



Queensland

Public Health (Medicinal Cannabis) Bill 2016

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2016

A Bill

for

**An Act to regulate distribution and use of medicinal cannabis in
Queensland**

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[s 1]

The Parliament of Queensland enacts—

Chapter 1 Preliminary

1 Short title

This Act may be cited as the *Public Health (Medicinal Cannabis) Act 2016*.

2 Commencement

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

3 Act binds all persons

- (1) This Act binds all persons including the State and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) Nothing in this Act makes the State, the Commonwealth or another State liable to be prosecuted for an offence against this Act.

Chapter 2 Interpretation

4 Definitions

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

5 Meaning of *medicinal cannabis*

Medicinal cannabis is a cannabis product that is—

- (a) not an approved good; and
- (b) used, or is intended by the manufacturer of the product to be used, for human therapeutic purposes.

6 Meaning of *cannabis product*

A *cannabis product* is any product—

- (a) that is or was any part of a plant of the genus *Cannabis*, whether living or dead; or
- (b) otherwise derived, wholly or in part, from any part of a plant of the genus *Cannabis*, whether living or dead; or
- (c) that has, or is intended by the manufacturer of the product to have, a pharmacological effect that is substantially similar to the pharmacological effect of a product mentioned in paragraph (a) or (b).

7 References to particular terms relating to medicinal cannabis approvals

If a provision of this Act applies to, or in relation to, a medicinal cannabis approval—

- (a) a reference in the provision to ‘the approved prescriber’ is a reference to the approved prescriber that is the holder of the approval; and
- (b) a reference in the provision to ‘the patient’ is a reference to the patient of the approved prescriber to whom the approval applies; and
- (c) a reference in the provision to ‘the carer’ is a reference to the carer stated in the approval; and
- (d) a reference in the provision to ‘the dispensing pharmacy’ is a reference to the dispensing pharmacy stated in the approval; and

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- (e) a reference in the provision to ‘the medicinal cannabis’ is a reference to the medicinal cannabis that is the subject of the approval.

Chapter 3 Approvals

Part 1 Application for approvals

Division 1 Preliminary

8 Definitions for pt 1

In this part—

application means the following applications made under this chapter—

- (a) an original application for an approval;
- (b) an amendment application for an approval;
- (c) a replacement application for an approval;
- (d) a renewal application for an approval, other than a medicinal cannabis approval or a clinical trial approval.

information requirement notice, for an application, means a notice—

- (a) given to the applicant by the chief executive; and
- (b) stating the information the chief executive reasonably considers is required from the applicant to decide the application.

9 Suitability of person to hold approval

- (1) In deciding whether a person is a suitable person to hold, or to continue to hold, an approval the chief executive may have regard to, and may make inquiries about, the following—
- (a) the applicant’s qualifications and experience;
 - (b) the applicant’s character and standing;
 - (c) the applicant’s criminal history but only to the extent it is relevant to the application;
 - (d) whether the applicant engages, or has engaged, in conduct that risks, or is likely to risk, medicinal cannabis being used for a purpose that is unlawful under a law of a State or the Commonwealth;
 - (e) the applicant’s knowledge and understanding of the applicant’s obligations under this Act;
 - (f) whether the applicant, in the chief executive’s reasonable opinion, will be able to comply with—
 - (i) this Act; and
 - (ii) the conditions proposed to apply to the approval;
 - (g) whether the applicant—
 - (i) has held a similar instrument under a relevant law that was suspended, cancelled or had conditions imposed on it; or
 - (ii) has been refused a similar instrument under a relevant law.
- (2) Subsection (1) does not limit the matter to which the chief executive may have regard in considering the suitability of the applicant to hold an approval.

10 Suitability of patient to undergo treatment with medicinal cannabis

In deciding whether a patient is a suitable person to undergo treatment with medicinal cannabis under a medicinal cannabis

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approval, the chief executive may have regard to the following—

- (a) the information in the application for approval;
- (b) the patient’s personal circumstances;
- (c) the patient’s criminal history but only to the extent it is relevant to the application;
- (d) the advice of the expert advisory panel;
- (e) the advice of a specialist medical practitioner;
- (f) whether the patient, in the chief executive’s reasonable opinion, will be able to comply with—
 - (i) this Act; and
 - (ii) the conditions proposed to apply to the approval.

11 Approved form

An application must be in the approved form, if any.

Division 2 Particular provisions for application for medicinal cannabis approval

12 Purpose of division

This division states the requirements, in addition to the requirements in division 1, that apply to an application for a medicinal cannabis approval.

13 Who may apply for medicinal cannabis approval

A medical practitioner may apply for an approval (a *medicinal cannabis approval*) to facilitate the treatment of a patient with medicinal cannabis.

14 Requirements before making application for medicinal cannabis approval

Before the applicant makes the application, the applicant must obtain, from a person with authority to consent to treatment of the patient with medicinal cannabis, written consent to—

- (a) the treatment of the patient; and
- (b) the making of the application.

15 Opinion of specialist medical practitioner to accompany application

- (1) This section applies if, before making the application, the applicant has obtained a written opinion from a specialist medical practitioner relating to the treatment of the patient with medicinal cannabis.
- (2) The applicant must include a copy of the opinion in the application.

Division 3 Particular provisions for application for dispensing approval

16 Purpose of division

This division states the requirements, in addition to the requirements in division 1, that apply to an application for a dispensing approval.

17 Who may apply for dispensing approval

A pharmacist may apply for an approval (a *dispensing approval*) to dispense medicinal cannabis.

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Division 4 Particular provisions for clinical trial approval

18 Purpose of division

This division states the requirements, in addition to the requirements in division 1, that apply to an application for a clinical trial approval.

19 Who may apply for clinical trial approval

A person may apply for an approval (a *clinical trial approval*) to include medicinal cannabis, or a type or form of medicinal cannabis, in, or as part of, a clinical trial.

Division 5 Process for deciding applications

20 Consideration by the expert advisory panel

The chief executive may give all or part of the application, or the information contained in the application, to the expert advisory panel.

21 Requirement to seek opinion of specialist medical practitioner

- (1) The chief executive may require the applicant to seek, in writing, an opinion from a specialist medical practitioner in a specialty the chief executive reasonably considers is related to the medical condition or associated symptoms of the patient stated in the application.
- (2) The opinion mentioned in subsection (1) must relate to the appropriateness and effectiveness of treating the patient's medical condition or associated symptoms with medicinal cannabis.
- (3) The applicant must—

-
- (a) obtain the written opinion; and
 - (b) if the chief executive requests a copy of the written opinion—give a copy of the opinion to the chief executive.
- (4) The chief executive may exercise the powers under subsection (1) and (3)(b)—
- (a) as many times as the chief executive reasonably considers necessary for the purpose of deciding the application; and
 - (b) despite the applicant being a specialist medical practitioner in a specialty related to the medical condition or associated symptoms of the patient; and
 - (c) despite the applicant having already obtained, or provided to the chief executive, a written opinion, of a specialist medical practitioner, relating to the treatment of the patient with medicinal cannabis.

22 Decision on application for approval

- (1) The chief executive must consider an application and decide to—
 - (a) grant the application; or
 - (b) grant the application subject to conditions; or
 - (c) refuse to grant the application.
- (2) If the chief executive decides to grant the application, the chief executive must—
 - (a) if the application is for the grant of the approval—give the approval holder the approval; or
 - (b) if the application is an amendment application for the approval—
 - (i) endorse the approval with the amendment; or
 - (ii) cancel the approval and give the approval holder a new approval with the amendment; or

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- (c) if the application is a replacement application for the approval—give the approval holder the replacement approval; or
 - (d) if the application is a renewal application for the approval—give the approval holder the approval.
- (3) If the chief executive decides to endorse or cancel an approval, the chief executive must, as soon as practicable, give the approval holder a notice requiring the approval holder to return the instrument for the approval.
- (4) The chief executive must give the applicant an information notice about the following decisions, as soon as practicable after the decision is made—
- (a) a decision to refuse to grant the application for the approval;
 - (b) a decision to impose conditions on the approval, other than conditions sought by the applicant.

23 Criteria for grant of medicinal cannabis approval

- (1) When considering an application for a medicinal cannabis approval the chief executive may have regard to the following—
- (a) whether the applicant is a suitable person to hold the approval;
 - (b) whether the patient is a suitable person to undergo treatment with medicinal cannabis;
 - (c) the patient’s medical condition and associated symptoms of the medical condition;
 - (d) the form and dosage of medicinal cannabis for which the applicant intends to give a lawful direction under the approval;
 - (e) whether treatment with medicinal cannabis can be integrated into the patient’s existing medical treatment;

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- (f) the opinion of a specialist medical practitioner given to the chief executive under section 15 or 21;
 - (g) alternative treatments suitable for the patient's medical condition or associated symptoms;
 - (h) the patient's history of drug dependence, if any, including current use of cannabis;
 - (i) whether the medicinal cannabis to which the approval will apply—
 - (i) has, or will be, manufactured or imported under a law of the Commonwealth; and
 - (ii) is, or will be, approved or authorised to be supplied, for the purpose of treating the patient, under a law of the Commonwealth;
 - (j) any other information in the application for the approval;
 - (k) any other matters the chief executive reasonably considers relevant to deciding the application.
- (2) Without limiting subsection (1), the chief executive may only grant a medicinal cannabis approval if the chief executive is satisfied of the following matters—
- (a) the applicant is a suitable person to hold the approval;
 - (b) the patient is a suitable person to undergo treatment with medicinal cannabis;
 - (c) the medicinal cannabis to which the approval will apply—
 - (i) has, or will be, manufactured or imported under a law of the Commonwealth; and
 - (ii) is, or will be, able to be supplied, for the purpose of treating the patient, under a law of the Commonwealth.

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24 Criteria for grant or renewal of dispensing approval

- (1) When considering an application for the grant or renewal of a dispensing approval the chief executive may have regard to the following—
 - (a) whether the applicant is a suitable person to hold the approval;
 - (b) the applicant's familiarity with the use of medicinal cannabis for therapeutic purposes;
 - (c) the location and facilities of the pharmacy from which the applicant intends to dispense medicinal cannabis;
 - (d) any other information in the application for the approval;
 - (e) any other matters the chief executive reasonably considers relevant to deciding the application.
- (2) Without limiting subsection (1), the chief executive may grant or renew a dispensing approval only if the chief executive is satisfied the applicant is a suitable person to hold the approval.

25 Criteria for grant of clinical trial approval

- (1) When considering an application for a clinical trial approval the chief executive may have regard to the following—
 - (a) whether the applicant is a suitable person to hold the approval;
 - (b) the approval of the clinical trial by the Therapeutic Goods Administration or a human research ethics committee; or
 - (c) whether the medicinal cannabis to which the approval will apply has, or will be, manufactured or imported under a law of the Commonwealth;
 - (d) any other information in the application for the approval.

-
- (e) any other matters the chief executive reasonably considers relevant to deciding the application.
 - (2) Without limiting subsection (1), the chief executive may only grant a clinical trial approval if the chief executive is satisfied—
 - (a) the applicant is a suitable person to hold the approval; and
 - (b) the medicinal cannabis to which the approval will apply has, or will be, manufactured or imported under a law of the Commonwealth.

26 Chief executive may require information or documents

- (1) Before deciding an application for an approval, the chief executive may investigate the following—
 - (a) the applicant;
 - (b) for a medicinal cannabis approval—the patient.
- (2) The chief executive may give the applicant an information requirement notice—
 - (a) for a renewal application—within 14 days after the chief executive receives the application; or
 - (b) for another application—within 60 days after the chief executive receives the application.
- (3) The information requirement notice must state a reasonable period for compliance with the notice that is—
 - (a) for a renewal application—at least 14 days after the giving of the notice; or
 - (b) for another application—at least 30 days after the giving of the notice.
- (4) The information stated in the information requirement notice must be verified by statutory declaration if the notice requires it.

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- (5) The applicant is taken to have withdrawn the application if the applicant does not comply with the information requirement notice.

27 Criminal history report

- (1) The chief executive may ask the commissioner of police for a written report about the criminal history of an individual mentioned in section 28.
- (2) Also, the chief executive may ask the commissioner of police for a brief description of the circumstances of a conviction or charge mentioned in the individual's criminal history.
- (3) For subsections (1) and (2), the chief executive's request may include the following information—
 - (a) the individual's name and any other name the chief executive believes the individual may use or may have used;
 - (b) the individual's residential address;
 - (c) the individual's gender;
 - (d) the individual's date and place of birth.
- (4) After receiving the written report about the criminal history of the individual, the chief executive may request further information about the individual's criminal history from the commissioner of police.
- (5) Further information provided under subsection (4) is taken to be part of the individual's criminal history check.
- (6) Subject to subsection (7), the commissioner of police must comply with a request under this section.
- (7) The commissioner of police's obligation to comply with the request applies only to information in the possession of the commissioner or to which the commissioner has access.

28 Individuals for whom criminal history checks may be conducted

- (1) The chief executive may conduct a criminal history check for the following individuals—
 - (a) the applicant for an approval;
 - (b) for an application for a medicinal cannabis approval—the patient stated in the application;
 - (c) either of the following individuals if the chief executive knows, or reasonably suspects, the individual has been convicted of an offence that is relevant to the approval—
 - (i) the approval holder;
 - (ii) for a medicinal cannabis approval—the patient.
- (2) A regulation may prescribe a fee for a criminal history check.

29 Commissioner of police must notify changes in criminal history

- (1) This section applies to an individual—
 - (a) for whom a criminal history check has been conducted under section 28; and
 - (b) who is subsequently charged with an offence.
- (2) The commissioner of police must notify the chief executive about the change in the individual's criminal history.
- (3) The notice must state the following—
 - (a) the individual's name and address;
 - (b) the individual's date of birth;
 - (c) the offence the individual is charged with;
 - (d) particulars of the offence;
 - (e) the date of the charge.

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30 Exceptions to criminal history disclosure requirements

The *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to a request, disclosure or notification made under this division.

31 Chief executive may extend period for decision for complex application

- (1) This section applies if the chief executive considers that, because of the complexity of the matters to be decided for an application, the chief executive needs extra time to consider the application.
- (2) The chief executive—
 - (a) may extend the period for considering the application by the reasonable number of days the chief executive considers necessary to decide the application; and
 - (b) must give the applicant notice of the day the extended period ends.

32 Failure to decide application

- (1) Subject to subsections (2) and (3), the chief executive is taken to have refused to grant an application for an approval if the chief executive fails to decide—
 - (a) the original application for the approval within 90 days after the chief executive receives the application; or
 - (b) the renewal application for the approval within 30 days after the chief executive receives the application; or
 - (c) another application for the approval within 60 days after the chief executive receives the application.
- (2) If the chief executive has given the applicant an information requirement notice, a period mentioned in subsection (1) starts from the day the chief executive receives the information for the information requirement notice.

- (3) If the chief executive has extended the period for deciding the application for the approval under section 31, the chief executive is taken to have refused to grant the application if the chief executive does not decide the application within the extended period.
- (4) If the chief executive is taken to have refused to grant an application for an approval under this section, the chief executive must give the applicant for the application an information notice for the deemed refusal.

Part 2 Grant of approvals

Division 1 Grant of approvals generally

33 Standard conditions for approvals

- (1) A regulation may prescribe the standard conditions that apply to an approval.
- (2) To remove any doubt, it is declared that a regulation under subsection (1) may prescribe the standard conditions for an approval by reference to a code, guideline, protocol or standard relevant to the approval.

34 Additional or varied conditions for approvals

- (1) This section applies if the chief executive reasonably believes it is necessary for an additional or varied condition to apply to an approval.
- (2) The chief executive may—
 - (a) impose additional conditions for the approval; or
 - (b) vary a standard condition prescribed by regulation by stating the variation in the instrument for the approval.

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35 Term of approvals

An approval, other than a clinical trial approval, remains in force for the term, not more than 1 year, decided by the chief executive and stated in the approval, unless sooner cancelled, suspended or surrendered.

36 Transfer of approvals prohibited

An approval can not be transferred.

Division 2 Grant of medicinal cannabis approval

37 Form of medicinal cannabis approval

An instrument for a medicinal cannabis approval must—

- (a) be in the approved form;
- (b) contain the following information—
 - (i) the approved prescriber’s name, professional qualifications and address;
 - (ii) the name and address of the business or entity for which the approved prescriber practises medicine;
 - (iii) the name, residential address and date of birth of the patient;
 - (iv) the term of the approval;
 - (v) if a TGA approval approves or authorises the supply of the medicinal cannabis for the purpose of treating the patient—details of the TGA approval;
 - (vi) the form, dosage and dispensing intervals of the medicinal cannabis for which a lawful direction may be given under the approval;
 - (vii) the name and address of the dispensing pharmacy for the approval;

(viii) the names of all carers for the approval.

Division 3 Grant of dispensing approval

38 Form of dispensing approval

An instrument for a dispensing approval must—

- (a) be in the approved form; and
- (b) contain the following information—
 - (i) the approved pharmacist's name, professional qualifications and address; and
 - (ii) the name and business address of the pharmacy from which the approved pharmacist is authorised to dispense medicinal cannabis;
 - (iii) if another pharmacist is a secondary dispenser under the approval—the name, professional qualifications and address of the pharmacist;
 - (iv) the term of the approval.

Division 4 Grant of clinical trial approval

39 Form of clinical trial approval

An instrument for a clinical trial approval must—

- (a) be in the approved form; and
- (b) contain the following information—
 - (i) the approval holder's name, professional qualifications and address; and
 - (ii) details of the approval of the clinical trial by the Therapeutic Goods Administration or a human research ethics committee; and

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(iii) the term of the approval.

40 Term of clinical trial approval

(1) A clinical trial approval remains in force for the term, not more than the trial period, decided by the chief executive and stated in the approval, unless sooner cancelled, suspended or surrendered.

(2) In this section—

trial period, in relation to a clinical trial approval, means the period required to complete the clinical trial under the approval.

Part 3 Amendment, replacement and renewal of approvals

Division 1 Preliminary

41 Making applications

An application for the amendment, replacement or renewal of an approval must be—

- (a) made to the chief executive; and
- (b) in the approved form.

42 Process for deciding application

Subject to this chapter, an application for the amendment, replacement or renewal of an approval must be decided under part 1, division 5.

Division 2 Amendment

43 Application by holder to amend approval

The holder of an approval may apply (an *amendment application* for the approval) to the chief executive to amend the approval in relation to the following—

- (a) the things the holder, or another person, is authorised to do under the approval;
- (b) for a medicinal cannabis approval—the treatment, or any aspect of the treatment, under the approval;
- (c) the conditions applying to the approval, including a standard condition prescribed by regulation.

44 Minor amendment of approval by chief executive

- (1) The chief executive may decide to amend an approval, on the chief executive's own initiative, if the amendment is only for—
 - (a) a formal or clerical reason; or
 - (b) another reason if the chief executive reasonably believes the amendment will not adversely affect the interests of a person to whom the approval applies.
- (2) The chief executive must give notice about the following to each person to whom the approval applies as soon as practicable after the chief executive decides to make the amendment—
 - (a) the amendment decided by the chief executive;
 - (b) the reason for the amendment;
 - (c) if the chief executive decides to endorse the instrument for the approval—that the holder must return the instrument to the chief executive to be endorsed.

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Division 3 Replacement

45 Application for replacement of approval

The holder of an approval may apply (a *replacement application* for the approval) for the replacement of the approval if the instrument for the approval has been damaged, destroyed, lost or stolen.

46 Criteria for deciding replacement application

The chief executive may grant the replacement application for the approval if the chief executive is reasonably satisfied the instrument for the approval has been damaged, destroyed, lost or stolen.

Division 4 Renewal

47 Application for renewal of approval

- (1) The holder of a dispensing approval may apply to the chief executive to renew the approval (a *renewal application* for the approval) within the period starting 60 days before the term of the approval ends.
- (2) Despite subsection (1), the chief executive may accept a renewal application for the approval made within 30 days after the term of the approval ends if the chief executive is satisfied it is reasonable to do so in the circumstances.

48 Approval taken to be in force while renewal application considered

- (1) This section applies if a renewal application for the approval is made before the approval expires.

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Maximum penalty—20 penalty units.

Chapter 4 Dealings with medicinal cannabis

50 Definition for ch 4

In this chapter—

personal supervision—

- (a) means supervision by a person (the *supervisor*) of another person; and
- (b) includes supervision using any technology that allows reasonably contemporaneous and continuous—
 - (i) communication between the persons; and
 - (ii) observation by the supervisor of actions taken by the other person.

51 Authority subject to Act and approval

A person is authorised to perform an activity under this chapter only to the extent the person performs the activity—

- (a) in accordance with this Act; and
- (b) if an approval, or the conditions imposed on the approval, restrict or state the way in which the person must perform the activity—in accordance with the restriction or stated way.

52 Approved prescriber

- (1) An approved prescriber, for a medicinal cannabis approval, is authorised to give a lawful direction for the—

-
- (a) issue or supply of medicinal cannabis for the purpose of treating the patient; and
 - (b) administration of medicinal cannabis to the patient.
- (2) An approved prescriber, for a medicinal cannabis approval, is authorised to obtain and possess compliant medicinal cannabis if the approved prescriber is temporarily possessing the medicinal cannabis—
- (a) until the patient can be treated with, or use, the medicinal cannabis; and
 - (b) only for the purpose of treating the patient.
- (3) The approved prescriber is authorised to do the following in accordance with the prescription or lawful direction—
- (a) supply the medicinal cannabis to the patient;
 - (b) issue the medicinal cannabis to the carer;
 - (c) administer the medicinal cannabis to the patient.

53 Approved pharmacists and secondary dispensers

- (1) An approved pharmacist, working in the dispensing pharmacy for a medicinal cannabis approval, is authorised to obtain and possess medicinal cannabis at the dispensing pharmacy if the approved pharmacist is possessing the medicinal cannabis for the purpose of—
- (a) supplying the medicinal cannabis to the patient; or
 - (b) issuing the medicinal cannabis to the carer.
- (2) The approved pharmacist, when present at the dispensing pharmacy, is authorised to—
- (a) do the following in accordance with a lawful direction for the medicinal cannabis—
 - (i) supply the medicinal cannabis to the patient;
 - (ii) issue the medicinal cannabis to the carer; and

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- (b) manufacture medicinal cannabis within the meaning of schedule 1, definition *manufacture*, paragraph (a)(vi) to (viii).
- (3) If the approved pharmacist is not present at the dispensing pharmacy, the secondary dispenser under the dispensing approval is authorised to possess, supply and issue medicinal cannabis in accordance with subsections (1) and (2) when present at the dispensing pharmacy.

54 Patient

- (1) The patient for a medicinal cannabis approval is authorised to obtain, possess or self-administer compliant medicinal cannabis in accordance with a lawful direction for the medicinal cannabis.
- (2) The patient is authorised to issue compliant medicinal cannabis to the following persons—
 - (a) the approved prescriber for the purpose of administering the medicinal cannabis to the patient;
 - (b) the carer;
 - (c) if section 56 applies to the patient—a facilitator or a responsible person within the meaning of that section.

55 Carer

- (1) The carer, for a patient to whom a medicinal cannabis approval applies, is authorised to obtain and possess compliant medicinal cannabis if the carer is temporarily possessing the medicinal cannabis—
 - (a) until the patient can be treated with, or use, the medicinal cannabis; and
 - (b) only for the purpose of treating the patient.
- (2) The carer is authorised to—

- (a) if the patient is able to self-administer the medicinal cannabis—supply the medicinal cannabis to the patient; or
- (b) administer the medicinal cannabis to the patient in accordance with a lawful direction for the medicinal cannabis; or
- (c) issue the medicinal cannabis to—
 - (i) the approved prescriber for administration to the patient; or
 - (ii) if section 56 applies to the patient—a facilitator or a responsible person within the meaning of that section.

56 Restricted access patients

- (1) This section applies if—
 - (a) a patient for a medicinal cannabis approval is not reasonably able to obtain, possess or self-administer compliant medicinal cannabis due to the patient’s age, medical condition or location; and
 - (b) if there is a carer for the approval—the carer is not reasonably able to administer or supply compliant medicinal cannabis to the patient due to the patient’s medical condition or location.

Examples for subsection (1)—

- 1 The patient is in a remote location and is not reasonably able to obtain compliant medicinal cannabis from the dispensing pharmacy.
- 2 The patient is not reasonably able to obtain, possess or self-administer medicinal cannabis because the patient—
 - (a) is in a hospital; or
 - (b) is detained in a detention centre, prison, watch house or police establishment; or
 - (c) lives in a nursing home.

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- (2) A person (a *facilitator*) who is an adult, and who has regular access to the patient, is authorised to obtain and possess compliant medicinal cannabis if the facilitator is temporarily possessing the medicinal cannabis—
 - (a) until the patient can be treated with, or use, the medicinal cannabis; and
 - (b) only for the purpose of treating the patient.
- (3) The facilitator is authorised to—
 - (a) if the patient is able to self-administer the medicinal cannabis—supply the medicinal cannabis to the patient; or
 - (b) issue the medicinal cannabis to another facilitator, who is a health practitioner or trainee health practitioner treating the patient, for administration to the patient; or
 - (c) if the facilitator is a health practitioner, or a trainee health practitioner, treating the patient—administer the medicinal cannabis to the patient in accordance with a lawful direction for the medicinal cannabis.
- (4) If this section applies because the patient is in the care of an institution, a responsible person for the institution is authorised to—
 - (a) obtain compliant medicinal cannabis and possess it at the premises of the institution while the patient is in the care of the institution; and
 - (b) issue the medicinal cannabis to a facilitator, who works at the institution, for treatment of the patient.
- (5) If the facilitator is a trainee health practitioner, the facilitator must only administer the medicinal cannabis to the patient under the personal supervision of another facilitator who is a health practitioner treating the patient.
- (6) In this section—

controlled drug see the *Health Act 1937*, section 5.

health practitioner means a person who carries on, and is entitled to carry on, an occupation involving the provision of care for another person's physical or mental health or wellbeing.

institution means—

- (a) a hospital; or
- (b) a detention centre, prison, watch house or police establishment; or
- (c) an educational institution; or
- (d) a nursing home; or
- (e) another entity prescribed by regulation.

responsible person, for an institution, means—

- (a) a person in charge of the institution; or
- (b) a person in charge of the provision of health care in the institution; or
- (c) a person in charge of dispensing controlled drugs in the institution.

trainee health practitioner means a person who is undergoing a course of training, the successful completion of which will qualify the trainee as a health practitioner.

57 Carriers

- (1) To the extent necessary to transport and deliver medicinal cannabis, the following persons are authorised to possess medicinal cannabis—
 - (a) a person engaged by an approved prescriber, a lawful manufacturer or the chief executive to transport and deliver the medicinal cannabis to the approved prescriber or a dispensing pharmacy;
 - (b) a person engaged by a patient, a carer or the chief executive to transport and deliver the medicinal cannabis to a facilitator, or a responsible person, with

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authority to deal with the medicinal cannabis under section 56;

- (c) a person engaged by an authorised person, a State analyst or the chief executive to transport and deliver the controlled drug to a person authorised to possess medicinal cannabis;
 - (d) an adult acting for a person engaged by a person mentioned in paragraph (a), (b) or (c) to transport and deliver the medicinal cannabis.
- (2) In this section—

lawful manufacturer means a person who is, under a law of the Commonwealth, authorised to manufacture medicinal cannabis.

58 Authorised persons

To the extent necessary to perform an authorised person’s official duties, an authorised person is authorised—

- (a) to obtain medicinal cannabis; or
- (b) to possess medicinal cannabis; or
- (c) in a disaster or emergency situation—to destroy medicinal cannabis.

59 State analysts

(1) To the extent necessary to perform a State analyst’s official duties, a State analyst is authorised to—

- (a) obtain or manufacture medicinal cannabis; or
- (b) possess medicinal cannabis at the place where the analyst is performing official duties; or
- (c) use medicinal cannabis for official purposes or destroy it.

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- (2) A trainee State analyst under the personal supervision of a State analyst is authorised to—
 - (a) obtain or manufacture medicinal cannabis; or
 - (b) possess medicinal cannabis at the place where the trainee is performing official duties; or
 - (c) use medicinal cannabis for official purposes or destroy it.

60 State forensic and scientific service facilities

- (1) To the extent necessary to perform the person's official duties, the person in charge of a forensic and scientific facility operated by the State is authorised to—
 - (a) possess medicinal cannabis; or
 - (b) destroy medicinal cannabis.
- (2) The person in charge may delegate the authority to an appropriately qualified officer of the department.
- (3) In this section—

appropriately qualified, for an officer of the department, includes having the qualifications, experience or standing appropriate to the exercise of the authority.

61 Approved clinical trials

- (1) A person is authorised to possess, obtain, dispense, issue, supply, administer or self-administer medicinal cannabis approved for use, in an approved clinical trial, under a clinical trial approval.
- (2) A medical practitioner is authorised to give a lawful direction for medicinal cannabis approved for use, in an approved clinical trial, under a clinical trial approval.
- (3) The authority mentioned in subsections (1) and (2) must only be exercised—

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- (a) to the extent necessary for the carrying out of the trial; and
- (b) for the purpose of treating a patient, taking part in the trial, with the medicinal cannabis; and
- (c) in accordance with—
 - (i) the clinical trial approval; and
 - (ii) the approval for the trial given by the Therapeutic Goods Administration or a human research ethics committee.

62 Use of instruments or things to administer medicinal cannabis

- (1) This section applies to a person who is authorised under this chapter to administer medicinal cannabis or self-administer medicinal cannabis.
- (2) For the purpose of administering or self-administering the medicinal cannabis, the person is authorised to use any instrument or thing, used for administering medicinal cannabis, stated in the approval.

63 Regulation may prescribe authority

- (1) An eligible person is authorised to deal with medicinal cannabis—
 - (a) in a way (an *authorised way*) prescribed by regulation for the class of persons for which the person is a member; and
 - (b) subject to any conditions prescribed by regulation for the authorised way or for the class of persons.
- (2) Without limiting subsection (1)(b), a condition may do 1 or both of the following—
 - (a) require an eligible person to comply with a stated code, guideline, protocol or standard;

(b) require an eligible person to notify the chief executive if particular things happen.

(3) In this section—

eligible person means a person who is a member of any of the following classes of persons—

- (a) health practitioners;
- (b) trainee health practitioners;
- (c) any of the following classes of persons prescribed by regulation—
 - (i) persons required to deal with medicinal cannabis in the course of their occupation or engagement in—
 - (A) a hospital, or a Hospital and Health Service; or
 - (B) a nursing home; or
 - (C) an educational institution; or
 - (D) a prison, detention centre, watch house or other police establishment; or
 - (E) other institutions, facilities or places mentioned in the regulation;
 - (ii) other persons who deal with medicinal cannabis.

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Chapter 5 Managing medicinal cannabis

Part 1 Medicinal cannabis management plans

64 What is a medicinal cannabis management plan

A *medicinal cannabis management plan*, for an entity, is a document that sets out a plan for managing known and foreseeable risks associated with the entity performing an activity (the *relevant activity*) that—

- (a) involves medicinal cannabis; and
- (b) the entity is authorised to perform under this Act.

65 What must be included in plan

- (1) A medicinal cannabis management plan for an entity must state the following—
 - (a) the day on which the plan starts;
 - (b) the relevant activity to be performed by the entity;
 - (c) the location where the medicinal cannabis will be stored or used to perform the relevant activity;
 - (d) details of the known or foreseeable risks associated with the medicinal cannabis and the relevant activity;
 - (e) the measures to be taken to manage the risks mentioned in paragraph (d);
 - (f) the way in which the effectiveness of the plan will be monitored;
 - (g) the persons to whom the plan applies;

- (h) the information, training and instruction to be provided to persons to whom the plan applies, including the way in which the persons are informed of changes to the plan;
 - (i) when and how the plan must be reviewed;
 - (j) the individual responsible for making, implementing and reviewing the plan.
- (2) The medicinal cannabis management plan must—
- (a) be written in a way likely to be understood easily by persons to whom the plan applies; and
 - (b) be signed by the individual mentioned in subsection (1)(j).
- (3) A single medicinal cannabis management plan may deal with more than 1 relevant activity.
- (4) A regulation may prescribe additional matters to be dealt with in a medicinal cannabis management plan, including, for example—
- (a) the minimum standards or performance indicators to be included in a plan to deliver particular risk management outcomes; and
 - (b) the minimum requirements for reviewing a plan.

66 Who must make plan

- (1) Each of the following entities must make a medicinal cannabis management plan—
- (a) an approved prescriber if the approved prescriber is required, as a condition of a medicinal cannabis approval, to make a medicinal cannabis management plan;
 - (b) an approved pharmacist if the pharmacist is required, as a condition of the pharmacist's dispensing approval, to make a medicinal cannabis management plan;

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- (c) if a responsible person for an institution is intending to exercise the authority mentioned in section 56(4)—the responsible person.
- (2) A regulation may prescribe additional entities that must make medicinal cannabis management plans for dealing with particular relevant activities.

67 Making and notifying plan

- (1) An entity required to make a medicinal cannabis management plan to perform a relevant activity must make the plan before the activity is performed.

Maximum penalty—500 penalty units.

- (2) The entity must notify the chief executive, in the approved form, of the following matters as soon as practicable after the medicinal cannabis management plan has been made—

- (a) when the medicinal cannabis management plan starts;
- (b) when the relevant activity dealt with by the plan will be performed for the first time.

Maximum penalty—50 penalty units.

68 Persons to be informed of plan

An entity required to make a medicinal cannabis management plan must take reasonable steps to—

- (a) inform persons to whom the plan applies about the contents of the plan; and
- (b) ensure those persons comply with the plan.

Maximum penalty—200 penalty units.

69 Review of plan

An entity that has made a medicinal cannabis management plan must review the entity’s plan—

- (a) in accordance with the terms of the plan; and
 - (b) in compliance with any requirements prescribed by regulation; and
 - (c) not more than 5 years after the day the plan starts.
- Maximum penalty—200 penalty units.

70 Offence for failure to comply with plan

- (1) A person to whom a medicinal cannabis management plan applies must comply with the plan, unless the person has a reasonable excuse.
Maximum penalty—100 penalty units.
- (2) In a proceeding for an offence against subsection (1), it is a defence for the person to prove the person—
 - (a) was not informed about the contents of the medicinal cannabis management plan; or
 - (b) took all reasonable steps to comply with the plan.

Part 2 Administrative action

71 Definitions for pt 2

In this part 2—

administrative action, in relation to an approval, means—

- (a) suspension of the approval; or
- (b) cancellation of the approval; or
- (c) variation of the approval; or
- (d) imposition of conditions on the approval.

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72 Grounds for action to be taken

Each of the following is a ground for the chief executive to take administrative action in relation to an approval—

- (a) the approval holder has contravened this Act or a condition of the approval;
- (b) for a medicinal cannabis approval—
 - (i) the chief executive believes the administrative action is necessary to ensure the welfare of the patient; or
 - (ii) the patient or a carer has contravened this Act or a condition of the approval applying to the patient or the carer;
- (c) the chief executive believes the administrative action is necessary to prevent or minimise a diversion risk or a substance risk;
- (d) the approval holder is not, or is no longer, suitable to hold the approval;
- (e) for a medicinal cannabis approval—the patient is not, or is no longer, suitable to undergo treatment with medicinal cannabis; or
- (f) the following persons made a materially false or misleading representation or declaration to obtain the approval—
 - (i) generally—the approval holder; or
 - (ii) for a medicinal cannabis approval—the patient, a carer, or a person with authority to consent to the patient's treatment with medicinal cannabis.

73 Show cause notice

- (1) This section applies if—

-
- (a) the chief executive reasonably believes a ground exists to take administrative action in relation to an approval; and
 - (b) the approval holder—
 - (i) has been given a compliance notice about the matter to which the ground relates and the holder has failed, without reasonable excuse, to comply with the notice; or
 - (ii) has not been given, and it is not intended to give the holder, a compliance notice about the matter to which the ground relates.
- (2) The chief executive must give the approval holder a notice under this section (a *show cause notice*).
- (3) The show cause notice must state the following—
- (a) the administrative action (the *proposed action*) in relation to the approval the chief executive proposes to take;
 - (b) the grounds for the proposed action;
 - (c) an outline of the facts and circumstances forming the basis for the grounds;
 - (d) if the proposed action is a suspension of the approval—the proposed suspension period;
 - (e) if the proposed action is a variation of the approval—details of the variation;
 - (f) if the proposed action is the imposition of conditions—details of the conditions;
 - (g) an invitation to the approval holder to show within a stated period (the *show cause period*) why the proposed action should not be taken.
- (4) The show cause period must be a period ending not less than 21 days after the show cause notice is given to the approval holder.

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74 Representations about show cause notices

- (1) The approval holder may make written representations to the chief executive about the show cause notice given to the holder within the show cause period for the notice.
- (2) The chief executive must consider all representations (the *accepted representations*) made under subsection (1).

75 Ending show cause process without further action

- (1) This section applies if, after considering the accepted representations from the approval holder for the show cause notice, the chief executive no longer believes a ground exists to take administrative action in relation to the approval.
- (2) The chief executive must not take any further action about the show cause notice.
- (3) The chief executive must give notice to the holder that no further action is to be taken about the show cause notice.

76 Decision to take administrative action

- (1) This section applies if, after considering the accepted representations from the approval holder for the show cause notice, the chief executive—
 - (a) still reasonably believes a ground exists to take administrative action in relation to the approval; and
 - (b) reasonably believes the administrative action is warranted.
- (2) This section also applies if there are no accepted representations for the show cause notice.
- (3) The chief executive may decide—
 - (a) if the proposed action stated in the show cause notice was to suspend the approval for a stated period—to suspend the approval for no longer than the stated period; or

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- (b) if the proposed action stated in the show cause notice was to cancel the approval—to either cancel the approval or suspend it for a period; or
 - (c) if the proposed action stated in the show cause notice was to vary the approval—to either vary the approval as proposed or impose a less onerous variation on the approval; or
 - (d) if the proposed action stated in the show cause notice was to impose conditions on the approval—to either impose the conditions proposed or impose less onerous conditions on the approval.
- (4) As soon as practicable after making the decision, the chief executive must give an information notice about the decision to the approval holder.
- (5) The decision takes effect on—
- (a) the day the information notice is given to the holder; or
 - (b) if a later day of effect is stated in the information notice—the later day.

77 Immediate administrative action

- (1) The chief executive may decide to immediately take administrative action in relation to an approval if the chief executive reasonably believes—
- (a) a ground exists to take the administrative action in relation to the approval; and
 - (b) it is necessary to take the administrative action immediately because there is an imminent and serious risk to the life, health or safety of a person.
- (2) The administrative action in relation to the approval—
- (a) takes effect when both of the following notices are given to the approval holder—
 - (i) a show cause notice for the administrative action;

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- (ii) an information notice for the chief executive's decision to take the action; and
- (b) continues in effect until the earliest of the following—
 - (i) the chief executive decides to stop the administrative action;
 - (ii) the show cause notice is finally dealt with;
 - (iii) 60 days after the day the notices were given to the holder.

78 Additional power for immediate amendment or cancellation of medicinal cannabis approval

- (1) The chief executive may also decide to—
 - (a) amend a medicinal cannabis approval immediately if—
 - (i) the chief executive is reasonably satisfied the immediate amendment is reasonably necessary in the circumstances; or
 - (ii) the expert advisory panel recommends the immediate amendment of the approval; or
 - (b) cancel a medicinal cannabis approval immediately if the chief executive is reasonably satisfied—
 - (i) the approval holder (the *first approval holder*) has ceased to treat the patient to whom the approval relates; and
 - (ii) it is reasonably necessary, for the welfare of the patient, for the chief executive to urgently give a medicinal cannabis approval to a person other than the first approval holder.
- (2) The amendment or cancellation takes effect on—
 - (a) the day an information notice for the chief executive's decision is given to the approval holder; or
 - (b) if a later day of effect is stated in the information notice—the later day.

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- (3) For subsection (1)(b)(i), the chief executive may be reasonably satisfied the first approval holder has ceased to treat a patient, regardless of whether the chief executive has regard to—
- (a) the reason the treatment ceased; or
 - (b) when the holder last treated the person.

79 Chief executive to give notice of administrative action to boards

- (1) This section applies if—
- (a) the chief executive takes administrative action in relation to an approval; and
 - (b) the profession in which the approval holder is registered has a board.
- (2) The chief executive must, as soon as practicable after taking the administrative action, give written notice about the administrative action to the approval holder's board.

80 Chief executive may inform boards about particular matters

- (1) This section applies if—
- (a) the chief executive reasonably believes—
 - (i) the holder of an approval has committed an offence against this Act; or
 - (ii) a ground exists to take administrative action in relation to an approval; and
 - (b) the profession in which the approval holder is registered has a board.
- (2) The chief executive may give information about the belief, including the grounds for the belief, to the approval holder's board.

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Part 3 Compliance notices

81 Giving a compliance notice

- (1) This section applies if the chief executive or an authorised person reasonably believes—
 - (a) a person (the *contravener*) has contravened a provision of this Act in circumstances that make it likely the contravention will continue or be repeated; and
 - (b) a matter relating to the contravention is reasonably capable of being rectified; and
 - (c) it is appropriate to give the contravener an opportunity to rectify the matter.
- (2) The chief executive or authorised person may give the contravener a notice (a *compliance notice*) requiring the contravener to rectify the matter.

Note—

Failure to comply with a compliance notice is an offence under section 91.

82 Content of compliance notice

The compliance notice must state the following—

- (a) that the chief executive or authorised person reasonably believes the contravener has contravened a provision of this Act in circumstances that make it likely the contravention will continue or be repeated;
- (b) the provision the chief executive or authorised person believes has been contravened;
- (c) briefly, how it is believed the provision has been contravened;
- (d) the matter relating to the contravention that the chief executive or authorised person believes is reasonably capable of being rectified;

- (e) the reasonable steps the contravener must take to rectify the matter;
- (f) that the contravener must take the steps within a stated period that is reasonable, having regard to any diversion risks or substance risks posed by the contravention;
- (g) that it is an offence to fail to comply with the compliance notice unless the contravener has a reasonable excuse.

Part 4 Medicinal cannabis register

83 Chief executive to keep register

The chief executive must keep a register about—

- (a) approvals; and
- (b) administrative action taken in relation to persons who hold, or have held, approvals.

84 Content of register—approvals

The register must contain the following particulars for each approval—

- (a) any identification number allocated to the approval;
- (b) the name of the approval holder;
- (c) for a medicinal cannabis approval—the name of—
 - (i) the patient for the approval; and
 - (ii) the dispensing pharmacy; and
 - (iii) any carers for the approval;
- (d) for a dispensing approval—the name of any secondary dispenser for the approval;
- (e) the type of the approval;

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- (f) the term of the approval.

85 Content or register—administrative action

The register must contain the following particulars for each person in relation to whom administrative action has been taken—

- (a) the name of the person;
- (b) a general description of the administrative action taken in relation to the person.

86 Register not to be made public

- (1) The register must not be made available to the public.
- (2) If asked by the commissioner of the police service, the chief executive may give the commissioner of the police service information contained in the register.

Chapter 6 Offences

87 Offence to perform regulated activities for medicinal cannabis

- (1) A person must not—
 - (a) perform, or attempt to perform, a regulated activity for medicinal cannabis; or
 - (b) agree to perform, or otherwise offer to perform, a regulated activity for medicinal cannabis.

Maximum penalty—750 penalty units.

- (2) A person does not commit an offence against subsection (1) if the person—

-
- (a) is authorised to perform the regulated activity under this Act or another Act; or
 - (b) if the regulated activity is manufacturing medicinal cannabis—is, under a law of the Commonwealth, authorised to manufacture medicinal cannabis; or
 - (c) has a reasonable excuse.
- (3) For subsections (1), the following are immaterial—
- (a) the quantity of medicinal cannabis involved in the regulated activity;
 - (b) if the regulated activity involves the interaction of two more persons—whether or not—
 - (i) the persons are in the same place at the same time; or
 - (ii) the interaction is by indirect means such as the internet, email, telephone, facsimile, mail order or a vending machine;
 - (c) in relation to a regulated activity other than possession of medicinal cannabis—whether or not the person performing the regulated activity is authorised to possess medicinal cannabis.
- (4) In this section—
- regulated activity***, for medicinal cannabis, means—
- (a) giving, or purporting to give, a lawful direction for medicinal cannabis; or
 - (b) possessing medicinal cannabis; or
 - (c) obtaining medicinal cannabis; or
 - (d) manufacturing medicinal cannabis; or
 - (e) dispensing, issuing, supplying or selling medicinal cannabis; or
 - (f) administering or self-administering medicinal cannabis; or

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- (g) if a person may, under an approval, administer, dispense, issue, obtain, possess, or sell medicinal cannabis, or give a lawful direction for a medicinal cannabis—
 - (i) destroying medicinal cannabis; or
 - (ii) otherwise disposing of medicinal cannabis as waste.

88 Misuse of lawful direction for medicinal cannabis

- (1) A person must not obtain, or attempt to obtain, medicinal cannabis by using 1 or more of the following documents—
 - (a) a document the person has prepared, if the person is not an approved prescriber;
 - (b) a document the person knows has been prepared by someone who is not an approved prescriber;
 - (c) a written lawful direction the person knows falsely states the name or residential address of the patient to be treated under the lawful direction;
 - (d) a written lawful direction the person knows has been changed in any way by someone other than—
 - (i) the approved prescriber for the lawful direction; or
 - (ii) a pharmacist authorised to dispense medicinal cannabis for the lawful direction.

Maximum penalty—100 penalty units.

- (2) An approved prescriber must not prepare a written lawful direction for medicinal cannabis in the approved prescriber's own name, unless the approved prescriber has a reasonable excuse.

Maximum penalty—100 penalty units.

- (3) A person must not change a written lawful direction for medicinal cannabis in any way, unless the person is—
 - (a) the approved prescriber for the lawful direction; or

- (b) a pharmacist authorised to dispense medicinal cannabis for the lawful direction.

Maximum penalty—100 penalty units.

- (4) A person does not commit an offence against subsection (3) if the person—
 - (a) accidentally makes a change to the lawful direction; and
 - (b) takes reasonable steps to rectify the change.
- (5) In this section—

approved prescriber, for a lawful direction, means the approved prescriber who prepared the lawful direction in accordance with a medicinal cannabis authority.

89 Offence for false or misleading statements or documents

A person must not state anything, or give a document containing information, the person knows is false or misleading in a material particular—

- (a) in relation to—
 - (i) an application for an approval under this Act; or
 - (ii) an application for the amendment, replacement or renewal of an approval under this Act; or
 - (iii) a response to a request for information under this Act from the chief executive; or
- (b) for the purpose of obtaining a lawful direction for medicinal cannabis.

Maximum penalty—50 penalty units.

90 Offence for failure to comply with approval conditions

A person must comply with the conditions of an approval that apply to the person, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

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91 Offence for failure to comply with compliance notice

A person given a compliance notice must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

Note—

See chapter 5, part 3 about when the chief executive or an authorised person may give a compliance notice.

92 Offence for failure to comply with recall order

A person to whom the requirements of a recall order apply must comply with the requirements, unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

Note—

See chapter 7, part 6, division 1 about the making of recall orders by the chief executive.

93 State officers not liable for an offence

- (1) Nothing in this chapter makes the following persons liable for an offence for an act done, or omission made, honestly and without negligence, in the performance of the person's function under this Act or another law—
- (a) an authorised person;
 - (b) a State analyst or trainee State analyst;
 - (c) a person employed or engaged by a forensic and scientific facility operated by the State;
 - (d) a person authorised by another law to deal with medicinal cannabis in performing the person's functions under that law.

Example—

a drug control officer within the meaning of the *Police Powers and Responsibilities Act 2000*, section 726 or the *Corrective Services Act 2006*, section 344B

(2) In this section—

function includes power and responsibility.

Chapter 7 Monitoring, investigations and enforcement

Part 1 General provisions about authorised persons

Division 1 Appointment of authorised persons

94 Authorised persons under ch 7

This chapter includes provision for the appointment of authorised persons, and gives authorised persons particular powers.

95 Functions of authorised persons

An authorised person has the following functions—

- (a) to investigate, monitor and enforce compliance with this Act;
- (b) to investigate or monitor whether an occasion has arisen for the exercise of powers under this Act;
- (c) to facilitate the exercise of powers under this Act.

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96 Appointment and qualifications

- (1) The chief executive may, by instrument in writing, appoint any of the following persons as authorised persons—
 - (a) a public service employee;
 - (b) other persons prescribed by regulation.
- (2) However, the chief executive may appoint a person as an authorised person only if the chief executive is satisfied the person is appropriately qualified.

97 Appointment conditions and limit on powers

- (1) An authorised person holds office on any conditions stated in—
 - (a) the authorised person’s instrument of appointment; or
 - (b) a signed notice given to the authorised person; or
 - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the authorised person or a regulation may limit the authorised person’s powers.
- (3) In this section—
signed notice means a notice signed by the chief executive.

98 When office ends

- (1) The office of a person as an authorised person ends if any of the following happens—
 - (a) the term of office stated in a condition of office ends;
 - (b) under another condition of office, the office ends;
 - (c) the authorised person’s resignation under section 99 takes effect.
- (2) Subsection (1) does not limit the ways the office of a person as an authorised person ends.

- (3) In this section—

condition of office means a condition under which the authorised person holds office.

99 Resignation

An authorised person may resign by signed notice given to the chief executive.

Division 2 Identity cards

100 Issue of identity card

- (1) The chief executive must issue an identity card to each authorised person.
- (2) The identity card must—
 - (a) contain a recent photo of the authorised person; and
 - (b) contain a copy of the authorised person’s signature; and
 - (c) identify the person as an authorised person under this Act; and
 - (d) state 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 purposes.

101 Production or display of identity card

- (1) In exercising a power in relation to a person in the person’s presence, an authorised person must—
 - (a) produce the authorised person’s identity card for the person’s inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.

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- (2) However, if it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the person’s inspection at the first reasonable opportunity.
- (3) For subsection (1), an authorised person does not exercise a power in relation to a person only because the authorised person has entered a place as mentioned in section 105(1)(b) or (d).

102 Return of identity card

If the office of a person as an authorised person ends, the person must return the person’s identity card to the chief executive within 21 days after the office ends unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

Division 3 Preliminary

103 References to exercise of powers

If—

- (a) a provision of this chapter refers to the exercise of a power by an authorised person; and
- (b) there is no reference to a specific power.

the reference is to the exercise of all or any authorised persons’ powers under this chapter or a warrant, to the extent the powers are relevant.

104 Reference to document includes reference to reproductions from electronic document

A reference in this chapter to a document includes a reference to an image or writing—

- (a) produced from an electronic document; or

- (b) not yet produced, but reasonably capable of being produced, from an electronic document, with or without the aid of another article or device.

Part 2 Entry of places by authorised persons

Division 1 Power to enter

105 General power to enter places

- (1) An authorised person may enter a place if—
 - (a) an occupier at the place consents under division 2 to the entry and section 109 has been complied with for the occupier; 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 under a warrant and, if there is an occupier of the place, section 117 has been complied with for the occupier; or
 - (d) the place is a dispensing pharmacy, or the address of the business or entity for which an approved prescriber practices medicine, and is—
 - (i) open for carrying on business; or
 - (ii) otherwise open for entry; or
 - (iii) required to be open for inspection under an approval; or
 - (e) the entry is authorised under section 106.
- (2) For subsection (1)(d) and (e), entry to a place does not include entry to a part of the place where a person resides without the person's consent or a warrant.

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- (3) If the power to enter arose only because an occupier of the place consented to the entry, the power is subject to any conditions of the consent and ceases if the consent is withdrawn.
- (4) The consent may provide consent for re-entry and is subject to the conditions of consent.
- (5) If the power to enter is under a warrant, the power is subject to the terms of the warrant.
- (6) If the power to re-enter is under a warrant, the re-entry is subject to the terms of the warrant.

106 Power to enter place to check compliance with notice or order

- (1) This section applies if a person has been given a compliance notice or recall order in relation to medicinal cannabis at a place.
- (2) An authorised person may, at reasonable times, enter the place to check whether the compliance notice or recall order has been complied with.

Note—

- 1 See, however, the restrictions on entry under section 105(2).
- 2 See section 111 for the procedure for entry under this section.

Division 2 Entry by consent

107 Application of div 2

This division applies if an authorised person intends to ask an occupier of a place to consent to the authorised person or another authorised person entering the place.

108 Incidental entry to ask for access

For the purpose of asking the occupier for the consent, an authorised person 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 authorised person reasonably considers members of the public ordinarily are allowed to enter when they wish to contact an occupier of the place.

109 Matters authorised person must tell occupier

Before asking for the consent, the authorised person must give a reasonable explanation to the occupier—

- (a) about the purpose of the entry, including the powers intended to be exercised; and
- (b) that the occupier is not required to consent; and
- (c) that the consent may be given subject to conditions and may be withdrawn at any time.

110 Consent acknowledgement

- (1) If the consent is given, the authorised person may ask the occupier to sign an acknowledgement of the consent.
- (2) The acknowledgement must state—
 - (a) the purpose of the entry, including the powers to be exercised; and
 - (b) the following has been explained to the occupier—
 - (i) the purpose of the entry, including the powers intended to be exercised;
 - (ii) that the occupier is not required to consent;

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- (iii) that the consent may be given subject to conditions and may be withdrawn at any time; and
- (c) the occupier gives the authorised person or another authorised person consent to enter the place and exercise the powers; and
- (d) the time and day the consent was given; and
- (e) any conditions of the consent.
- (3) If the occupier signs the acknowledgement, the authorised person must immediately give a copy to the occupier.
- (4) If—
 - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
 - (b) a signed acknowledgement complying with subsection (2) for the entry is not produced in evidence;
 the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

Division 3 Entry for checking compliance

111 Entry of place under s 106

- (1) This section applies to an authorised person intending to enter a place under section 106.
- (2) The authorised person must, before entering the place, make a reasonable attempt to locate an occupier and obtain the occupier’s consent to the entry.

Note—

See division 2 about entry by consent.

- (3) If the occupier refuses consent to enter, the authorised person must not enter the place unless the entry is under a warrant.

- (4) If the authorised person is unable to locate an occupier after making a reasonable attempt to do so, the authorised person may enter the place.
- (5) If the authorised person enters the place after being unable to locate an occupier, the authorised person must leave a notice in a conspicuous position and in a reasonably secure way stating the date, time and purpose of the entry.

Division 4 Entry under warrant

Subdivision 1 Obtaining warrant

112 Application for warrant

- (1) An authorised person may apply to a magistrate for a warrant for a place.
- (2) The authorised person must prepare a written application that states the grounds on which the warrant is sought.
- (3) The written application must be sworn.
- (4) The magistrate may refuse to consider the application until the authorised person 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 written application to be given by statutory declaration.

113 Issue of warrant

- (1) The magistrate may issue the warrant for the place only if the magistrate is satisfied there are reasonable grounds for suspecting that there is at the place, or will be at the place within the next 7 days, a particular thing or activity that may provide evidence of an offence against this Act.

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- (2) The warrant must state—
- (a) the place to which the warrant applies; and
 - (b) that an authorised person may with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for entry to the place; and
 - (ii) exercise the authorised person’s powers; and
 - (c) particulars of the offence that the magistrate considers appropriate; and
 - (d) the name of the person suspected of having committed the offence unless the name is unknown or the magistrate considers it inappropriate to state the name; and
 - (e) the evidence that may be seized under the warrant; and
 - (f) the hours of the day or night when the place may be entered; and
 - (g) the magistrate’s name; and
 - (h) the day and time of the warrant’s issue; and
 - (i) the day, within 14 days after the warrant’s issue, the warrant ends, unless the warrant allows for re-entry of a place under subsection (3).
- (3) If the warrant relates to a diversion risk or a substance risk for medicinal cannabis, the warrant may also state that an authorised person may enter the place again to check compliance with a disposal order for the medicinal cannabis issued as a result of the authorised person’s entry of the place under the warrant.
- (4) To the extent that the warrant allows for the re-entry of a place as mentioned in subsection (3), it expires on—
- (a) the day that is 7 days after the expiration of the period stated in the disposal order for completing the steps stated in the order; or

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- (b) if an earlier day is stipulated in the warrant, that day.

114 Electronic application

- (1) An application under section 112 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised person reasonably considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the authorised person’s remote location.
- (2) The application—
 - (a) may not be made before the authorised person prepares the written application under section 112(2); but
 - (b) may be made before the written application is sworn.

115 Additional procedure if electronic application

- (1) For an application made under section 114, the magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied—
 - (a) it was necessary to make the application under section 114; and
 - (b) the way the application was made under section 114 was appropriate.
- (2) After the magistrate issues the original warrant—
 - (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised person, including, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the authorised person; or
 - (b) otherwise—

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- (i) the magistrate must tell the authorised person the information mentioned in section 113(2); and
 - (ii) the authorised person must complete a form of warrant, including by writing on it the information mentioned in section 113(2) provided by the magistrate.
- (3) The copy of the warrant mentioned in subsection (2)(a), or the form of warrant completed under subsection (2)(b) (in either case the *duplicate warrant*), is a duplicate of, and as effectual as, the original warrant.
- (4) The authorised person must, at the first reasonable opportunity, send to the magistrate—
 - (a) the written application complying with section 112(2) and (3); and
 - (b) if the authorised person completed a form of warrant under subsection (2)(b), the completed form of warrant.
- (5) The magistrate must keep the original warrant and, on receiving the documents under subsection (4)—
 - (a) attach the documents to the original warrant; and
 - (b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.
- (6) Despite subsection (3), if—
 - (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and
 - (b) the original warrant is not produced in evidence;
 the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.
- (7) This section does not limit section 112.
- (8) In this section—

relevant magistrates court, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.

116 Defect in relation to a warrant

- (1) A warrant is not invalidated by a defect in—
 - (a) the warrant; or
 - (b) compliance with this subdivision;unless the defect affects the substance of the warrant in a material particular.
- (2) In this section—

warrant includes a duplicate warrant mentioned in section 115(3).

Subdivision 2 Entry procedure

117 Entry procedure

- (1) This section applies if an authorised person is intending to enter a place under a warrant issued under this division.
- (2) Before entering the place, the authorised person must do or make a reasonable attempt to do the following things—
 - (a) identify himself or herself to a person who is an occupier of the place and is present by producing the authorised person's identity card or another document evidencing the authorised person's appointment;
 - (b) give the person a copy of the warrant;
 - (c) tell the person the authorised person is permitted by the warrant to enter the place;
 - (d) give the person an opportunity to allow the authorised person immediate entry to the place without using force.

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- (3) However, the authorised person need not comply with subsection (2) if the authorised person believes on reasonable grounds that entry to the place without compliance is required to ensure the execution of the warrant is not frustrated.
- (4) In this section—
warrant includes a duplicate warrant mentioned in section 115(3).

Part 3 Other authorised persons' powers and related matters

Division 1 Stopping or moving vehicles

118 Application of div 1

This division applies if an authorised person reasonably suspects, or is aware, that a thing in or on a vehicle may provide evidence of the commission of an offence against this Act.

119 Power to stop or move

- (1) If the vehicle is moving, the authorised person may, to exercise his or her powers, signal or otherwise direct the person in control of the vehicle to stop the vehicle and to bring the vehicle to, and keep it at, a convenient place within a reasonable distance to allow the authorised person to exercise the powers.
- (2) If the vehicle is stopped, the authorised person may direct the person in control of the vehicle—
 - (a) not to move it until the authorised person has exercised the authorised person's powers; or

- (b) to move the vehicle to, and keep it at, a stated reasonable place to allow the authorised person to exercise the powers.
- (3) When giving the direction under subsection (2), the authorised person must give the person in control an offence warning for the direction.

120 Identification requirements if vehicle moving

- (1) This section applies if the authorised person proposes to give a direction under section 119(1) and the vehicle is moving.
- (2) The authorised person must clearly identify himself or herself as an authorised person exercising the authorised person's powers.

Examples—

- 1 If the authorised person is in a moving vehicle, he or she may use a loudhailer to identify himself or herself as an authorised person exercising powers.
- 2 If the authorised person is standing at the side of the road, he or she may use a sign to identify himself or herself as an authorised person exercising powers.
- (3) When the vehicle stops, the authorised person must—
 - (a) have with him or her the authorised person's identity card; and
 - (b) immediately produce the identity card for the inspection of the person in control of the vehicle.
- (4) Subsection (3) applies despite section 101.

121 Failure to comply with direction

- (1) The person in control of the vehicle must comply with a direction under section 119 unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

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- (2) It is a reasonable excuse for the person not to comply with a direction if—
 - (a) the vehicle was moving and the authorised person did not comply with section 120; or
 - (b) to comply immediately would have endangered someone else or caused loss or damage to property, and the person complies as soon as it is practicable to do so.
- (3) Subsection (2) does not limit subsection (1).
- (4) A person does not commit an offence against subsection (1) if—
 - (a) the direction the person fails to comply with is given under section 119(2); and
 - (b) the person is not given an offence warning for the direction.

Division 2 General powers of authorised persons after entering places

122 Application of div 2

- (1) The powers under this division may be exercised if an authorised person enters a place under section 105(1)(a), (c), (d) or (e).
- (2) However, if the authorised person enters under section 105(1)(a), (c) or (e), the powers under this division are subject to any conditions of the consent or terms of the warrant.

123 General powers

- (1) The authorised person may do any of the following (each a *general power*)—
 - (a) search any part of the place;

-
- (b) inspect, examine or film any part of the place or anything at the place;
 - (c) take for examination a thing, or a sample of or from a thing, at the place;
 - (d) place an identifying mark in or on anything at the place;
 - (e) take an extract from, or copy, a document at the place, or take the document to another place to copy;
 - (f) produce an image or writing at the place from an electronic document or, to the extent it is not practicable, take a thing containing an electronic document to another place to produce an image or writing;
 - (g) take to, into or onto the place and use any person, equipment and materials the authorised person reasonably requires for exercising the authorised person's powers under this division;
 - (h) remain at the place for the time necessary to achieve the purpose of the entry.
- (2) The authorised person may take a necessary step to allow the exercise of a general power.
 - (3) If the authorised person takes a document from the place to copy it, the authorised person must copy the document and return it to the place as soon as practicable.
 - (4) If the authorised person takes from the place an article or device reasonably capable of producing a document from an electronic document to produce the document, the authorised person must produce the document and return the article or device to the place as soon as practicable.
 - (5) In this section—
 - examine* includes analyse, test, account, measure, weigh, grade, gauge and identify.
 - film* includes photograph, videotape and record an image in another way.

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inspect, a thing, includes open the thing and examine its contents.

124 Power to require reasonable help

- (1) The authorised person may make a requirement (a *help requirement*) of an occupier of the place or a person at the place to give the authorised person reasonable help to exercise a general power, including, for example, to produce a document or to give information.
- (2) When making the help requirement, the authorised person must give the person an offence warning for the requirement.

125 Offence to contravene help requirement

- (1) A person of whom a help requirement has been made 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 a help requirement if complying might tend to incriminate the individual or expose the individual to a penalty.
- (3) However, subsection (2) does not apply if a document or information the subject of the help requirement is required to be held or kept by the defendant under this Act.

Note—

See, however, section 157.

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- (4) The authorised person may also seize anything else at the place if the authorised person reasonably believes—
 - (a) the thing is evidence of an offence against this Act; and
 - (b) the seizure is necessary to prevent the thing being hidden, lost or destroyed.
- (5) The authorised person may also seize a thing at the place if the authorised person reasonably believes it has just been used in committing an offence against this Act.

128 Seizure of property subject to security

- (1) An authorised person may seize a thing, and exercise powers relating to the thing, despite a lien or other security over the thing claimed by another person.
- (2) However, the seizure does not affect the other person's claim to the lien or other security against a person other than the authorised person or a person acting for the authorised person.

Subdivision 2 Powers to support seizure

129 Power to secure seized thing

- (1) Having seized a thing under this division, an authorised person may—
 - (a) leave it at the place where it was seized (the *place of seizure*) and take reasonable action to restrict access to it; or
 - (b) move it from the place of seizure.
- (2) For subsection (1)(a), the authorised person may, for example—
 - (a) seal the thing, or the entrance to the place of seizure, and mark the thing or place to show access to the thing or place is restricted; or

- (b) for equipment—make it inoperable; or

Example—

make it inoperable by dismantling it or removing a component without which the equipment can not be used

- (c) require a person the authorised person reasonably believes is in control of the place or thing to do an act mentioned in paragraph (a) or (b) or anything else an authorised person could do under subsection (1)(a).

130 Offence to contravene other seizure requirement

A person must comply with a requirement made of the person under section 129(2)(c) unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

131 Offence to interfere

- (1) If access to a seized thing is restricted under section 129, a person must not tamper with the thing or with anything used to restrict access to the thing without—

- (a) an authorised person's approval; or
(b) a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) If access to a place is restricted under section 129, a person must not enter the place in contravention of the restriction or tamper with anything used to restrict access to the place without—

- (a) an authorised person's approval; or
(b) a reasonable excuse.

Maximum penalty—100 penalty units.

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Subdivision 3 Safeguards for seized things

132 Receipt and information notice for seized thing

- (1) This section applies if an authorised person seizes anything under this division unless—
 - (a) the authorised person reasonably believes there is no-one apparently in possession of the thing or it has been abandoned; or
 - (b) because of the condition, nature and value of the thing it would be unreasonable to require the authorised person to comply with this section.
- (2) The authorised person must, as soon as practicable after seizing the thing, give an owner or person in control of the thing before it was seized—
 - (a) a receipt for the thing that generally describes the thing and its condition; and
 - (b) relate to more than 1 seized thing.
- (3) However, if an owner or person from whom the thing is seized is not present when it is seized, the receipt and information notice may be given by leaving them in a conspicuous position and in a reasonably secure way at the place at which the thing is seized.
- (4) The receipt and information notice may—
 - (a) be given in the same document; and
 - (b) relate to more than 1 seized thing.
- (5) The authorised person may delay giving the receipt and information notice if the authorised person reasonably suspects giving them may frustrate or otherwise hinder an investigation by the authorised person under this chapter.
- (6) However, the delay may be only for so long as the authorised person continues to have the reasonable suspicion and

remains in the vicinity of the place at which the thing was seized to keep it under observation.

133 Access to seized thing

- (1) Until a seized thing is forfeited or returned, the authorised person who seized the thing must allow an owner of the thing—
 - (a) to inspect it at any reasonable time and from time to time; and
 - (b) 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.
- (3) The inspection or copying must be allowed free of charge.

134 Return of seized thing

- (1) This section applies if a seized thing is not—
 - (a) forfeited or transferred under subdivision 4 or 5; or
 - (b) subject to a disposal order under division 4.
- (2) As soon as the chief executive stops being satisfied there are reasonable grounds for retaining the thing, the chief executive must return it to its owner.
- (3) If the thing is not returned to its owner within 3 months after it was seized, the owner may apply to the chief executive for its return.
- (4) Within 30 days after receiving the application, the chief executive must—
 - (a) if the chief executive is satisfied there are reasonable grounds for retaining the thing and decides to retain it—give the owner notice of the decision, including the grounds for retaining the thing; or
 - (b) otherwise—return the thing to the owner.

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- (5) For this section, there are reasonable grounds for retaining a seized thing if—
 - (a) the thing is being, or is likely to be, examined; or
 - (b) the thing is needed, or may be needed, for the purposes of—
 - (i) a proceeding for an offence against this Act that is likely to be started or that has been started but not completed; or
 - (ii) an appeal from a decision in a proceeding for an offence against this Act; or
 - (c) it is not lawful for the owner to possess the thing.
- (6) Subsection (5) does not limit the grounds that may be reasonable grounds for retaining the seized thing.
- (7) Nothing in this section affects a lien or other security over the seized thing.
- (8) In this section—

examine includes analyse, test, measure, weigh, grade, gauge and identify.

owner, of a seized thing, includes a person who would be entitled to possession of the thing had it not been seized.

Subdivision 4 Forfeiture

135 Forfeiture by chief executive decision

- (1) The chief executive may decide a seized thing is forfeited to the State if an authorised person—
 - (a) after making reasonable inquiries, can not find an owner; or
 - (b) after making reasonable efforts, can not return it to an owner; or

- (c) reasonably believes it is necessary to keep the thing to prevent it being used to commit the offence for which it was seized.
- (2) However, the authorised person is not required to—
 - (a) make inquiries if it would be unreasonable to make inquiries to find an owner; or
 - (b) make efforts if it would be unreasonable to make efforts to return the thing to an owner.

Example for paragraph (b)—

The owner of the thing has migrated to another country.
- (3) Regard must be had to the thing's condition, nature and value in deciding—
 - (a) whether it is reasonable to make inquiries or efforts; and
 - (b) if inquiries or efforts are made—what inquiries or efforts, including the period over which they are made, are reasonable.

136 Information notice about forfeiture decision

- (1) If the chief executive decides under section 135(1) to forfeit a thing, the chief executive must as soon as practicable give a person who owned the thing immediately before the forfeiture (the *former owner*) an information notice about the decision.
- (2) If the decision was made under section 135(1)(a) or (b), the information notice may be given by leaving it at the place where the thing was seized, in a conspicuous position and in a reasonably secure way.
- (3) The information notice must state that the former owner may apply for a stay of the decision if he or she appeals against the decision.
- (4) However, subsections (1) to (3) do not apply if—
 - (a) the decision was made under section 135(1)(a) or (b); and

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- (b) the place where the thing was seized is—
 - (i) a public place; or
 - (ii) a place where the notice is unlikely to be read by the former owner.

Subdivision 5 Dealing with property forfeited or transferred to State

137 When thing becomes property of the State

A thing becomes the property of the State if—

- (a) the thing is forfeited to the State under section 135(1);
or
- (b) the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.

138 How property may be dealt with

- (1) This section applies if, under section 137, a thing becomes the property of the State.
- (2) The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it or giving it away.
- (3) The chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the forfeiture under this chapter.
- (4) If the chief executive sells the thing, the chief executive may, after deducting the costs of the sale, return the proceeds of the sale to the former owner of the thing.
- (5) This section is subject to any disposal order made for the thing.

Division 4 Disposal orders

139 Disposal order

- (1) This section applies if a person is convicted of an offence against this Act.
- (2) The court may make an order (a *disposal order*), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person—
 - (a) anything that was the subject of, or used to commit, the offence;
 - (b) another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.
- (3) The court may make a disposal order for a thing—
 - (a) whether or not it has been seized under this Act; and
 - (b) if the thing has been seized—whether or not it has been returned to the former owner.
- (4) In deciding whether to make a disposal order for a thing, the court—
 - (a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and
 - (b) must hear any submissions that any person claiming to have any property in the thing may wish to make.
- (5) The court may make any order to enforce the disposal order that it considers appropriate.
- (6) This section does not limit the court's powers under another law.

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Division 5 Other information-obtaining powers of authorised persons

140 Power to require name and address

- (1) This section applies if an authorised person—
 - (a) finds a person committing an offence against this Act; or
 - (b) finds a person in circumstances that lead the authorised person to reasonably suspect the person has just committed an offence against this Act; or
 - (c) has information that leads the authorised person to reasonably suspect a person has just committed an offence against this Act.
- (2) The authorised person may require the person to state the person's name and residential address.
- (3) The authorised person may also require the person to give evidence of the correctness of the stated name or address if, in the circumstances, it would be reasonable to expect the person to—
 - (a) be in possession of evidence of the correctness of the stated name or address; or
 - (b) otherwise be able to give the evidence.
- (4) When making a personal details requirement, the authorised person must give the person an offence warning for the requirement.
- (5) A requirement under this section is a *personal details requirement*.

141 Offence to contravene personal details requirement

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

Maximum penalty—50 penalty units.

- (2) A person may not be convicted of an offence under subsection (1) unless the person is found guilty of the offence in relation to which the personal details requirement was made.

142 Power to require production of document

- (1) An authorised person may require a person to make available for inspection by an authorised person, or to produce to the authorised person for inspection, at a reasonable time and place nominated by the authorised person—
 - (a) a document issued to the person under this Act; or
 - (b) a document required to be kept by the person under this Act; or
 - (c) if a document or information required to be kept by the person under this Act is stored or recorded by means of a device—a document that is a clear written reproduction of the stored or recorded document or information.
- (2) A requirement under subsection (1) is a *document production requirement*.
- (3) For an electronic document, compliance with the document production requirement requires the making available or production of a clear written reproduction of the electronic document.
- (4) The authorised person may keep the document to copy it.
- (5) If the authorised person copies the document, or an entry in the document, the authorised person may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.
- (6) A requirement under subsection (5) is a *document certification requirement*.
- (7) The authorised person must return the document to the person as soon as practicable after copying it.

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- (8) However, if a document certification requirement is made of a person, the authorised person may keep the document until the person complies with the requirement.

143 Offence to contravene document production requirement

- (1) A person of whom a document production requirement has been 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 a person to fail to comply with a document production requirement on the basis that complying with the requirement might tend to incriminate the person or expose the person to a penalty.

Note—

See, however, section 157.

- (3) The authorised person must inform the person, in a way that is reasonable in the circumstances—
 - (a) that the person must comply with the document production requirement even though complying might tend to incriminate the person or expose the person to a penalty; and
 - (b) that, under section 157, there is a limited immunity against the future use of the information or document given in compliance with the requirement.
- (4) If the person fails to comply with the document production requirement when the authorised person has failed to comply with subsection (3), the person can not be convicted of the offence against subsection (1).
- (5) If a court convicts a person of an offence against subsection (1), the court may, as well as imposing a penalty for the offence, order the person to comply with the document production requirement.

144 Offence to contravene document certification requirement

- (1) A person of whom a document certification requirement has been 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 a person to fail to comply with a document certification requirement on the basis that complying with the requirement might tend to incriminate the person or expose the person to a penalty.

Note—

See, however, section 157.

- (3) The authorised person must inform the person, in a way that is reasonable in the circumstances—
- (a) that the person must comply with the document certification requirement even though complying might tend to incriminate the person or expose the person to a penalty; and
 - (b) that, under section 157, there is a limited immunity against the future use of the information or document given in compliance with the requirement.
- (4) If the person fails to comply with the document certification requirement when the authorised person has failed to comply with subsection (3), the person can not be convicted of the offence against subsection (1).

145 Power to require information

- (1) This section applies if an authorised person reasonably believes—
- (a) an offence against this Act has been committed; and
 - (b) a person may be able to give information about the offence.

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- (2) The authorised person may, by notice given to the person, require the person to give the authorised person information related to the offence at a stated reasonable time and place.
- (3) A requirement under subsection (2) is an *information requirement*.
- (4) For information that is an electronic document, compliance with the information requirement requires the giving of a clear image or written version of the electronic document.
- (5) In this section—
information includes a document.

146 Offence to contravene information requirement

- (1) A person of whom an information requirement is made 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 give the information if giving the information might tend to incriminate the individual or expose the individual to a penalty.

Division 6 Power to remove or reduce diversion risk or substance risk

147 Power to remove or reduce risk stated in warrant

- (1) This section applies if—
 - (a) an authorised person enters a place after obtaining a warrant; and
 - (b) the warrant authorises the authorised person to exercise powers under this division.

- (2) The authorised person may take the steps necessary in the circumstances to remove or reduce a diversion risk or substance risk related to medicinal cannabis, or to prevent the diversion risk or substance risk from recurring, including seizing a thing.

Note—

See also division 2 which provides for the general powers available to an authorised person after entering a place.

Part 4 Analysis of things

148 Chief executive may approve laboratory

The chief executive may approve a laboratory to analyse things taken under this Act if the chief executive is satisfied the laboratory has the resources and expertise to conduct the analysis.

149 Analysis

- (1) If an authorised person takes a thing for analysis under this Act, the authorised person must as soon as practicable give it to a State analyst for analysis.
- (2) If a State analyst receives a thing for analysis under subsection (1), the State analyst must as soon as practicable—
 - (a) analyse the thing; or
 - (b) give the thing to an approved laboratory for analysis.
- (3) If the State analyst analyses the thing, the State analyst must, as soon as practicable after analysing it—
 - (a) complete a certificate of analysis for it; and
 - (b) give the certificate to the authorised person who took the thing for analysis.
- (4) If an approved laboratory analyses the thing, the State analyst must, as soon as practicable after it is analysed—

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- (a) obtain a certificate of analysis for it from the approved laboratory; and
- (b) give the certificate to the authorised person who took the thing for analysis.

150 Certificate must indicate methodology used

The certificate of analysis must include information about the methodology used to conduct the analysis.

Part 5 Miscellaneous provisions relating to authorised persons

Division 1 Damage

151 Duty to avoid inconvenience and minimise damage

In exercising a power, an authorised person must take all reasonable steps to cause as little inconvenience, and do as little damage, as possible.

Note—

See also section 153.

152 Notice of damage

- (1) This section applies if—
 - (a) an authorised person damages something when exercising, or purporting to exercise, a power; or
 - (b) a person (the *assistant*) acting under the direction or authority of an authorised person damages something.
- (2) However, this section does not apply to damage the authorised person reasonably considers is trivial or if the authorised person reasonably believes—

- (a) there is no-one apparently in possession of the thing; or
 - (b) the thing has been abandoned.
- (3) The authorised person must give notice of the damage to a person who appears to the authorised person to be an owner, or person in control, of the thing.
- (4) However, if for any reason it is not practicable to comply with subsection (3), the authorised person must—
- (a) leave the notice at the place where the damage happened; and
 - (b) ensure it is left in a conspicuous position and in a reasonably secure way.
- (5) The authorised person may delay complying with subsection (3) or (4) if the authorised person reasonably suspects complying with the subsection may frustrate or otherwise hinder the performance of the authorised person’s functions.
- (6) The delay may be only for so long as the authorised person continues to have the reasonable suspicion and remains in the vicinity of the place.
- (7) If the authorised person believes the damage was caused by a latent defect in the thing or other circumstances beyond the control of the authorised person or the assistant, the authorised person may state the belief in the notice.
- (8) The notice must state—
- (a) particulars of the damage; and
 - (b) that the person who suffered the damage may claim compensation under section 153.

Division 2 Compensation

153 Compensation

- (1) A person may claim compensation from the State if the person incurs loss because of the exercise, or purported exercise, of a

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power by or for an authorised person including a loss arising from compliance with a requirement made of the person under part 3, division 3, 4 or 5.

- (2) The compensation may be claimed and ordered in a proceeding—
 - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
 - (b) for an alleged offence against this Act the investigation of which gave rise to the claim for compensation.
- (3) A court may order the payment of compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (4) In considering whether it is just to order compensation, the court must have regard to—
 - (a) any relevant offence committed by the claimant; and
 - (b) whether the loss arose from a lawful seizure or lawful forfeiture.
- (5) A regulation may prescribe other matters that may, or must, be taken into account by the court when considering whether it is just to order compensation.
- (6) Section 151 does not provide for a statutory right of compensation other than is provided by this section.
- (7) In this section—

loss includes costs and damage.

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**Division 3 Other offences relating to
 authorised persons**

154 Giving authorised person false or misleading information

- (1) A person must not, in relation to the administration of this Act, give an authorised person information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) Subsection (1) applies to information given in relation to the administration of this Act whether or not the information was given in response to a specific power under this Act.
- (3) Subsection (1) does not apply to a person if the person, when giving information in a document—
- (a) tells the authorised person, to the best of the person’s ability, how the document is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

155 Obstructing authorised person

- (1) A person must not obstruct an authorised person exercising a power, or someone helping an authorised person exercising a power, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) If a person has obstructed an authorised person, or someone helping an authorised person, and the authorised person decides to proceed with the exercise of the power, the authorised person must warn the person that—
- (a) it is an offence to cause an obstruction unless the person has a reasonable excuse; and
 - (b) the authorised person considers the person’s conduct an obstruction.

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(3) In this section—

obstruct includes assault, hinder, resist, attempt to obstruct and threaten to obstruct.

156 Impersonating authorised person

A person must not impersonate an authorised person.

Maximum penalty—100 penalty units.

Division 4 Other provisions

157 Evidential immunity for individuals complying with particular requirements

- (1) Subsection (2) applies if an individual gives or produces information or a document to an authorised person under section 124 or 142.
- (2) Evidence of the information or document, and other evidence directly or indirectly derived from the information or document, is not admissible against the individual in any proceeding to the extent it tends to incriminate the individual, or expose the individual to a penalty, in the proceeding.
- (3) Subsection (2) does not apply to a proceeding about the false or misleading nature of the information or anything in the document or in which the false or misleading nature of the information or document is relevant evidence.

Part 6 Recall orders and public warnings

Division 1 Recall orders

158 Chief executive may make recall order

- (1) This section applies if the chief executive reasonably considers a form or type of medicinal cannabis poses a substance risk.
- (2) The chief executive may make a written order (a *recall order*) that—
 - (a) is directed to a stated person (the *responsible person*) who is authorised under this Act to dispense, manufacture or give a lawful direction for medicinal cannabis; and
 - (b) requires a stated product, that is, or contains, the medicinal cannabis, to be recalled from use or distribution by the responsible person.
- (3) Without limiting subsection (1), the chief executive may make a recall order for a product if the chief executive considers the order is necessary to prevent or minimise harm to persons because—
 - (a) the labelling, or instruction for use, of the product is inaccurate; or
 - (b) the packaging of the product is not sufficiently secure having regard to the nature of the product; or
 - (c) the product is not safe or effective when used in accordance with the instruction for the use of the product.

Note—

Failure to comply with a recall order is an offence under section 92.

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159 Notice required for making recall order

- (1) The chief executive must do the following before making the recall order—
 - (a) notify, in writing, the responsible person for the order that the chief executive intends to make the order and the reasons for making the order;
 - (b) give the responsible person a copy of the proposed order;
 - (c) invite the responsible person to show cause why the chief executive should not make the proposed order.
- (2) However, if the chief executive reasonably considers the recall order must be made immediately to prevent significant and imminent harm to a person, the chief executive may make the order without complying with subsection (1).
- (3) If subsection (2) applies, the chief executive must do the following as soon as practicable, and no later than 48 hours, after the recall order is made—
 - (a) give a copy of the order to the responsible person for the order;
 - (b) advise the responsible person by notice about the reasons for making the order;
 - (c) invite the responsible person to show cause why the chief executive should revoke the order.
- (4) A responsible person for a recall order may make written submissions to the chief executive within 7 days after receiving the notice and order from the chief executive.
- (5) The chief executive must consider any written submissions made by the responsible person under subsection (4) before making, or deciding whether to revoke, the recall order.

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160 Decision about recall order

- (1) This section applies if, after considering any written submissions made by the responsible person under section 159(4), the chief executive decides—
 - (a) to make a recall order; or
 - (b) not to revoke a recall order.
- (2) The chief executive must give the responsible person—
 - (a) a copy of the recall order; and
 - (b) an information notice for the decision to make, or not revoke, the recall order.

161 Notifying public about recall order

Information that is sufficient to alert the public about the potential harm identified in the recall order must be published on the department's website.

162 Content of recall order

- (1) The recall order must state the following—
 - (a) the reasons for the recall of the stated product;
 - (b) what the responsible person for the order must do to recall the product from use;
 - (c) the reasonable period for which the order is in effect.
- (2) Without limiting subsection (1), a recall order for a stated product may state the responsible person for the order must do any of the following—
 - (a) stop the manufacture or supply of the product;
 - (b) take reasonable steps to recover the product from another person;
 - (c) isolate or destroy the product;
 - (d) repackage or relabel the product;

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- (e) publish warnings about the product.

163 Nature of recall order

- (1) The responsible person for a recall order is liable for any cost incurred in relation to complying with the order.
- (2) The recall order remains in force for the period stated in the order unless it is sooner revoked by the chief executive.

Division 2 Public warnings

164 Statement of warning

- (1) The Minister or chief executive may make or issue a public statement identifying and giving warnings or information about any of the following—
 - (a) contraventions of this Act that have resulted in notification action being taken and the persons who have committed the contraventions;
 - (b) practices regulated under a relevant law that, in the reasonable opinion of the Minister or chief executive, are unlawful;
 - (c) offences committed against a relevant law and the person or persons who committed the offences.
- (2) The statement may identify particular contraventions, practices, offences and persons.
- (3) The Minister or chief executive must not make or issue a statement under this section unless satisfied—
 - (a) it is in the public interest to do so; and
 - (b) a public statement or warning has not been released, or is not about to be released, under another process that is more appropriate to the circumstances.

-
- (4) Without limiting subsection (3)(a), it is in the public interest if the Minister or chief executive considers that the statement is necessary to prevent or minimise a substance risk for medicinal cannabis.
- (5) In this section—
- notification action* means a recall order, compliance notice or show cause notice.
- relevant law* includes the *Therapeutic Goods Act 1989* (Cwlth).

Chapter 8 Expert advisory panel

Part 1 Establishment

165 Establishment

There is to be a panel of experts to assist the chief executive (the *expert advisory panel*).

166 Role

The expert advisory panel must—

- (a) at the request of the chief executive—
- (i) provide advice, and make recommendations, to the chief executive regarding applications for approvals; and
 - (ii) make recommendations about current or proposed research related to therapeutic use of cannabis products; and
- (b) undertake ongoing monitoring of—

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- (i) the use of medicinal cannabis in Queensland; and
- (ii) research related to therapeutic use of cannabis products; and
- (iii) advancements and developments in the field.

167 Membership

- (1) The chief executive may—
 - (a) appoint members of the expert advisory panel; and
 - (b) revise the membership of the panel by adding, or removing, panel members.
- (2) The chief executive may appoint members under subsection (1)(a) on a permanent or temporary basis.
- (3) In appointing a person as a member of the expert advisory panel, the chief executive must have regard to the person's experience and expertise related to the manufacture and use of cannabis products for therapeutic purposes, including, for example experience and expertise in the following areas—
 - (a) science or medicine;
 - (b) justice and law;
 - (c) ethics, culture or sociology;
 - (d) agriculture.

168 Terms of appointment

A member holds office on the terms and conditions, not provided by this Act, that are decided by the chief executive.

169 Resignation and removal of members

- (1) A person is no longer a member of the expert advisory panel if the person—
 - (a) resigns by signed notice given to the chief executive; or

- (b) is removed from office by the chief executive under subsection (2).
- (2) The chief executive may at any time remove a member from the panel for any reason or none.

170 Chairperson

- (1) The chief executive must appoint 1 member to be the chairperson of the expert advisory panel (the *chairperson*).
- (2) The chairperson holds office for the term decided by the chief executive.
- (3) However, a vacancy occurs in the office of chairperson if the person holding the office—
 - (a) resigns from the office by signed notice given to the chief executive; or
 - (b) stops being a member of the panel.
- (4) A person resigning the office of chairperson may continue to be a member of the panel.

171 Deputy chairperson

- (1) The chief executive must appoint 1 member to be the deputy chairperson of the expert advisory panel (the *deputy chairperson*).
- (2) The deputy chairperson holds office for the term decided by the chief executive.
- (3) However, a vacancy occurs in the office of deputy chairperson if the person holding the office—
 - (a) resigns from the office by signed notice given to the chief executive; or
 - (b) stops being a member of the panel.
- (4) A person resigning the office of deputy chairperson may continue to be a member of the panel.

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- (5) The deputy chairperson may act as chairperson during—
 - (a) a vacancy in the office of chairperson; or
 - (b) a period the chairperson is absent from duty.

Part 2 Operations

172 Conduct of operations and proceedings

Subject to this part, the expert advisory panel may conduct its operations and proceedings, including its meetings, as it considers appropriate.

173 Working groups

- (1) The chairman may, with the agreement of the chief executive, establish one or more working groups to assist expert advisory panel in performing its functions.
- (2) The chairman may decide on the membership and functions of a working group established under subsection (1).

Chapter 9 Review and appeals

Part 1 Interpretation

174 Definitions for ch 9

In this chapter—

internal review application means an application made to the chief executive under section 176.

internal review decision see section 179(1)(b).

original decision means a decision made under this Act other than a decision to impose of 1 or more of the following conditions on a medicinal cannabis approval—

- (a) a condition about the way in which the medicinal cannabis is to be dispensed, issued, supplied, sold, administered or self-administered under the approval;
- (b) a condition about the making of lawful directions for the medicinal cannabis;
- (c) a condition requiring the approved prescriber to, at stated times, examine the patient or conduct tests in relation to the patient—
 - (i) to ensure the medicinal cannabis is being used in the way the approved prescriber has directed; or
 - (ii) to detect the use of other drugs or poisons by the patient or the presence of other drugs or poisons in the patient.

Part 2 Internal reviews

175 External review or appeal process starts with internal review

A person may not apply to QCAT for review of an original decision or appeal against an original decision to the court unless the person has applied for an internal review of the decision under this chapter.

176 Who may apply for internal review

- (1) A person who is given, or is entitled to be given, an information notice for an original decision may apply to the chief executive for an internal review of the decision under this chapter.

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- (2) A person who has not been given, but is entitled to be given, an information notice for an original decision may ask the chief executive for an information notice for the decision.
- (3) The failure by the chief executive to give a person an information notice for an original decision does not limit or otherwise affect the person’s right to apply for a review of the decision under subsection (1).

177 Internal review application

- (1) An internal review application must be—
 - (a) in the approved form; and
 - (b) supported by enough information to enable the chief executive to decide the application; and
 - (c) made within 14 days after the applicant is given the information notice for the original decision the subject of the application.
- (2) However, the chief executive may, at any time, extend the time for making an internal review application.

178 Stay of operation of original decision

- (1) An internal review application does not stay the original decision the subject of the application.
- (2) However, the applicant may immediately apply for a stay of the original decision to a reviewing body.
- (3) The reviewing body may stay the original decision to secure the effectiveness of the internal review and a later appeal to a court or external review by QCAT.
- (4) The stay—
 - (a) may be given on conditions the reviewing body considers appropriate; and
 - (b) operates for the period fixed by the reviewing body; and

- (c) may be amended or revoked by the reviewing body.
- (5) The period of the stay must not extend past the time when the chief executive makes an internal review decision about the original decision and any later period the reviewing body allows the applicant to enable the applicant to appeal against, or apply for an external review of, the internal review decision.
- (6) An internal review application affects the original decision, or carrying out of the decision, only if the decision is stayed.
- (7) In this section—
reviewing body means—
 - (a) for an original decision to seize or forfeit a thing—the court; or
 - (b) for another original decision—QCAT.

179 Internal review

- (1) The chief executive must, within 28 days after receiving an internal review application—
 - (a) conduct an internal review of the original decision; and
 - (b) make a decision (the *internal review decision*) to—
 - (i) confirm the original decision; or
 - (ii) amend the original decision; or
 - (iii) substitute another decision for the original decision.
- (2) The application must be dealt with by—
 - (a) a person who is not the person who made the original decision; and
 - (b) a person in a more senior office than the person who made the original decision.
- (3) Subsection (2)—

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- (a) applies despite the *Acts Interpretation Act 1954*, section 27A; and
 - (b) does not apply to an original decision made by the chief executive personally.
- (4) If the internal review decision confirms the original decision, for the purpose of an appeal or external review, the original decision is taken to be the internal review decision.
- (5) If the internal review decision amends the original decision, for the purpose of an appeal or external review, the original decision as amended is taken to be the internal review decision.

180 Notice of internal review decision

- (1) The chief executive must, within 14 days after making the internal review decision for an internal review application, give notice of the decision to the applicant for the application.
- (2) If the internal review decision is not the decision sought by the applicant, the notice must—
- (a) for an internal review of an original decision to seize or forfeit a thing—state the following—
 - (i) the day the notice is given to the applicant;
 - (ii) the reason for the internal review decision;
 - (iii) that the applicant may, within 28 days after the notice is given, appeal against the internal review decision to the court;
 - (iv) how to appeal the internal review decision;
 - (v) that the applicant may apply to the court for a stay of the internal review decision; or
 - (b) for an internal review of another original decision—be accompanied by a QCAT information notice for the internal review decision.

-
- (3) If the chief executive does not give the notice within the 14 days, the chief executive is taken to have made an internal review decision confirming the original decision.

Part 3 External reviews by QCAT

181 Who may apply for external review

A person given, or entitled to be given, a QCAT information notice under this Act may apply, as provided under the QCAT Act, to QCAT for an external review of the decision.

Part 4 Appeals

182 Who may appeal

A person who has applied for an internal review of an original decision to seize or forfeit a thing and is dissatisfied with the internal review decision for the application may appeal to the court against the decision.

183 Procedure for an appeal to court

- (1) An appeal is started by filing a notice of appeal with the clerk of the court.
- (2) A copy of the notice must be served on the chief executive.
- (3) The notice of appeal must be filed within 28 days after the appellant receives notice of the internal review decision appealed against.
- (4) However, the court may, at any time, extend the time for filing the notice of appeal.
- (5) The notice of appeal must state fully the grounds of the appeal.

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184 Stay of operation of internal review decision

- (1) The court may grant a stay of the operation of an internal review decision appealed against to secure the effectiveness of the appeal.
- (2) A stay—
 - (a) may be granted on conditions the court considers appropriate; and
 - (b) operates for the period fixed by the court; and
 - (c) may be amended or revoked by the court.
- (3) The period of a stay stated by the court must not extend past the time when the court decides the appeal.
- (4) An appeal against an internal review decision affects the decision, or the carrying out of the decision, only if the decision is stayed.

185 Powers of court on appeal

- (1) In deciding an appeal, the court—
 - (a) has the same powers as the chief executive in making the internal review decision appealed against; and
 - (b) is not bound by the rules of evidence; and
 - (c) must comply with natural justice.
- (2) An appeal is by way of rehearing.
- (3) The court may—
 - (a) confirm the internal review decision; or
 - (b) set aside the internal review decision and substitute another decision; or
 - (c) set aside the internal review decision and return the matter to the chief executive with directions the court considers appropriate.

186 Effect of decision of court on appeal

- (1) If the court sets aside the internal review decision and returns the matter to the chief executive with directions, and the chief executive makes a new decision in accordance with the directions, the new decision is not subject to review or appeal under this chapter.
- (2) If the court substitutes another decision for the internal review decision—
 - (a) the substituted decision is taken to be the decision of the chief executive; and
 - (b) the chief executive may give effect to the substituted decision as if the decision were the original decision of the chief executive and no application for review or appeal had been made.

Chapter 10 Protection from liability

187 Definitions for ch 10

In this chapter—

civil claim, in relation to an act done, omission made, or a result of the act or omission—

- (a) means a claim based in tort, contract or another form of action in relation to the act, omission or result, including, for example, breach of statutory duty or defamation; and
- (b) includes, for a fatal injury, a claim for the deceased's dependants or estate.

civil liability, in relation to a person, means liability of any type for the payment of an amount by the person because of a civil claim.

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188 Protecting officials from liability in relation to monitoring and enforcement

- (1) An official does not incur civil liability for—
 - (a) an act done, or omission made, in good faith and without negligence, under chapter 7; or
 - (b) a result of the act or omission.
- (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 State analyst; or
 - (c) an officer of the department; or
 - (d) a person acting under the direction of someone mentioned in paragraphs (a), (b) or (c).

189 Protection from liability in relation to medicinal cannabis approvals

- (1) This section applies to each of the following (a *protected person*)—
 - (a) the chief executive;
 - (b) an officer of the department;
 - (c) a person acting under the direction of someone mentioned in paragraph (a) or (b);
 - (d) a member of the expert advisory panel;
 - (e) an approved prescriber;
 - (f) an approved pharmacist or secondary dispenser.
- (2) A protected person does not incur civil liability for—
 - (a) an act or omission—

-
- (i) done or made by the person in good faith and without negligence; and
 - (ii) that is, or is associated with—
 - (A) an application for the grant, amendment or replacement of a medicinal cannabis approval; or
 - (B) the grant, amendment or replacement of a medicinal cannabis approval; or
 - (C) administrative action relating to a medicinal cannabis approval; or
 - (D) the giving of a lawful direction for medicinal cannabis in accordance with a medicinal cannabis approval and this Act; or
 - (E) the dispensing of medicinal cannabis in accordance with a medicinal cannabis approval, a lawful direction given in accordance with the approval and this Act; or
 - (b) a result of the act or omission.

190 Protection from liability in relation to reviews

A person does not incur civil liability for engaging, or for the result of engaging, in any of the following in good faith and without negligence—

- (a) applying for or otherwise being involved in a review of a decision under this Act;
- (b) giving oral, written or other matter to the chief executive, or a person acting at the direction of the chief executive, for a review of a decision under this Act.

191 Civil remedies not otherwise affected

Apart from this chapter, nothing in this Act affects or limits a civil remedy a person may have against the holder of an

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approval or another person in relation to a matter dealt with under this Act.

Chapter 11 Legal proceedings

Part 1 Evidence

192 Application of pt 1

This part applies to a legal proceeding under this Act.

193 Appointments and approvals

The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the chief executive's appointment;
- (b) the appointment of an authorised person or State analyst;
- (c) the appointment of a member of the expert advisory panel;
- (d) the authority of a person mentioned in paragraph (a), (b) or (c) to do anything under this Act.

194 Signatures

A signature purporting to be the signature of the chief executive, an authorised person, a State analyst or a member of the expert advisory panel is evidence of the signature it purports to be.

195 Evidentiary aids

- (1) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—
- (a) a stated document is 1 of the following things made, given, issued or kept under this Act—
 - (i) an appointment or decision;
 - (ii) an approval;
 - (iii) a notice, direction or requirement;
 - (iv) a code, guideline, protocol or standard;
 - (b) a stated document is another document given to the chief executive or otherwise kept under this Act;
 - (c) a stated document is a copy of, or an extract from a part of, a thing mentioned in paragraph (a) or (b);
 - (d) on a stated day, or during a stated period, a stated person was or was not the holder of an approval;
 - (e) on a stated day, or during a stated period, an approval—
 - (i) was or was not in force; or
 - (ii) was or was not subject to a stated condition;
 - (f) on a stated day, an approval was suspended for a stated period, surrendered or cancelled;
 - (g) on a stated day, or during a stated period, an appointment as an authorised person, State analyst or member of the expert advisory panel was, or was not, in force for a stated person;
 - (h) on a stated day—
 - (i) a stated person was given a stated notice or direction under this Act; or
 - (ii) a stated requirement under this Act was made of a stated person; or

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- (iii) a stated amount is or was payable under this Act by a stated person.
- (2) In a complaint starting a proceeding, a statement that the matter came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant's knowledge.
- (3) A certificate purporting to be that of a State analyst in relation to a thing seized or taken by an authorised person under chapter 7 stating any of the following matters is evidence of the matters—
- (a) the analyst's qualifications;
 - (b) the analyst took, or received from a stated person, the thing;
 - (c) the thing was analysed at a stated place on a stated day or during a stated period;
 - (d) the methodology used to analyse the thing;
 - (e) the results of the analysis.
- (4) In a proceeding in which the chief executive applies under section 200 to recover costs incurred by the chief executive, a certificate by the chief executive stating that stated costs were incurred and the way in which, and purpose for which, they were incurred is evidence of the matters stated.

196 Evidence of medicinal cannabis

- (1) This section applies to a legal proceeding in which it is necessary to prove that a particular substance is medicinal cannabis.
- (2) Evidence that a substance—
- (a) is commonly supplied under the same name or description as the particular substance; and
 - (b) is a type or form of medicinal cannabis;

is evidence that the particular substance is also that type or form of medicinal cannabis.

- (3) Evidence that the particular substance, or a container for the particular substance, is labelled, marked or inscribed in the way required under a regulation for a type or form of medicinal cannabis is evidence that the particular substance is that type or form of medicinal cannabis.

Part 2 Proceedings

197 Offences against this Act

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for the offence must start within the later of the following periods to end—
- (a) 1 year after the offence was allegedly committed;
 - (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence was allegedly committed.

198 Proceeding not to commence if compliance notice in effect

- (1) This section applies to a person given a compliance notice stating a provision that it is an offence to contravene.
- (2) The person can not be prosecuted for the offence unless the person—
- (a) fails to comply with the compliance notice; and
 - (b) does not have a reasonable excuse for the failure to comply.

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199 Allegations of false or misleading information or document

In a proceeding for an offence against this Act 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 ‘false or misleading’ to the person’s knowledge, without specifying which.

200 Recovery of costs of investigation

- (1) This section applies if—
 - (a) a court convicts a person of an offence against this Act; and
 - (b) the chief executive applies to the court for an order against the person for the payment of the costs the chief executive incurred in taking a thing, conducting an analysis or doing something else for the investigation of the offence; and
 - (c) the court finds the chief executive has reasonably incurred the costs.
- (2) The court may order the person to pay the chief executive an amount equal to the costs if it is satisfied it would be just to make the order in the circumstances of the particular case.
- (3) This section does not limit the court’s powers under the *Penalties and Sentences Act 1992* or another law.
- (4) An application to a court under this section, and an order made by the court on the application, is a judgment in the court’s civil jurisdiction.
- (5) An issue on the application is to be decided on the balance of probabilities.

201 Responsibility for acts or omissions of representatives

- (1) This section applies in a proceeding for an offence against this Act.

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- (2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—
- (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* means—
- (a) the person's knowledge, intention, opinion, belief or purpose; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.

202 Executive officer may be taken to have committed offence

- (1) If a corporation commits an offence against a serious offence provision, each executive officer of the corporation is taken to have also committed the offence if—
- (a) the officer authorised or permitted the corporation's conduct constituting the offence; or

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- (b) the officer was, directly or indirectly, knowingly concerned in the corporation's conduct.
- (2) The executive officer may be proceeded against for, and convicted of, the offence whether or not the corporation has been proceeded against for, or convicted of, the offence.
- (3) This section does not affect either of the following—
 - (a) the liability of the corporation for the offence;
 - (b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence.
- (4) In this section—

serious offence provision means each of the following provisions—

 - sections 87 to 92.

Chapter 12 General

Part 1 Confidentiality

203 Definitions for pt 1

In this chapter—

administrator means the following—

- (a) a person who is, or was, the chief executive;
- (b) a person who is, or was, involved in the administration or enforcement of this Act, including, for example—
 - (i) an approved prescriber; or
 - (ii) an approved pharmacist; or

- (iii) a secondary dispenser; or
- (iv) a health service employee; or
- (v) a public service employee.

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

- (a) about a person's personal affairs or health; and
- (b) that has become known to an administrator in the course of performing the administrator's functions under this Act.

204 Confidentiality of information

- (1) An administrator must not, whether directly or indirectly, disclose confidential information.

Maximum penalty—50 penalty units.

- (2) However, subsection (1) does not apply if—
 - (a) the confidential information is disclosed—
 - (i) under this Act; or
 - (ii) with the written consent of the person to whom the information relates; or
 - (iii) to the person to whom the information relates; or
 - (iv) in a way that could not identify any person; or
 - (b) the disclosure of the confidential information is authorised under another law.
- (3) The *Hospital and Health Boards Act 2011*, section 142 does not apply to an administrator in relation to confidential information.

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205 Disclosure of information to entities performing relevant functions

- (1) An administrator may disclose confidential information to the following—
- (a) a coroner investigating the death of a person under the *Coroners Act 2003*;
 - (b) the health ombudsman conducting an investigation under the *Health Ombudsman Act 2013*;
 - (c) a law enforcement agency for the purposes of detecting, preventing, investigating or prosecuting an offence involving medicinal cannabis;
 - (d) the APVMA for performing its functions under the *Agricultural and Veterinary Chemicals Act 1994* (Cwlth) or the *Agricultural and Veterinary Chemicals Code Act 1994* (Cwlth);
 - (e) the Therapeutic Goods Administration for performing its functions under the Therapeutic Goods Act;
 - (f) another Commonwealth or State entity for performing its functions relating to—
 - (i) services provided by health practitioners; or
 - (ii) the regulation of health practitioners; or
 - (iii) the administration of a corresponding law; or
 - (iv) the *Food Act 2006*, the *Food Production (Safety) Act 2000*, or a law of another jurisdiction that provides for the same or similar matters as those Acts.
- (2) However, an administrator may disclose confidential information to an entity under subsection (1) only if the administrator is satisfied—
- (a) the confidential information will be collected, stored and used by the entity to which it is disclosed in a way that protects, to the extent practicable, the privacy of the persons to whom the information relates; and

(b) the provision of the confidential information to the entity is necessary for the entity to exercise its functions.

(3) In this section—

APVMA means the Australian Pesticides and Veterinary Medicines Authority continued in existence by the *Agricultural and Veterinary Chemicals (Administration) Act 1992* (Cwlth), section 6.

206 Disclosure for care or treatment of person

An administrator may disclose confidential information if the disclosure is—

- (a) to a health practitioner providing care or treatment to the person to whom the information relates; and
- (b) necessary for the care or treatment of the person.

207 Disclosure for medicinal cannabis approval

A person may disclose confidential information if the disclosure—

- (a) is to the chief executive; and
- (b) relates to—
 - (i) if the person is an approved prescriber for a medicinal cannabis approval—the patient; or
 - (ii) if the person is applying for a medicinal cannabis approval—the patient stated in the application.

208 Disclosure to protect public health or safety

(1) This section applies if—

- (a) a person has authority under this Act to perform an activity related to medicinal cannabis; and

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- (b) the chief executive reasonably believes a diversion risk or substance risk exists because of the person’s actions in relation to medicinal cannabis; and
 - (c) the chief executive reasonably considers a Commonwealth or State entity may be required to take action in relation to the risk.
- (2) The chief executive may give the Commonwealth or State entity the confidential information that is reasonably necessary for the entity to assess, or act in relation to, the diversion risk or substance risk.

209 Requests by chief executive for information

- (1) Subsection (2) applies if the chief executive considers a public entity has information, including confidential information, that is necessary for the chief executive to—
- (a) perform the chief executive’s functions under this Act; and
 - (b) prevent an imminent diversion risk or substance risk for medicinal cannabis.
- (2) The chief executive may, by notice, ask the public entity to give the information to the chief executive within a stated reasonable time.
- (3) The public entity must comply with the notice unless the entity reasonably considers the disclosure of the information—
- (a) would prejudice the investigation of a contravention, or possible contravention, of a law; or
 - (b) would prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; or
 - (c) would endanger a person’s life or physical safety.

-
- (4) However, in complying with the notice, the public entity and the chief executive must ensure—
- (a) the information given to the chief executive relates only to the chief executive’s functions under this Act; and
 - (b) to the extent possible, the privacy of a person to whom the information relates is protected from unjustified intrusion.
- (5) In this section—
- public entity* means a public sector unit and includes the chief executive, however described, of a public sector unit.

Part 2 Miscellaneous

210 Delegation by chief executive

The chief executive may delegate the chief executive’s functions and powers under this Act to an appropriately qualified person who is—

- (a) a public service officer or employee; or
- (b) a health service employee.

211 Approved forms

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

212 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) Without limiting subsection (1), a regulation may be made about the following—
 - (a) conditions for approvals;
 - (b) transporting and delivering medicinal cannabis;

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- (c) dispensing, issuing, supplying or selling medicinal cannabis;
- (d) the giving of lawful directions for medicinal cannabis;
- (e) approvals, practices and standards for the manufacture of medicinal cannabis;
- (f) qualifications or competencies for supervising the manufacture of medicinal cannabis;
- (g) practices for wholesale and retail selling of medicinal cannabis;
- (h) medicinal cannabis management plans;
- (i) environmental requirements for places where medicinal cannabis is stored;
- (j) packaging, labelling or displaying medicinal cannabis;
- (k) advertising medicinal cannabis;
- (l) monitoring requirements for approval holders;
- (m) record-keeping and accounting for medicinal cannabis, including requirements about purchase orders and invoices;
- (n) notification requirements for approvals and medicinal cannabis, including requirements for notifying the chief executive about lost or stolen medicinal cannabis and other circumstances where a diversion risk or substance risk exists;
- (o) reporting about compliance with this Act, including requirements for self-assessing compliance;
- (p) destroying or disposing of medicinal cannabis;
- (q) methods for analysis of medicinal cannabis by a State analyst;
- (r) conducting approved clinical trials;

-
- (s) fees for applications and other matters under this Act, including criminal history checks and the analysis of medicinal cannabis by State analysts.
 - (3) A regulation made under this Act may impose a penalty of not more than 100 penalty units for a contravention of the regulation.

Chapter 13 Transitional provision

213 Existing approval for medicinal cannabis

- (1) This section applies to an approval (the *transitioned approval*)—
 - (a) granted under repealed section 270B; and
 - (b) in force immediately before the commencement.
- (2) The transitioned approval is taken to be an equivalent approval granted to the holder of the transitioned approval until the earliest of the following—
 - (a) if repealed section 270B(b)(i) applied to the transitioned approval—an equivalent approval is granted to the holder of the transitioned approval;
 - (b) if repealed section 270B(b)(ii) applied to the transitioned approval—an equivalent approval is granted to the holder of the transitioned approval or another person;
 - (c) the term of the transitioned approval ends;
 - (d) the transitioned approval is cancelled;
 - (e) the transitioned approval is surrendered by the holder of the transitioned approval.
- (3) However, subsection (4) applies if—

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- (a) before the term of the transitioned approval ends, a person applies for an equivalent approval; and
 - (b) the chief executive has not decided whether to grant the equivalent approval on the day the term of the transitioned approval ends.
- (4) The transitioned approval is taken to be an equivalent approval, granted to the holder of the transitioned approval, until the chief executive makes a decision about the grant of the equivalent approval.
- (5) In this section—
- equivalent approval*, in relation to a transitional approval, means—
- (a) if repealed section 270B(b)(i) applied to the transitioned approval—a clinical trial approval applying to the clinical trial for the transitioned approval; and
 - (b) if repealed section 270B(b)(ii) applied to the transitioned approval—a medicinal cannabis approval applying to the person who was being treated under the transitioned approval.

repealed section 270B means repealed section 270B of the *Health (Drugs and Poisons) Regulation 1996*.

Chapter 14 Consequential amendments

Part 1 Amendment of *Health Act 1937*

214 Act amended

This part amends the *Health Act 1937*.

215 Amendment of section 5 (Interpretation)

Section 5, definition *article*—

omit, insert—

article without limit to the generality of its meaning—

- (a) includes any textile product, any toys, any medical or surgical apparatus or appliance, any absorbent wool or surgical dressing, and also includes boots, shoes, paint, poisons, drugs, biological preparations, pesticides, detergents, dangerous substances and substances declared under a regulation to be articles; but
- (b) does not include medicinal cannabis within the meaning of the *Public Health (Medicinal Cannabis) Act 2016*, section 5.

Part 2 Amendment of Health (Drugs and Poisons) Regulation 1996

216 Regulation amended

This part amends the *Health (Drugs and Poisons) Regulation 1996*.

217 Amendment of section 270A (Approval must not be granted for therapeutic use of S9 poisons)

Section 270A, ‘Subject to section 270B, the’—

omit, insert—

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218 Omission of section 270B (Approval for cannabis)

Section 270B—

omit.

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Schedule 1 Dictionary

section 4

accepted representations, for chapter 5, part 2, see section 74(2).

administer, a substance, means—

- (a) introduce a dose of the substance into the body of a person or an animal by any means; or
- (b) give a dose of the substance to a person to be taken immediately.

Examples for paragraphs (a) and (b)—

- injecting a substance into the body of a person or an animal
- putting cream on the skin of a person or an animal
- putting drops into the eyes of a person or an animal
- handing a dose of tablets to a person for the person to swallow

amendment application, for an approval, for chapter 3, see section 43.

approval means—

- (a) a medicinal cannabis approval; or
- (b) a dispensing approval; or
- (c) a clinical trial approval.

approved clinical trial means a clinical trial to which a clinical trial approval applies.

approved good means a registered good or a listed good within the meaning of the *Therapeutic Goods Act 1989* (Cwlth).

approved pharmacist means—

- (a) a pharmacist who works in a hospital pharmacy; or
- (b) a pharmacist who—
 - (i) does not work in a hospital pharmacy; and

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(ii) holds a dispensing approval.

approved prescriber means a medical practitioner who is the holder of a medicinal cannabis approval.

authorised person means a person who holds office under chapter 7, part 1 as an authorised person.

board, for an approval holder, means the National Board established under the Health Practitioner Regulation National Law for the profession in which the approval holder is registered.

cannabis product see section 6.

capacity, for a person for a matter, has the same meaning as in the *Powers of Attorney Act 1998*, schedule 3.

carer, for a patient to whom a medicinal cannabis approval applies, means an adult who—

- (a) has responsibility for the immediate care and safety of the patient; and

Example—

a parent or guardian of the patient

- (b) is stated in the medicinal cannabis approval to be a carer of the patient for the approval.

clinical trial means a clinical trial approved by—

- (a) the Therapeutic Goods Administration; or
- (b) a human research ethics committee.

clinical trial approval see section 19.

compliance notice see section 81(2).

compliant medicinal cannabis, in relation to a medicinal cannabis approval, means medicinal cannabis that is—

- (a) prescribed in accordance with this Act and the approval; and
- (b) dispensed in accordance with this Act, the prescription mentioned in subsection (a) and the approval; and
- (c) for the treatment of, or use by, the patient.

confidential information, for chapter 12, part 1, see section 203.

conviction includes a plea of guilty or finding of guilt by a court even though a conviction is not recorded.

corresponding law means a law of another jurisdiction that provides for, or provided for, the same or similar matters as this Act.

court means a Magistrates Court.

criminal history, of an individual, means all of the following—

- (a) every conviction of the individual for an offence, in Queensland or elsewhere, whether before or after the commencement of this Act;
- (b) every charge made against the individual for an offence, in Queensland or elsewhere, whether before or after the commencement of this Act.

criminal history check, for an individual, means a check of the individual's criminal history.

detention centre means a detention centre under the *Youth Justice Act 1992*.

dispense means sell or supply on prescription.

dispensing approval see section 17.

dispensing pharmacy means a pharmacy or hospital pharmacy stated, under a medicinal cannabis approval, to be the dispensing pharmacy for the approval.

disposal order see section 139(2).

diversion risk, for medicinal cannabis, means a risk of the medicinal cannabis being dispensed, supplied or issued to a person not authorised under this Act to obtain or possess the medicinal cannabis.

document certification requirement see section 142(6).

document production requirement see section 142(2).

drug see the *Health Act 1937*, section 5.

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drug dependence, in relation to a person, means a behaviour of repeated administration to the person of a drug resulting in the person—

- (a) demonstrating either of the following over the person’s continued use of the drug—
 - (i) impaired control;
 - (ii) drug-seeking behaviour that suggests impaired control; and
- (b) when the administration to the person of the drug ceases—suffering, or likely suffering, mental or physical distress or disorder.

educational institution means—

- (a) an approved education and care service within the meaning of the Education and Care Services National Law (Queensland); or
- (b) a QEC approved service within the meaning of the *Education and Care Services Act 2013*; or
- (c) a State school, or non-State school, within the meaning of the *Education (General Provisions) Act 2006*.

electronic document means a document of a type under the *Acts Interpretation Act 1954*, schedule 1, definition *document*, paragraph (c).

expert advisory panel see section 165.

former owner see section 136(1)

general medical practitioner means a person, other than a specialist medical practitioner, registered under the Health Practitioner Regulation National Law to practise in the medical profession.

general power see section 123(1).

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

help requirement see section 124(1).

hospital means a public sector hospital or private hospital.

Hospital and Health Service means a Hospital and Health Service established under the *Hospital and Health Boards Act 2011*.

hospital pharmacy means a pharmacy operated by the State at a public sector hospital.

human research ethics committee means a human research ethics committee registered by the Australian Health Ethics Committee established under the *National Health and Medical Research Council Act 1992* (Cwlth).

identity card, for a provision about authorised persons, means an identity card issued under section 100(1).

information notice, for a decision, means a notice stating each of the following—

- (a) the decision and the reasons for it;
- (b) the rights of review and appeal under this Act;
- (c) the period in which any review or appeal under this Act must be started;
- (d) how rights of review and appeal under this Act are to be exercised;
- (e) that a stay of a decision the subject of an appeal under this Act may be applied for under this Act.

information requirement, for chapter 7, part 3, see section 145(3).

information requirement notice, for chapter 3, part 1, see section 8.

issue, medicinal cannabis, means give medicinal cannabis to a person who is authorised to administer the medicinal cannabis to another person.

lawful direction, for medicinal cannabis—

- (a) means any direction or instruction given by the approved prescriber for the medicinal cannabis, whether orally, in writing or electronically, for the supply or administration of medicinal cannabis; and

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- (b) includes—
 - (i) a prescription for the medicinal cannabis; and
 - (ii) an instruction on a label or other packaging for medicinal cannabis.

manufacture, in relation to a substance—

- (a) means any 1 or more of the following actions performed for the purpose of producing the substance—
 - (i) carry out a process or step in making, growing or cultivating the substance;
 - (ii) process or refine the substance;
 - (iii) convert the substance into another substance;
 - (iv) make or prepare an ampoule, capsule, tablet, vial or other dosage form that consists of, or contains, the substance;
 - (v) mix, compound or formulate the substance with any other substance;
 - (vi) assemble, label, pack or repack the substance;
 - (vii) store the substance;
 - (viii) sterilise the substance;
 - (ix) test, monitor or otherwise control the quality of the substance, including monitor the way in which the substance is supplied; but
- (b) does not include either of the following if done for the treatment of an individual—
 - (i) mixing a lawfully supplied substance with another thing in accordance with instructions for the mixing of the substance with the thing; or
 - (ii) adding a lawfully supplied substance to another thing in accordance with instructions for the adding of the substance to the thing.

medical practitioner means either of the following—

- (a) a general medical practitioner;

(b) a specialist medical practitioner.

medicinal cannabis see section 5.

medicinal cannabis approval see section 13.

medicinal cannabis management plan, for an entity, see section 64.

notice means a written notice.

nursing home means a facility, other than a hospital or private residence, at which accommodation and nursing is provided to persons who, because of disability, disease, illness, incapacity or infirmity, have a continuing need for care.

obtain, for medicinal cannabis, means acquire, buy, receive or otherwise obtain medicinal cannabis.

occupier, of a place, includes the following—

- (a) if there is more than 1 person who apparently occupies the place—any 1 of the persons;
- (b) any person at the place who is apparently acting with the authority of a person who apparently occupies the place;
- (c) if no-one apparently occupies the place—any person who is an owner of the place.

of, a place, includes at or on the place.

offence warning, for a direction or requirement by an authorised person, means a warning that, without a reasonable excuse, it is an offence for the person to whom the direction or requirement is made not to comply with it.

owner, of a thing that has been seized under chapter 7, includes a person who would be entitled to possession of the thing had it not been seized.

parent, of a child, includes—

- (a) a person who exercises parental responsibility for the child, other than a person standing in the place of a parent of the child on a temporary basis; and

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- (b) for an Aboriginal child—a person who, under Aboriginal tradition, is regarded as a parent of the child; and
- (c) for a Torres Strait Islander child—a person who, under Island custom, is regarded as a parent of the child.

person in control—

- (a) of a vehicle, includes—
 - (i) the vehicle’s driver or rider; and
 - (ii) anyone who reasonably appears to be, claims to be, or acts as if he or she is, the vehicle’s driver or rider or the person in control of the vehicle; or
- (b) of another thing, includes anyone who reasonably appears to be, claims to be, or acts as if he or she is, the person in possession or control of the thing.

personal details requirement see section 140(5).

personal supervision see section 50.

person with authority to consent, to treatment of a patient with medicinal cannabis, means—

- (a) if the patient is a child—a parent of the patient; or
- (b) if the patient is an adult—
 - (i) if the patient has capacity to consent to the treatment—the patient;
 - (ii) otherwise—
 - (A) if a guardian or an administrator is appointed for the patient under the *Guardianship and Administration Act 2000*—the guardian or administrator; or
 - (B) if an attorney, appointed by the patient under an enduring power of attorney under the *Powers of Attorney Act 1998*, may consent to the treatment on behalf of the patient—the attorney.

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

place includes the following—

- (a) premises;
- (b) vacant land;
- (c) a place in Queensland waters;
- (d) a place held under more than 1 title or by more than 1 owner;
- (e) the land or water where a building or structure, or a group of buildings or structures, is situated.

possess, medicinal cannabis, includes—

- (a) have custody or control of medicinal cannabis; and
- (b) have an ability or right to obtain custody or control of medicinal cannabis.

premises includes—

- (a) a building or other structure; and
- (b) a part of a building or other structure; and
- (c) a caravan or vehicle; and
- (d) a cave or tent; and
- (e) premises held under more than 1 title or by more than 1 owner.

prescription means a written instrument authorising a pharmacist to dispense medicinal cannabis to or for a patient for the lawful treatment of the patient, and includes—

- (a) a written, electronic or faxed instrument; and
- (b) an entry for the dispensing of the medicinal cannabis in a medical record, medication chart or medication ordering system, whether the entry is made in writing or electronically.

private hospital see the *Private Health Facilities Act 1999*, section 9.

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proposed action, for chapter 5, part 2, see section 73(3)(a).

public place means—

- (a) a place, or part of the place—
 - (i) the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or
Examples of a place that may be a public place under subparagraph (i)—
a beach, a park, a road
 - (ii) the occupier of which allows, whether or not on payment of money, members of the public to enter; or
Examples of a place that may be a public place under subparagraph (ii)—
a saleyard, a showground
- (b) a place that is a public place under another Act.

public sector hospital has the meaning given in the *Hospital and Health Boards Act 2011*.

reasonably believes means believes on grounds that are reasonable in the circumstances.

reasonably suspects means suspects on grounds that are reasonable in the circumstances.

recall order see section 158(2).

relevant law means the following—

- (a) this Act;
- (b) the *Health Act 1937*;
- (c) a corresponding law.

renewal application, for an approval, for chapter 3, see section 47(1).

replacement application, for an approval, for chapter 3, see section 45.

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secondary dispenser, in relation to an approved pharmacist, means a pharmacist stated to be a secondary dispenser under the approved pharmacist's dispensing approval.

self-administer, a substance, means a person administers the substance to themselves.

show cause notice, for chapter 5, part 2, see section 73(2).

show cause period, for chapter 5, part 2, see section 73(3)(g).

specialist medical practitioner, in a specialty, means a person registered under the Health Practitioner Regulation National Law to practise in the medical profession as a specialist registrant in the specialty.

State analyst means a State analyst appointed under the *Health Act 1937*.

substance risk, for a substance, means a risk of harm to the life, health or safety of a person arising from the use, or potential use, of the substance.

supply, for medicinal cannabis, means give a person 1 or more treatment doses of medicinal cannabis, to be taken by the person during a certain period.

TGA approval means an approval or authorisation granted under the *Therapeutic Goods Act 1989* (Cwlth).

Therapeutic Goods Administration means the Therapeutic Goods Administration under the *Therapeutic Goods Act 1989* (Cwlth).

trainee health practitioner, for chapter 4, see section 56(6).

trainee State analyst means a person who is undergoing a course of training, the successful completion of which will qualify the person for appointment as a State analyst.

vehicle—

- (a) means a vehicle under the *Transport Operations (Road Use Management) Act 1995*; and
- (b) includes a vessel under that Act.

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