.

### **291      Restriction on disclosure of information**

- (1) A person given health information held by the department under this part must not disclose the information, whether directly or indirectly.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply if—
- (a) the disclosure is to a person named in a notice under section 284(4) or 286 as a person who will be given the information for the research; or
  - (b) the disclosure is made with the written consent of the person to whom the information relates; or
  - (c) the disclosure is made in a form the person reasonably believes could not identify any person; or
  - (d) the disclosure is authorised under an Act or another law.
- (3) The *Health Services Act 1991*, section 62A, does not apply to a person in relation to information given to the person under this part for research.

**292 Use of health information held by the department**

- (1) The Minister may, by gazette notice, declare information given to a person under division 2 to be protected information.
- (2) The Minister may make a declaration under subsection (1) only if the Minister reasonably believes it is in the public interest to do so.
- (3) If the Minister makes a declaration under subsection (1), the protected information—
  - (a) can not be accessed under any order, whether of a judicial or administrative nature, other than an order for the purpose of this Act; and
  - (b) is not admissible in any proceeding, other than a proceeding under this Act.
- (4) A person can not be compelled to produce the protected information, or to give evidence relating to the protected information, in any proceeding, other than a proceeding under this Act.
- (5) Subsections (3)(b) and (4) do not apply if the protected information is admitted or produced, or evidence relating to the information is given, with the consent of the person to whom the information relates.
- (6) Nothing in this section limits access to protected information by the chief executive or a person authorised by the chief executive.
- (7) In this section—  
*order* includes a direction or other process.

## Chapter 7 Public health inquiries

**293 Definitions for ch 7**

In this chapter—

*chairperson*, of a panel, means the person comprising the panel under this chapter or, if the panel consists of more than