Health and Other Legislation Amendment Bill 2027

Consultation Paper

Proposed amendments to the:

- ***Public Health Act 2005;***
- ***Hospital and Health Boards Act 2011;***
- ***Public Health Regulation 2018;***
- ***Public Health (Infection Control for Personal Appearance Services) Act 2003;***
- ***Public Health (Infection Control for Personal Appearance Services) Regulation 2016;***
- ***Food Act 2006;*** **and**
- ***Food Regulation 2026.***

September 2026

Contents

Purpose

The purpose of this consultation paper is to seek stakeholder feedback on select proposals to be included in the Health and Other Legislation Amendment Bill 2027 **(Bill)**. The Bill will amend the:

- *Public Health Act 2005;*
- *Hospital and Health Boards Act 2011;*
- *Public Health Regulation 2018;*
- *Public Health (Infection Control for Personal Appearance Services) Act 2003;*
- *Public Health (Infection Control for Personal Appearance Services) Regulation 2016;*
- *Food Act 2006;* and
- *Food Regulation 2026*.

This consultation paper also seeks stakeholder feedback on a potential Public Health (Infection Control for Personal Appearance Services) Regulation 2027, which proposes to remake and replace the *Public Health (Infection Control for Personal Appearance Services) Regulation 2016*.

This paper summarises the proposed amendments.

Submissions will inform Queensland Health's understanding of the support for the proposals, any underlying issues, and the considerations relevant to developing and implementing the proposals.

Making a submission

You are welcome to comment on any of the proposals in this paper.

Please submit your feedback on the amendments by

5pm, 1 October 2026

Please provide your submission via email to
legislationconsultation@health.qld.gov.au

Where the proposals are progressed, your views may be referred to in public documents such as the explanatory notes. If you do not want this, please indicate this in your submission.

If you have any questions or require further information about the proposals, please send your queries to the email address **above**.

This document is for consultation purposes only and does not represent Queensland Government policy

Overview of proposed changes

The Bill proposes amendments to support public health research, strengthen public health protections, modernise regulatory frameworks and reduce unnecessary administrative burden.

Improving access to patient-identifying health information for research purposes

The Bill proposes amendments to streamline access to patient-identifying health information for research, support high-quality research and reduce administrative burden, while maintaining robust privacy and confidentiality protections.

The ***Public Health Act 2005*** will be amended to:

- establish a practical pathway for internal Queensland Health researchers to access patient-identifying health information;
- establish a practical pathway for trusted external research partners to access patient-identifying health information;
- establish a practical pathway for students undertaking placement at Queensland Health to access patient-identifying health information;
- streamline the section 282 application pathway for external researchers;
- permit access to Queensland Health information systems for the purpose of auditing and monitoring research;
- update penalties and offences in relation to the use of patient-identifying health information; and
- insert a transitional provision to provide for the continued operation of the chapter 6, part 4 application process following commencement of the proposed amendments.

The ***Public Health Regulation 2018*** will be amended to make a minor and technical amendment by updating the reference to the National Statement on Ethical Conduct in Human Research to the most recent version.

The ***Hospital and Health Boards Act 2011*** will be amended to make a minor and technical amendment to the title of section 150A to better reflect its purpose.

Clarifying and modernising the infection control framework for businesses providing personal appearance services

The Bill proposes amendments to ensure the infection control framework reflects contemporary service models, addresses regulatory gaps and supports consistent oversight of higher-risk personal appearance services.

The ***Public Health (Infection Control for Personal Appearance Services) Act 2003*** **(ICPAS Act)** will be amended to:

- replace the current health services-based exemption with a facility-based exemption to clarify types of facilities exempt from the Act;

- modernise the definitions of higher-risk personal appearance service, skin penetration and business transaction to reflect current services and service delivery models;
- insert transitional provisions to recognise licences issued to businesses providing higher-risk personal appearance services, prior to the amendments commencing;
- insert a temporary six-month period for affected businesses to obtain a licence under the Act; and
- enable the Chief Health Officer to make and publish guidelines to assist businesses in minimising infection risks.

The ***Public Health (Infection Control for Personal Appearance Services) Regulation 2016*** will be amended to remove tattoo removal as a prescribed higher-risk personal appearance service, as it will be captured by the proposed amendments to the Act.

The ***Public Health Act 2005*** will be amended to:

- clarify that higher-risk personal appearance services regulated under the ICPAS Act are not declared health services;
- require that higher-risk personal appearance services are included in an Infection Control Management Plan when provided by facilities exempt from the ICPAS Act; and
- insert a temporary six-month period for health care facilities to update their Infection Control Management Plan to include higher-risk personal appearance services.

Remake of the *Public Health (Infection Control for Personal Appearance Services) Regulation 2016*

The consultation paper also seeks feedback on the Public Health (Infection Control for Personal Appearance Services) Regulation 2027, which proposes to remake the *Public Health (Infection Control for Personal Appearance Services) Regulation 2016* before its expiry on 1 September 2027.

Removing outdated, duplicative or unnecessary regulatory requirements for food businesses

The Bill also proposes targeted amendments to the ***Food Act 2006*** and ***Food Regulation 2026*** to remove unnecessary or duplicative regulatory requirements while maintaining appropriate food safety safeguards.

Public Health Act 2005, Public Health Regulation 2018 and *Hospital and Health Boards Act 2011*

Overview: Improving access to patient-identifying health information for research purposes

Context for proposed reforms

Queensland Health holds extensive health information that supports research aimed at improving patient care, health outcomes and the delivery of health services. Researchers use this information to better understand diseases, evaluate treatments, improve health care delivery and support medical innovation.

Health information, including patient-identifying information, is increasingly stored in integrated digital systems, such as the integrated electronic Medical Record (**ieMR**) and the Viewer. These systems are subject to strict governance arrangements and oversight by appointed custodians at both statewide and Hospital and Health Service (**HHS**) levels.

The *Public Health Act 2005* and the *Hospital and Health Boards Act 2011* establish the legislative framework governing appropriate access to, and disclosure of, patient-identifying health information in Queensland. While these Acts include important safeguards to protect privacy and confidentiality, the framework for accessing patient-identifying health information for research purposes has not kept pace with how research is undertaken today.

The legislative issues addressed by the proposed amendments outlined in this paper relate to access to patient-identifying health information, rather than de-identified health information. De-identified health information, including aggregate information that does not identify an individual, can be used and disclosed for research purposes without relying on the access provisions in the Public Health Act or Hospital and Health Boards Act. These Acts are aimed at protecting health information from which an individual may be identified. The reforms are intended to address deficiencies in the more complex and administratively burdensome legislative pathways that currently apply where access to patient-identifying health information is necessary for undertaking authorised research.

Why is patient-identifying information sometimes needed for research?

Many research projects use consented or de-identified health information and do not require access to non-consented patient-identifying health information.

However, some research projects require access to patient-identifying information to:

- link information from different health services or information systems;
- identify eligible participants for research;
- validate research findings and ensure data quality;
- monitor health outcomes over time; or

- undertake public health and clinical research that cannot reasonably be conducted using de-identified information alone.

Under the Public Health Act and Hospital and Health Boards Act, access to patient-identifying health information is only permitted where necessary, for an approved research project and subject to appropriate safeguards.

The current framework was developed at a time when research commonly involved providing extracts of patient-identifying health information stored on information systems to individually named researchers. It does not adequately reflect contemporary research practices, including the use of secure information systems, collaborative research projects involving multiple organisations, and the increasing role of integrated digital health records in supporting research.

As a result, researchers face unnecessary administrative requirements and delays in accessing patient-identifying health information, even where projects have already undergone robust ethics and governance review. Stakeholders have also identified that the current framework can create barriers to collaboration between Queensland Health and external research organisations, and may limit opportunities to undertake research in the public interest.

These issues may also be affecting Queensland's research competitiveness. Research suggests Queensland receives a lower proportion of National Health and Medical Research Council funding than expected based on its population and economic contribution, and also has fewer clinical trial recruitment sites than other Australian jurisdictions. While a range of factors contribute to these outcomes, stakeholders have consistently identified legislative and administrative barriers to accessing patient-identifying health information for research as one of the key contributors. Addressing these barriers could strengthen Queensland's research environment and support the state's capacity to undertake and attract health and medical research.

What the data shows[1]

- Queensland has significantly fewer science, medical and health researchers than Victoria and New South Wales.
- Queensland systematically receives less funding from the National Health and Medical Research Council **(<14%)** and the Medical Research Future Fund **(<12.9%)** than would be anticipated, based on population **(20%)** or contribution to GDP **(19%).**
- Queensland has significantly fewer clinical sites recruiting into clinical trials compared to Victoria and New South Wales.

[1] Health Translation Queensland, Health and Medical Research Funding Analysis (Report, April 2022) <https://healthtranslationqld.org.au/our-work/queensland-translational-research/funding_analysis>.

Operation of current legislative framework

Public Health Act

A key issue relates to the operation of chapter 6, part 4 of the Public Health Act, which establishes an approval process for researchers seeking to access patient-identifying health information for research purposes. This framework is limited to patient-identifying health information and does not affect the use or disclosure of de-identified health information, including aggregate data, where individuals cannot be identified.

Under chapter 6, part 4 of the Public Health Act, a person seeking access to patient-identifying health information for research purposes must apply to the Director-General. Among other things, the application must include information about the proposed research, including its methodology, privacy protections and ethics oversight. The Director-General may approve or refuse the application, and may impose conditions on any approval granted.

While this framework provides an important mechanism for overseeing access to health information by external researchers, it duplicates approvals already obtained by researchers operating within Queensland Health's research governance framework.

The framework also does not adequately reflect the increasing use of secure information systems to store and access health information, or the collaborative nature of many research projects.

Hospital and Health Boards Act

Similarly, the Hospital and Health Boards Act contains limited provisions that support certain research activities undertaken by designated persons, which includes public service employees employed within the Department of Health as well as HHS employees. These provisions apply to confidential information about identifiable individuals and do not restrict the use or disclosure of de-identified health information.

Under section 150, a designated person may disclose confidential patient-identifying information to another designated person for the purposes of evaluating, managing, monitoring or planning health services.[2] However, this provision does not provide a legislated basis for access to confidential information for broader research purposes.

Section 144 allows a designated person to disclose confidential information to another person with consent, but similarly does not enable direct access to information systems and is limited to the disclosure of individual, extracted datasets. In addition, sections 161A and 161B permit external services to access Queensland Health information systems for the purpose of delivering health services. However, these provisions do not clearly support access to information systems for external researchers, trusted research partners, students undertaking placement at Queensland Health, or auditors and monitors.

[2] Section 150(b) also permits disclosure from a designated person to entity prescribed under regulation, for the purpose of evaluating, managing, monitoring or planning health services.

Proposed amendments

The proposed reforms are intended to establish clearer and more practical pathways to access patient-identifying health information for public interest research. Separate access pathways are proposed for:

- Queensland Health researchers;
- trusted external research partners;
- students undertaking placements at Queensland Health;
- external researchers accessing information through the existing Public Health Act application pathway; and
- auditors and monitors undertaking necessary oversight and review activities for authorised research projects.

What information is captured by the proposed reforms?

- The proposed amendments apply to patient-identifying health information held by a health agency. **Health information held by a health agency** is defined in schedule 2 of the Public Health Act. This may include information contained in clinical information systems, such as ieMR, and other health records held by HHSs and the Department of Health.
- The amendments do not distinguish between information collected with or without an individual's consent. Rather, the reforms will apply to patient-identifying health information, regardless of how it was collected, provided access to this information is authorised by the legislative framework.
- The reforms do not expand the types of information that may be used for research. Instead, they establish a clearer legislative framework for accessing patient-identifying health information for authorised research, while maintaining existing ethics and governance oversight and introducing additional privacy and confidentiality safeguards.

The proposed pathways recognise that different cohorts of researchers are subject to varying forms of oversight, accountability and organisational controls. These changes are based on the principle that researchers who are already subject to robust ethics and governance oversight should not be required to undertake duplicative approval processes where existing safeguards appropriately manage privacy, confidentiality and accountability risks.

The amendments will also modernise the legislative framework by clarifying the circumstances in which patient-identifying health information may be accessed through information systems, and strengthen the framework governing the use and protection of health information.

The reforms are not intended to broaden the cohorts of researchers who may access patient-identifying health information. Rather, they seek to streamline existing processes, better align access pathways with established ethics and governance arrangements and

provide greater clarity for accessing patient-identifying health information in contemporary research settings.

The proposed pathways and supporting safeguards are discussed further throughout this paper.

Pathway for Queensland Health researchers

Background

Queensland Health researchers undertake a broad range of research projects aimed at improving patient care, health outcomes and the delivery of health services. This research supports innovation, informs clinical practice, improves health service delivery and contributes to better outcomes for Queensland patients and communities.

Before research can commence within Queensland Health, projects are subject to established and robust ethics and governance processes. Queensland Health research must:

- be approved by a Queensland Health recognised Human Research Ethics Committee (**HREC**), another Queensland Health recognised ethical review committee (for example, a committee that reviews lower-risk research), or receive a waiver or exemption from ethics review where permitted under the National Statement on Ethical Conduct in Human Research; and
- receive Queensland Health research governance authorisation through a Site-Specific Assessment (**SSA**). This is approved by the relevant Health Service Chief Executive or the Director-General.

What is a Site-Specific Assessment (SSA)?

- An SSA assesses whether a research project can be appropriately conducted within a Queensland Health setting.
- It considers matters such as resource implications, researcher capability, legal and policy compliance, privacy and confidentiality arrangements, consent processes, and data management arrangements. It also documents the specific arrangements for researchers, including whether access to health information will be provided through information systems or through approved, extracted datasets.

Issue

Despite being subject to Queensland Health's existing research governance framework, Queensland Health researchers currently have no dedicated pathway to access patient-identifying health information for general research purposes.

Instead, they must apply to the Director-General under section 282 of the Public Health Act, which is a comprehensive application process, more appropriately used by external researchers with no existing relationship with Queensland Health. This approval process

can duplicate matters already considered by Queensland Health ethics and governance processes, creating unnecessary administrative delays.

Similar issues arise for Queensland Health employees who also hold an additional appointment with a university or research organisation. Where these researchers are undertaking research within Queensland Health settings and subject to Queensland Health ethics and governance processes, they are generally still required to use the section 282 application pathway, despite already being subject to substantial oversight and accountability mechanisms.

Queensland Health researchers also frequently collaborate with external organisations such as universities, medical research institutes and other organisations. In some circumstances, authorised research projects may require health information to be disclosed outside Queensland Health—for example, to facilitate data linkage, specialist analysis or research collaboration. The current legislative framework does not clearly define the circumstances in which such disclosures may occur, or the safeguards that should apply.

Proposed change

Establish a practical pathway in the Public Health Act for Queensland Health researchers to access patient-identifying health information for research.

It is proposed to establish a dedicated pathway in the Public Health Act for Queensland Health researchers undertaking authorised research.

Unlike external researchers applying for health information under section 282, Queensland Health researchers are already subject to organisational accountability mechanisms, employment obligations, ethics review and research governance oversight. The proposed pathway recognises these existing safeguards and seeks to avoid duplication of approvals.

Under this pathway, a Queensland Health researcher undertaking authorised research would be permitted to access patient-identifying health information held by a health agency, without requiring a separate application to the Director-General under section 282.

Access may be provided through extracted datasets or, where appropriate, through access to authorised information systems.

What is ‘authorised research’?

It is proposed that **authorised research** will be defined as research that:

- has received ethics approval from a Queensland Health HREC or another Queensland Health ethical review committee (for example, a committee that reviews lower-risk research), or a waiver or exemption from ethics review where permitted under the National Statement on Ethical Conduct in Human Research; and
- has received Queensland Health research governance authorisation.

A **Queensland Health HREC** will capture HRECs within the Department of Health or HHSs, as well as external HRECs with a formal arrangement where their scientific and ethical review is accepted by Queensland Health. This may include, for example, HRECs participating in the National Certification Scheme of Institutional Processes Related to the Ethical Review of Multi-

centre Research, or those operating under a memorandum of understanding with Queensland Health.

For example: Metro North HREC, West Moreton HREC, QIMR Berghofer HREC, Monash Health HREC and Sydney Children's Hospital Network HREC will all be recognised as Queensland Health HRECs under the proposed framework.

A minor amendment to the Public Health Regulation is proposed to clarify that '**HREC**' means a committee formed in accordance with the requirements set out in the National Statement on Ethical Conduct in Human Research 2025, issued by the National Health and Medical Research Council.

Eligibility criteria:

In addition to participating in authorised research, researchers must satisfy eligibility requirements before they may access health information under the pathway.

To access this pathway, a Queensland Health researcher will be required to:

- be named and authorised in the Queensland Health research governance authorisation; and
- enter a written deed of confidentiality with the Director-General, a Health Service Chief Executive or their delegate.

A **Queensland Health researcher** will be defined as a public service employee or health service employee employed by the Department of Health or a HHS.

The pathway will also apply to Queensland Health researchers who hold a conjoint appointment with an external university, medical research institute or similar organisation, provided they are participating in authorised research and remain subject to Queensland Health ethics and governance requirements.

How will the written deed of confidentiality operate?

A key safeguard of the proposed pathway is the requirement for researchers to enter a written deed of confidentiality.

Researchers accessing health information under this pathway will be required to enter a deed of confidentiality with the Director-General, a Health Service Chief Executive or their delegate.

The deed will establish clear obligations and responsibilities regarding the access, use, storage and disclosure of health information for research purposes.

The deed is intended to apply broadly to health information accessed by the researcher for authorised research. However, its operation may be supplemented by any conditions imposed through ethics and governance approval processes.

Example

Researchers employed by a HHS are undertaking a study examining emergency department presentations for heat-related illness during extreme weather events. All researchers have a deed of confidentiality in place with the Health Service Chief Executive of the HHS.

Following Queensland Health HREC approval and governance authorisation, the researchers will be permitted to access health information held by Queensland Health, including through access to secure information systems, to analyse trends and inform future public health responses.

Disclosure to an external organisation

The pathway is intended to support research undertaken within Queensland Health. However, contemporary research is frequently collaborative and may involve universities, medical research institutes and other external organisations.

The proposed amendments will therefore clarify the circumstances in which patient-identifying health information may be disclosed outside Queensland Health for the purposes of authorised research.

For example, a Queensland Health researcher who holds an appointment with a university may be undertaking authorised research. The researcher may need to store health information within an approved university research environment or share information with a research partner for approved analysis.

The amendments will permit such disclosure if:

- it is specifically authorised in the Queensland Health research governance authorisation; and
- a written agreement is in place between the external organisation and the Director-General, a relevant Health Service Chief Executive, or their delegate, addressing the purposes for which the information may be used.

Any disclosure will be limited to the information reasonably necessary for the authorised research project, and remain subject to all applicable legislative requirements, ethics and governance approval conditions, confidentiality obligations and privacy safeguards.

Safeguards

The proposed pathway is supported by multiple layers of oversight and accountability. Access to patient-identifying health information will only be available where:

- the researcher is participating in authorised research;
- the research has received the required ethics approval, waiver or exemption, and Queensland Health research governance authorisation;
- the researcher is named and authorised in the research governance authorisation;

- the researcher has entered into a deed of confidentiality with the Director-General, a Health Service Chief Executive, or their delegate; and
- access is provided in accordance with any conditions imposed through ethics and governance approval processes.

These safeguards operate alongside existing ethics and governance processes, which continue to provide oversight of privacy, confidentiality, data management, researcher suitability and compliance with the National Statement on Ethical Conduct in Human Research.

Researchers accessing information under this pathway will also remain subject to the offence and enforcement provisions of the Public Health Act, including strengthened penalties for unauthorised access, use or disclosure of health information, as discussed from page 29.

Pathway for trusted external research partners

Background

Queensland Health has long-standing research partnerships with universities, medical research institutes and other trusted research organisations. These organisations play a critical role in delivering health and medical research that informs clinical practice and improves health service delivery and health outcomes for the community.

Contemporary health and medical research are increasingly undertaken through collaborative partnerships between Queensland Health and external organisations. Research teams commonly comprise researchers employed across multiple organisations, including clinicians and academics who hold conjoint appointments. Researchers frequently work together on the same project, access the same datasets and operate under shared ethics and governance arrangements.

Research undertaken by trusted external partners within Queensland Health settings is already subject to established ethics and governance processes. Research must:

- be approved by a Queensland Health-recognised HREC, another Queensland Health-recognised ethical review committee (for example, a committee that reviews lower-risk research), or receive a waiver or exemption from ethics review where permitted under the National Statement on Ethical Conduct in Human Research; and
- receive Queensland Health research governance authorisation through an SSA, approved by the relevant Health Service Chief Executive or the Director-General.

Issue

Despite these close working relationships and established governance frameworks, researchers employed by trusted external partner organisations are generally required to rely on the same legislative pathways as researchers with no established relationship with Queensland Health.

While existing pathways may be appropriate for researchers seeking access to patient-identifying health information on a project-by-project basis, they do not adequately recognise organisations that maintain ongoing collaborative relationships with Queensland Health and operate under established governance, privacy and security frameworks.

Stakeholders have identified that the current framework creates administrative burden and delays for collaborative research and may discourage partnerships between Queensland Health and external research organisations.

Example

A statutory body such as QIMR Berghofer Medical Research Institute may conduct many clinical research projects with Queensland Health each year. Despite well-established oversight and compliance processes, it must currently apply to be given patient-identifying health information under section 282 of the Public Health Act, for each individual research project.

Proposed changes

Establish a dedicated pathway in the Public Health Act for trusted external research partners to access patient-identifying health information for research.

Given the established partnerships that exist between Queensland Health and a number of external research organisations, it is proposed to establish a new pathway in the Public Health Act for trusted external research partners.

Unlike researchers with no existing relationship to Queensland Health, trusted external research partners frequently undertake research within Queensland Health settings, operate under Queensland Health ethics and governance frameworks, and maintain ongoing organisational relationships with Queensland Health. The proposed pathway recognises these existing arrangements and seeks to provide a more streamlined mechanism for trusted external partners to access patient-identifying health information for authorised research projects.

Under the proposed framework, eligible researchers employed or engaged by trusted external research partners would be able to access patient-identifying health information held by a health agency without requiring a separate application to the Director-General under section 282 of the Public Health Act.

Access to this health information may be provided through extracted datasets or, where appropriate, secure information systems.

The pathway would only apply to authorised research that has received Queensland Health ethics approval and governance authorisation, and where the researcher satisfies the eligibility requirements outlined below.

Head agreement

A key feature of the proposed pathway is the requirement for a written head agreement between the Director-General and the external organisation before the trusted external research partner framework can be used.

The purpose of the head agreement is to recognise organisations that maintain ongoing collaborative relationships with Queensland Health and demonstrate appropriate privacy, security and information-handling capabilities.

The agreement may apply to the external organisation as a whole, or to a specified faculty, school, institute or program within the organisation.

It is anticipated that trusted external research partners may include universities, statutory bodies, medical research institutes and other organisations approved by the Director-General that undertake health and medical research in collaboration with Queensland Health.

The Director-General would only be permitted to enter into a head agreement if satisfied that:

- it is in the public interest to do so, having regard to the opportunities the agreement will provide for increased health knowledge and improved health outcomes, and the privacy of individuals whose information will be used; and
- the organisation meets appropriate information privacy, security and information-handling standards.

The Director-General would be able to suspend or terminate participation in the framework where an external research partner no longer satisfies the relevant requirements or fails to comply with its obligations under the agreement. Non-compliance with a head agreement may result in contractual penalties and reputational consequences for the external research partner.

Participation in the framework would not, of itself, authorise access to health information. Rather, the head agreement would establish organisational eligibility to participate in the framework, with project-level ethics and governance approvals continuing to apply to individual research projects that the trusted external research partner undertakes.

Eligibility criteria:

To access this pathway, a researcher would be required to:

- be employed or engaged by a trusted external research partner that is party to a head agreement with the Director-General;
- be participating in authorised research;
- be named and authorised in the Queensland Health research governance authorisation; and
- enter a deed of confidentiality with the Director-General, a Health Service Chief

Executive or their delegate.

The deed of confidentiality will operate in the manner described in the Queensland Health researcher pathway on page 12.

Example

Queensland Health collaborates with a university to evaluate long-term outcomes for patients who have undergone cardiac surgery in Queensland public hospitals. The university has a head agreement in place with Queensland Health. Following Queensland Health HREC approval and governance authorisation, named trusted university researchers who have entered deeds of confidentiality with the Director-General are given access to the patient-identifying health information required to undertake the authorised research.

Safeguards

The proposed pathway will be subject to a range of safeguards designed to ensure patient-identifying health information continues to be appropriately protected.

The head agreement will not replace project-level oversight. Access to patient-identifying health information will only be available where:

- the researcher is employed or engaged by an organisation participating in the framework;
- the research has received the required ethics approval, waiver or exemption, and Queensland Health research governance authorisation;
- the researcher is named and authorised in the Queensland Health research governance authorisation;
- the researcher has entered into a deed of confidentiality with the Director-General, a Health Service Chief Executive, or their delegate; and
- access is provided in accordance with any conditions imposed through Queensland Health ethics and governance approval processes.

These safeguards also operate alongside existing ethics and governance processes, which continue to provide oversight of privacy, confidentiality, data management arrangements, researcher suitability and compliance with the National Statement on Ethical Conduct in Human Research.

Researchers accessing patient-identifying health information under this pathway will remain subject to the offence and enforcement provisions of the Public Health Act, including strengthened penalties for unauthorised access, use or disclosure of health information.

Pathway for students undertaking placement at Queensland Health

Background

Students undertaking placements within Queensland Health play a pivotal role in supporting public health research. They frequently contribute to health and medical research projects as part of their education, training and professional development.

These projects support improved patient care, health outcomes and service delivery, while also providing valuable opportunities for students to develop research skills and experience within Queensland Health settings.

There is increasing demand for these students to participate and, where appropriate, continue to participate in research projects after their formal student placement period concludes.

Providing students with opportunities to participate in research supports workforce capability, encourages research engagement and assists students to develop the practical skills needed to work in increasingly research-informed health environments.

Issue

Many students already participate in authorised research projects undertaken within Queensland Health settings. However, the current legislative framework does not clearly recognise or accommodate their role.

Students are typically not Queensland Health employees and therefore cannot access health information through the proposed Queensland Health researcher pathway. Similarly, even where an education provider is a trusted external research partner, students are generally not employed or engaged by that provider (but are instead enrolled), and may therefore not be eligible to access patient-identifying health information through that pathway.

As a result, students who wish to participate in authorised research while on placement, or continue participating in that research following the completion of their placement, must apply to the Director-General to be given patient-identifying health information under section 282 of the Public Health Act.

This requirement applies despite students being integrated in Queensland Health research teams, operating within Queensland Health environments, and subject to supervision and information-handling obligations through placement agreements and related arrangements.

The current legislative framework creates unnecessary administrative burden for students participating in research that has already been subject to Queensland Health ethics and research governance processes. In practice, it may also limit the ability of students to contribute meaningfully to collaborative research projects undertaken in the public interest.

Proposed changes

Establish a practical pathway for placement students at Queensland Health to access patient-identifying health information for research.

It is proposed to establish a dedicated pathway for students who are undertaking or have undertaken placements within Queensland Health to access patient-identifying health information for authorised research. Under the proposed framework, eligible students would be able to access health information without requiring a separate application to the Director-General under section 282.

The pathway recognises that students make valuable contributions to authorised research projects and, where appropriate oversight arrangements are in place, should be able to access the health information necessary to undertake their approved research activities.

The pathway is also intended to support continuity of research projects by allowing eligible students to continue participating in authorised research after their placement has concluded, where approved through Queensland Health governance processes.

Access to patient-identifying health information for eligible students may be provided through individual, extracted datasets or secure information systems where appropriate.

The pathway would only apply to authorised research that has received the Queensland Health ethics approval and research governance authorisation, and where the student satisfies the eligibility requirements outlined below.

Eligibility criteria:

To access this pathway, a student would be required to:

- be enrolled in a course of study with an education provider that has a written agreement with the Director-General for placement (for example, a student placement deed); and
- be undertaking or have undertaken a placement with Queensland Health;
- be participating in authorised research that is led by a Queensland Health researcher;
- be named and authorised in the Queensland Health research governance authorisation; and
- enter into a written deed of confidentiality with the Director-General, a relevant Health Service Chief Executive, or their delegate.

The pathway is intended to support a broad range of students who contribute to research within Queensland Health settings, and not just students undertaking clinical placements. For example, students studying medicine, nursing, allied health, biomedical science, engineering and other relevant disciplines may participate in research projects where they are undertaking placements with Queensland Health.

The deed of confidentiality will operate in a manner described in the Queensland Health researcher pathway on page 12.

Example

A medical student undertaking a placement with Queensland Health is assisting with an authorised research project examining treatment outcomes for patients with chronic disease.

The student is named in the Queensland Health governance authorisation, enters a deed of confidentiality with the Director-General, and is given access to relevant patient-identifying health information to undertake the authorised research project being led by a Queensland Health researcher.

Safeguards

The proposed pathway will be subject to a range of safeguards designed to ensure patient-identifying health information continues to be appropriately protected.

Access to patient-identifying health information will only be available where:

- the research has received the required ethics approval, waiver or exemption, and Queensland Health research governance authorisation;
- the student is participating in authorised research that is led by a Queensland Health researcher;
- the student is undertaking, or has undertaken, a placement within Queensland Health;
- the student is named and authorised in the Queensland Health research governance authorisation;
- the student has entered into a deed of confidentiality with the Director-General, a Health Service Chief Executive or their delegate; and
- access is limited to what is reasonably necessary for the student's role and provided in accordance with any conditions imposed through Queensland Health ethics and governance approval processes.

These safeguards would operate alongside existing ethics and governance processes, which continue to provide oversight of privacy, confidentiality, researcher suitability and compliance with the National Statement on Ethical Conduct in Human Research.

Students accessing health information under this pathway will be subject to the offence and enforcement provisions of the Public Health Act, including strengthened penalties for unauthorised access, use or disclosure of health information.

Case study: the new pathways in practice

The following case study illustrates how the proposed pathways for Queensland Health researchers, trusted external research partners and students undertaking placements with Queensland Health may operate in practice.

KEY MESSAGES

- Although different members of the research team rely on different legislative pathways, all participants are undertaking the same authorised research project and are subject to the same ethics approval, research governance authorisation and project-specific conditions.
- The pathways therefore provide different legislative mechanisms for accessing patient-identifying health information while maintaining a single governance framework and consistent safeguards.

Hypothetical research project

A research project is being undertaken to understand the prevalence of respiratory disease in First Nations communities.

The project has received ethics approval from Far North Queensland HREC, as well as Queensland Health research governance authorisation through a SSA.

The research is also being undertaken collaboratively by Queensland Health and external university researchers.

The research team comprises six researchers, including one student:

Queensland Health researchers

- Two researchers are employed solely by Queensland Health.
- One researcher is employed by Queensland Health and also holds a conjoint appointment with a university and works in the Faculty of Medicine.

University researchers

- Two researchers are employed by a university and work in the Faculty of Medicine.
- The Faculty of Medicine is named in a head agreement between the university and the Director-General, which recognises the faculty as a trusted external research partner.

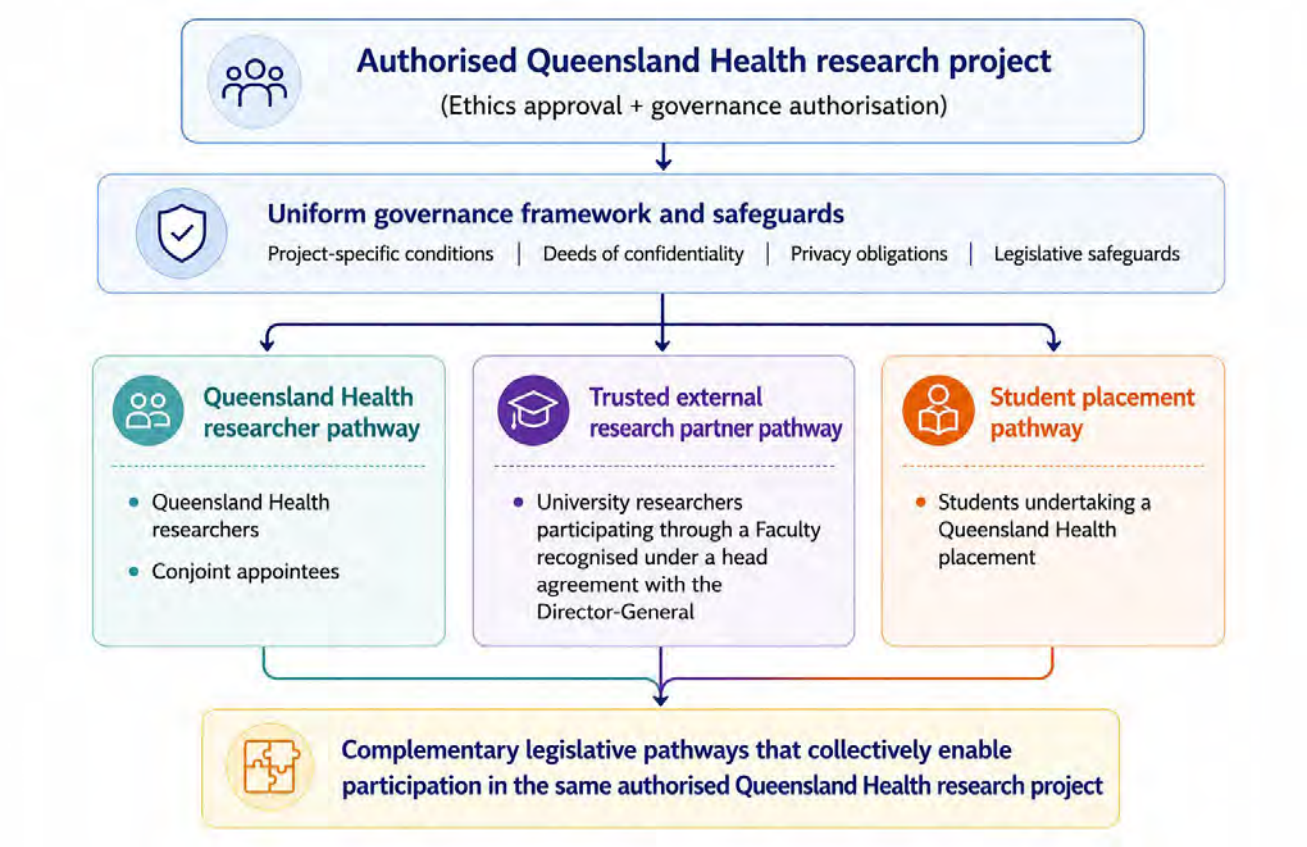
Student

- One medical student is participating in the project while undertaking a placement at Queensland Health.
- The student is enrolled at a university that has a student placement agreement in place with the Director-General.

All researchers and the student are named in the Queensland Health research governance authorisation for the research project, and have entered into deeds of confidentiality with the Health Service Chief Executive of Cairns and Hinterland HHS.

Figure 1: How complementary legislative pathways operate together within a single authorised Queensland Health research project

The following pathways would be available to members of the research team.



What does the case study demonstrate?

This case study demonstrates how the proposed legislative framework enables one authorised research project, one governance framework and one set of safeguards, supported by complementary legislative pathways that support different categories of researchers to participate according to their relationship with Queensland Health.

The framework therefore facilitates collaborative research to be undertaken through the same governance authorisation, while ensuring appropriate legislative authority for different cohorts of researchers to access patient-identifying health information.

Pathway for external researchers

Background

Chapter 6, part 4 of the Public Health Act currently provides a mechanism for researchers to apply to the Director-General for access to patient-identifying health information held by a health agency for research purposes.

The application pathway under section 282 supports a broad range of research activities and provides an important mechanism for regulating access to patient-identifying health information by researchers who are not otherwise eligible to use one of the dedicated pathways proposed in this paper.

Section 282 of the Public Health Act operates as a general pathway for all researchers to apply to the Director-General to be given patient-identifying health information.

Issue

The application pathway in Chapter 6, Part 4 of the Public Health Act remains an important mechanism for facilitating access to patient-identifying health information for research purposes. However, aspects of the framework no longer reflect contemporary research practices.

In particular, the existing provisions were developed at a time when access to patient-identifying health information was typically provided through standalone datasets. The legislation does not expressly contemplate access through secure information systems, despite this increasingly being how research is undertaken.

Example

The Director-General has approved a researcher's section 282 application for access to health information. Queensland Health provides the researcher with the information requested, being electrocardiogram data for a specified age-group, from January 2010 to November 2010.

As the research progresses, the researcher identifies that they require data for December 2010. Even though their initial application has been assessed and approved by the Director-General, they must submit a new application under section 282 of the Public Health Act to be given this additional information.

The framework also provides limited flexibility once a section 282 application has been approved by the Director-General. Where changes are required to information requested in an approved application, researchers are required to submit a new application, even where the proposed changes are relatively minor and have little impact on the overall nature of the research project.

In addition, there is currently no requirement for researchers accessing patient-identifying health information under this pathway to enter into a deed of confidentiality, despite similar requirements applying under the new pathways proposed in this paper.

Proposed changes

Streamline the application pathway in the Public Health Act for use by external researchers.

It is proposed to retain and modernise the existing chapter 6, part 4 application pathway.

The pathway will continue to operate as the general pathway for researchers seeking access to patient-identifying health information for research purposes who are not eligible to use one of the dedicated pathways proposed in this paper.

The proposed amendments are intended to improve the operation of the framework while maintaining the Director-General's existing oversight.

In particular, it is proposed to:

- clarify that information given following approval of a section 282 application may be provided through authorised and secure information systems where appropriate;
- introduce a mechanism allowing a researcher to apply to the Director-General to vary an existing approval of a section 282 application; and
- require researchers accessing patient-identifying health information under this pathway to enter a deed of confidentiality.

These proposed changes do not alter the fundamental purpose of application requirements in section 282, or reduce the level of scrutiny applied to applications. Researchers will continue to be required to apply to the Director-General for access to patient-identifying health information, and the Director-General will retain responsibility for determining whether access should be approved in accordance with the requirements of the Public Health Act.

Clarifying access through information systems

It is proposed to clarify that giving patient-identifying health information under the Public Health Act includes giving access to information through secure information systems, and not only the provision of individual, extracted datasets.

This will provide greater flexibility in how approved access is facilitated and better reflect contemporary research practices.

The Director-General will retain discretion to determine the most appropriate method of access, having regard to the nature of the research project and any privacy, confidentiality and security considerations.

Varying an existing application approval

It is proposed to introduce a mechanism allowing researchers to apply to the Director-

General to vary an existing application approval.

The Director-General may approve a variation to an approval if satisfied that:

- the variation is appropriate, having regard to the original application and any subsequent information; and
- the variation remains in the public interest.

Any variation may also be subject to additional conditions to protect patient-identifying health information or manage privacy and confidentiality risks.

The variation process is intended to provide greater flexibility for researchers undertaking approved research projects while maintaining appropriate oversight of access to patient-identifying health information.

To support transition to the new framework, researchers who have had section 282 applications approved under the existing framework at the time the amendments commence will also be able to apply to vary that approval using the new variation process.

Deed of confidentiality for external researchers

A key safeguard of the modernised framework is the introduction of a deed of confidentiality requirement for researchers accessing health information under section 282.

If the Director-General approves a researcher's section 282 application, they will be required to enter a written deed of confidentiality with the Director-General, a Health Service Chief Executive, or their delegate.

The deed will establish clear obligations regarding the access, use, storage and disclosure of health information, and provide an additional mechanism for Queensland Health to enforce obligations relating to the handling and protection of health information.

This amendment will align the section 282 pathway with the confidentiality requirements proposed for Queensland Health researchers, trusted external research partners and students undertaking placements with Queensland Health.

Auditing and monitoring research

Background

Auditing and monitoring are well-established and important components of health and medical research. They provide independent oversight of research activities and help ensure compliance with approved research protocols, ethics approvals, governance requirements and regulatory obligations.

Auditors and monitors perform a fundamentally different function to researchers. Rather than conducting research, they act as an independent assurance mechanism on behalf of a research sponsor, contract research organisation, university or health service to assess the

integrity of the research process and compliance with applicable requirements. Their role is to review information held on systems, as well as research processes.

The role of auditors and monitors is also recognised internationally. For example, the *ICH Harmonised Guideline for Good Clinical Practice E6(R3)* requires research sponsors to ensure direct access to source records for trial-related monitoring, audits and regulatory inspection in protocols or agreements. This reflects the established expectation that access to information systems is needed to monitor research conduct and provide appropriate oversight of clinical research.

Issue

Research auditors and monitors may require temporary and purpose-specific access to health information, including information held within Queensland Health information systems, to verify compliance with approved research protocols and regulatory requirements.

In the modern research environment, particularly clinical trials, auditors require direct access to information systems to carry out their functions, rather than paper records or static datasets.

However, the Public Health Act and Hospital and Health Boards Act currently do not provide a clear basis for auditors and monitors to access Queensland Health information systems to undertake their functions of reviewing health information and research processes.

While section 144 of the Hospital and Health Boards Act permits the disclosure of confidential information with patient consent, it does not provide a basis for access to non-consented information which is sometimes required for auditing and monitoring activities. Further, the provision operates as a disclosure mechanism and was not designed to support temporary access to Queensland Health information systems, which is increasingly required for the auditing and monitoring of clinical trials and other research projects.

This creates an operational challenge for research projects that are subject to auditing and monitoring requirements and creates uncertainty regarding how access to health information can be authorised for these important oversight activities.

Proposed change

Establish a clear legislative basis for auditors and monitors to access information systems for auditing and monitoring research.

It is proposed to establish a dedicated framework in the Public Health Act to support auditing and monitoring activities associated with authorised research.

The proposed framework will recognise that auditing and monitoring are important oversight mechanisms that support research integrity, participant safety and compliance with research requirements.

The amendment does not create a new category of person who may access health information for research purposes. Rather, it provides a clear legislative basis for a limited class of oversight activities that are already recognised as an important component of health and medical research.

Under the proposed framework, eligible auditors and monitors would be permitted to access patient-identifying health information, including through information systems where appropriate, where access is necessary to undertake approved auditing or monitoring activities associated with authorised research.

The framework is intended to facilitate oversight activities only. It will not authorise auditors or monitors to conduct research, analyse health information or use information for any purpose unrelated to auditing or monitoring.

Eligibility criteria:

To access patient-identifying health information under this framework, an auditor or monitor would be required to:

- be named and authorised in the Queensland Health research governance authorisation;
- be undertaking an approved auditing or monitoring function associated with authorised research; and
- only access information necessary to audit or monitor the authorised research.

Example

A Queensland Health clinical trial is testing a new treatment for advanced melanoma. Under the *ICH Harmonised Guideline for Good Clinical Practice E6(R3)*, an independent auditor is required to verify that the trial is being conducted in accordance with ethics approvals, participant consent requirements, study protocols, and regulatory obligations.

The auditor is named in the Queensland Health research governance authorisation and granted temporary access to health information stored on Queensland Health systems to undertake these activities. The auditor reviews records to confirm compliance with relevant protocols but does not extract, analyse or use the information for any other purpose, including research.

Safeguards

The proposed framework is supported by multiple safeguards designed to ensure patient-identifying health information remains appropriately protected.

Access to information systems under this provision will be subject to any conditions applying to the access granted for the authorised research and will be limited to research that has received Queensland Health ethics approval and governance authorisation.

Auditors and monitors accessing patient-identifying health information under this pathway will be subject to the offence and enforcement provisions of the Public Health Act, including strengthened penalties for unauthorised access, use or disclosure of health information.

Penalties and offences framework for use and disclosure of health information

Background

Protecting the privacy and confidentiality of patient information is a key feature of Queensland Health's research framework.

The Public Health Act currently contains an offence framework governing the misuse and disclosure of health information for research:

- **Misuse of information (section 290)**: a person given health information for research must not use the information for a purpose inconsistent with the research for which it was provided. Maximum penalty of 50 penalty units.
- **Disclosure of information (section 291)**: a person given health information for research must not disclose the information, whether directly or indirectly. Maximum penalty of 50 penalty units.
- **Failure to notify (section 286)**: a person in charge of a research project for which health information has been given under the Act must notify the Director-General if there is a change in the persons who will be given the information. Notification must occur as soon as practicable after the change. Maximum penalty of 20 penalty units.

These offences help ensure health information accessed for research purposes is handled appropriately and support public confidence in the framework.

The proposed amendments discussed in this paper seek to facilitate access through clearer and more practical access pathways. It is important that these reforms are accompanied by appropriate safeguards to protect patient-identifying health information and maintain accountability for the handling of sensitive information.

Issues

The proposed reforms establish new pathways for researchers to access patient-identifying health information and clarify the circumstances in which access may be provided through information systems.

As access pathways are modernised and streamlined, the legislative framework should continue to provide clear obligations regarding the handling of patient-identifying health information and appropriate consequences where those obligations are not met.

The current offence framework focuses on the unauthorised use and disclosure of health information. However, it does not expressly address all circumstances in which health information may be accessed under the proposed framework, particularly where access is provided through modern information systems.

Proposed changes

Update penalties and offences to reflect how patient-identifying health information is used in practice.

It is proposed to strengthen the privacy, confidentiality and accountability framework applying to researchers accessing patient-identifying health information under the Public Health Act.

In particular, it is proposed to:

- strengthen the existing offence relating to the unauthorised use of health information;
- strengthen the existing offence relating to the unauthorised disclosure of health information;
- strengthen the existing offence relating to failures to notify changes to authorised research personnel; and
- introduce a new offence relating to the unauthorised access of health information.

These amendments are intended to apply consistently across the proposed research pathways.

Extending offence provisions to all access pathways

To ensure a consistent accountability framework, it is proposed to extend the current offence framework to any person given health information, or given access to health information, under the:

- Queensland Health researcher pathway;
- trusted external research partner pathway;
- student pathway;
- existing external pathway; and
- auditing and monitoring framework.

This will ensure that every person authorised to access patient-identifying health information through extracted datasets or an information system is subject to the same legislative obligations and consequences for non-compliance, regardless of the pathway through which access is obtained.

Misuse of information offence

To reflect the seriousness of misusing health information, it is also proposed to extend the application of section 290 to any person given patient-identifying health information for research purposes under the Public Health Act, including organisations.

The Bill will also clarify that misuse includes using the information for a purpose that is inconsistent with any conditions imposed on an application granted under the Public Health Act, any applicable research governance authorisation, or any head agreement made under the trusted external research partner pathway.

It is proposed to increase the maximum penalty for contravening this offence from 50 penalty units to 100 penalty units to align with other comparable provisions in the Queensland statute book.

Disclosure offence

To strengthen the offence framework and align with the misuse offence, it is proposed to extend the application of the section 291 to any person given patient-identifying health information for research purposes under the Public Health Act, including organisations.

It is also proposed to clarify that the following disclosures are permitted, and are not an unlawful disclosure:

- disclosure to a person or entity authorised under the Act for research purposes; and
- incidental disclosure, or disclosure that is reasonably necessary to carry out authorised research under the Act.

It is also proposed to increase the maximum penalty for this offence from 50 penalty units to 100 penalty units to align with other comparable provisions in the Queensland legislation.

Failure to notify research team changes offence

To align with the strengthened misuse and disclosure offences, it is proposed to increase the maximum penalty for section 286 from 20 penalty units to 50 penalty units.

This amendment recognises the importance of ensuring only appropriately authorised persons are permitted to access patient-identifying health information for research purposes.

New unauthorised access offence

It is proposed to introduce a new offence prohibiting the unauthorised access of health information.

This offence will clarify that a person must not access patient-identifying health information for research purposes unless:

- the access has been given under the Public Health Act for research purposes or is authorised by another law; or
- the access is incidental to, and reasonably necessary for, carrying out the authorised research.

The proposed offence will address circumstances where a person accesses patient-identifying health information without appropriate authority, including where access is obtained through an information system.

To align with the strengthened existing offences, the maximum penalty for contravening this provision is proposed to be 100 penalty units.

Transitional arrangements

Background and issue

The proposed amendments will introduce new pathways for researchers to access patient-identifying health information for authorised research. At the time the amendments commence, it is anticipated that there will be applications awaiting a decision under section 282 of the Public Health Act, as well as existing approvals and ongoing research projects that rely on the current framework as a lawful basis for accessing, using and disclosing health information.

Without transitional arrangements, the commencement of the new framework could create uncertainty regarding the status of existing applications, approvals and access arrangements.

Proposed changes

It is proposed to include transitional provisions to ensure that existing applications and approved research projects are not disrupted by the commencement of the amendments.

The transitional provisions will ensure that:

- applications submitted under section 282 before commencement are assessed and decided under the existing framework;
- existing approvals continue in effect for the duration of the approved research project or approval period;
- researchers may continue to access, use and disclose patient-identifying health information in accordance with an existing approval and any conditions attached to that approval; and
- access already provided through Queensland Health information systems may continue where authorised under an existing approval.

The amendments will not retrospectively alter or invalidate approvals granted, or access to, use of, or disclosure of patient-identifying health information authorised under the current framework.

To support a consistent and contemporary compliance framework, the proposed offences and penalties will apply from commencement, including in relation to patient-identifying health information accessed, used or disclosed under approvals granted before the amendments commenced.

Minor technical amendment to the *Hospital and Health Boards Act 2011*

Background

Section 150A of the Hospital and Health Boards Act applies in limited circumstances where confidential information about an adult with impaired decision-making capacity may be disclosed for approved research.

Issue

The current title of section 150A is 'disclosure for purposes related to approved research'. The title may be interpreted as providing a broader authority to disclose confidential information for research purposes than is intended. This may create confusion for researchers and designated persons seeking to understand the pathways available to access confidential information for research under the Hospital and Health Boards Act.

Proposed change

Amend the title of section 150A to clearly reflect the purpose of the section.

To improve clarity and accessibility, the Bill proposes amending the title of section 150A to more accurately reflect the operation of the provision, and clarify that it applies only to the disclosure of confidential information for approved research involving adults with impaired decision-making capacity.

Public Health (Infection Control for Personal Appearance Services) Act 2003, *Public Health (Infection Control for Personal Appearance Services) Regulation 2016*, and *Public Health Act 2005*

Overview: Clarifying and modernising the infection control framework for businesses providing personal appearance services

Legislative Background

The *Public Health (Infection Control for Personal Appearance Services) Act 2003* (**ICPAS Act**) and the *Public Health Act 2005* establish infection control frameworks that regulate services presenting public health risks.

The ICPAS Act establishes the primary regulatory framework for managing infection risks associated with the provision of personal appearance services in Queensland.

What are personal appearance services?

Beauty therapy, hairdressing or skin penetration services are collectively referred to as **personal appearance services**.

The purpose of the ICPAS Act is to minimise the risk of infection that may result from the provision of personal appearance services. The ICPAS Act achieves its purpose through a combination of general obligations, licensing requirements and enforcement mechanisms.

This includes:

- requiring business proprietors and operators providing personal appearance services to take all reasonable precautions and care to minimise infection risks;
- requiring proprietors of businesses providing higher-risk personal appearance services to hold a licence;
- requiring operators providing higher-risk personal appearance services to hold an infection control qualification; and
- providing for compliance with the ICPAS Act to be monitored and enforced by local government.

The ICPAS Act establishes a two-tiered regulatory framework for personal appearance services, under which a subset of services, referred to as higher-risk personal appearance services, are subject to additional regulatory requirements based on their increased risk of infection.

Higher-risk personal appearance services are certain procedures involving skin penetration where the release of blood or bodily fluid is an expected result. This includes, for example, platelet-rich plasma treatments (e.g. vampire facials) and tattooing. These procedures pose a higher risk of transmitting blood-borne diseases and are subject to additional infection control obligations, including licensing requirements.

The ICPAS Act is supported by the *Public Health (Infection Control for Personal Appearance Services) Regulation 2016* (**ICPAS Regulation**) and the *Infection control guidelines for personal appearance services 2024*, that prescribe infection control practices and operational requirements for personal appearance services.

The Public Health Act establishes a separate infection control framework for declared health services commonly provided in health care settings.

What is a declared health service?

Section 148 of the Public Health Act defines **declared health service** as a service intended to maintain, improve or restore a person's health that involves an invasive procedure or activity that exposes a person to blood or another bodily fluid.

This may capture, for example, intravenous (IV) vitamin drips, mole excisions and the use of botulinum toxin injections (e.g. Botox®) for therapeutic purposes, such as the treatment of hyperhidrosis.

Operators of facilities providing declared health services must take reasonable precautions and care to minimise infection risks and develop, implement, and maintain an Infection Control Management Plan (**ICMP**). An ICMP must identify the infection risks associated with the services provided, the measures to manage those risks, monitoring and review arrangements, staff training, and the identity of the person responsible for infection control.

Certain facilities are exempt from the ICMP requirement under the Public Health Act, including private health facilities, those accredited against the **Standards for general practices** developed by the Royal Australian College of General Practitioners, and local government immunisation services.

The Public Health Act also establishes a broader framework for managing public health risks, including activities involving invasive procedures that may expose a person to an infectious condition. This framework includes powers for authorised officers to enter premises, issue public health orders, and monitor compliance. However, it is designed to address systemic or emerging public health risks rather than to provide routine, clinic-level infection control regulation.

What is a public health risk?

Public health risk is defined in section 11 of the Public Health Act and includes a range of things, including a designated pest, drinking water, waste, paint, lead, or any other activity prescribed under a regulation.

The ICPAS Act and Public Health Act frameworks were designed to operate in different contexts and generally regulate different types of services.

The ICPAS Act is designed to regulate commercial personal appearance services, including hairdressing, beauty therapy and skin penetration services which alter or enhance a person's appearance, while the Public Health Act regulates declared health services which maintain, improve or restore a person's health, and are generally provided in health care settings. In practice, however, there is increasing convergence between these categories due to changes in service delivery and the emergence of new procedures.

Overview of proposed amendments

The proposed amendments seek to modernise and clarify the operation of the infection control framework for personal appearance services while maintaining the original intent of the legislation.

The reforms are intended to ensure the ICPAS Act and Public Health Act continue to operate as complementary frameworks and that infection control requirements apply consistently and proportionately, based on the nature of the procedure being undertaken, the infection risks it presents, and the facility in which it is undertaken.

To achieve this, the proposed amendments focus on four key areas.

First, the amendments seek to clarify the boundary between the ICPAS Act and the Public Health Act. In particular, the amendments aim to ensure businesses providing personal appearance services outside appropriately regulated health care settings remain subject to a consistent infection control framework under the ICPAS Act, while avoiding unnecessary duplication of regulatory requirements for facilities already subject to infection control regulation under other legislative frameworks.

Second, the amendments seek to modernise key definitions within the ICPAS Act to better reflect contemporary procedures and service delivery models. This includes clarifying how the framework applies to modern skin penetration procedures and ensuring businesses, regulators and consumers have greater certainty about the services captured by the legislation.

Third, the amendments seek to support a smooth transition to the amended framework by providing certainty for existing licence holders and allowing affected businesses time to comply with any relevant regulatory requirements.

Finally, the amendments seek to streamline the process for making infection control guidelines so that guidance can be updated more efficiently in response to emerging evidence, infection risks and industry practices.

The proposed amendments are discussed in more detail below.

Replace the health services-based exemption with a facility-based framework

Background

The ICPAS Act was introduced to provide an infection control framework for all personal

appearance services, including higher-risk procedures involving skin penetration and exposure to blood or bodily fluids.

At the time it was introduced, personal appearance services and health services were generally delivered in separate settings and could be more readily distinguished from one another.

However, over time, service delivery models have evolved considerably. Businesses increasingly provide a combination of aesthetic and therapeutic services from the same premises. In some cases, the procedures use similar equipment, techniques and products and present comparable infection risks. These changes have exposed issues in the operation of the existing health services-based exemption.

Examples of mixed-use premises now commonly operating in Queensland:

- Clinics providing botulinum toxin (e.g. Botox®) injections for both aesthetic purposes, such as for anti-wrinkle treatments, and therapeutic purposes, such as to treat hyperhidrosis or chronic migraines.
- Clinics that provide microneedling for aesthetic purposes, such as to improve skin texture, and IV vitamin treatments for therapeutic purposes.
- Clinics providing cosmetic injectable and platelet-rich plasma services, as well as skin cancer assessments and mole removal procedures.

Issue

Section 3 of the ICPAS Act provides that the Act does not apply to personal appearance services provided in a health care facility.

The ICPAS Act defines a **health care facility** as a facility at which a health service is provided, with health service taking its meaning from the Hospital and Health Boards Act. Under the Hospital and Health Boards Act, **health service** is broadly defined as a service for maintaining, improving, restoring or managing a person's health and wellbeing.

As a result of this broad definition, facilities that predominantly provide personal appearance services may fall outside of the operation of the ICPAS framework simply because a health service is also provided at the facility. This can cause inconsistent regulatory outcomes.

Under the current framework, the applicable regulatory requirements may depend on how a service is characterised, rather than the infection risks associated with the procedure being undertaken or the facility which it is delivered from.

For example, two businesses providing substantially similar personal appearance services may be subject to different infection control requirements depending on whether one of the businesses also provides a health service.

This creates uncertainty for businesses and regulators about whether particular facilities are regulated under the ICPAS Act, the Public Health Act, both frameworks, or neither.

Proposed changes

Replace the health services-based exemption with a clear, facility-based exemption.

It is proposed to replace the existing exemption in section 3, which relies on the broad definition of health services, with a clearer, facility-based exemption that provides greater certainty about which facilities are regulated under the ICPAS Act.

Under the proposed model, the ICPAS Act will not apply where a facility is:

- a health care facility; or
- a prescribed exempt facility.

The existing definition of health care facility will be replaced with a new definition which will rely on the facility's primary purpose and overall character. Under this new definition, a health care facility will be exempt from the ICPAS Act where the facility is established and operated primarily for the diagnosis, treatment or management of a disease, illness, injury or disability. This will maintain the exemption for genuine health care facilities, while preventing a facility from becoming exempt merely because it also provides an individual health service.

It is also recognised that some specialist facilities provide a mix of therapeutic and aesthetic services and may not satisfy this primary purpose test. For example, a dermatology clinic may provide skin cancer assessment and treatment alongside cosmetic injectables and other aesthetic procedures. Depending on its service mix, a clinic of this kind may predominantly provide aesthetic services and therefore may not meet the proposed definition of a health care facility. However, given the facility's broader clinical function and the professional and regulatory frameworks that apply to its operation, it is more appropriately treated as a health care facility than as a personal appearance services business for the purposes of the ICPAS Act.

To accommodate these facilities and maintain the intended scope of the ICPAS Act, it is proposed to separately prescribe particular classes of facilities as exempt. The proposed prescribed exempt facilities are:

- private health facilities;
- dermatology clinics; and
- plastic surgery clinics.

A regulation-making power will also enable additional classes of facilities to be prescribed as exempt in the future. This will provide flexibility to respond to emerging service delivery models and health care practices as they arise.

To support local government and industry to assess whether a facility is exempt under the ICPAS Act, a non-exhaustive list of relevant matters will be included. These matters may be considered in determining whether a facility is established and operated primarily as a health

care facility or is a genuine prescribed exempt facility. This will support more consistent application of the exemption and reduce the potential for businesses to fall outside the ICPAS framework merely because some health services are provided at the facility.

The proposed amendments will provide clearer boundaries between facilities that are intended to be regulated under the ICPAS Act and genuine health care and specialist facilities that are appropriately exempt from that framework. This will ensure the ICPAS Act regulates personal appearance services businesses, while avoiding unnecessary duplication for facilities that operate within broader health care and professional regulatory frameworks.

Minor and technical amendments will also be made to remove the definition of health service, as this will no longer be required under the operation of the proposed new framework.

Clarify the interaction between the ICPAS Act and Public Health Act

Background

The Public Health Act establishes the ICMP framework to manage infection risks associated with the provision of declared health services. The framework is designed to support infection prevention and control within health care facilities by requiring providers of declared health services to identify and manage infection risks through an ICMP.

The definition of declared health service reflects the types of health services and clinical practices that were prevalent when the framework was established. At that time, declared health services and higher-risk personal appearance services were generally provided in different settings, and health care facilities did not commonly provide invasive aesthetic procedures alongside conventional health services.

Health care service delivery models have since evolved. Some health care facilities now provide higher-risk personal appearance services, such as cosmetic injectables and other invasive aesthetic procedures, alongside declared health services.

Examples of health care facilities providing higher-risk personal appearance services:

- Oculoplastic clinic providing both treatments for eyelid disorders and cosmetic injectables.
- Plastic surgery clinics providing both skin cancer excisions and cosmetic botulinum toxin (e.g. Botox®) injections.
- Skin cancer clinics providing both skin cancer diagnosis and treatment, and cosmetic rejuvenation procedures such as platelet-rich plasma therapy or microneedling.

Issue

The ICMP framework currently applies to declared health services, which generally capture invasive procedures or other activities involving exposure to blood or bodily fluids, provided for the purpose of maintaining, improving or restoring a person's health.

Higher-risk personal appearance services can present comparable infection risks and expose a person to blood or another bodily fluid. However, these services do not fall within the current definition of declared health services because they are provided to alter or enhance a person's appearance.

This creates a regulatory gap where higher-risk personal appearance services are provided within facilities that are exempt from the ICPAS Act. Although the facility may appropriately be exempt from regulation as a personal appearance services business, the higher-risk personal appearance services provided within the facility may not be captured by the ICMP framework.

As a result, infection control requirements applying within a health care facility depends on how a procedure is characterised rather than the infection risk it presents.

For example, a dermatology clinic exempt from the ICPAS Act may provide platelet-rich plasma treatments for skin rejuvenation. This procedure involves collecting a person's blood, processing it in a centrifuge and reintroducing the processed material into the person's skin. Despite the exposure to blood and associated infection risks, the procedure may not be captured as a declared health service because it is provided for an aesthetic purpose.

This outcome is inconsistent with the whole-of-facility approach to infection prevention and control that underpins the ICMP framework and does not reflect the contemporary mix of clinical and aesthetic services provided within some health care facilities.

Proposed changes

Require ICPAS-exempt facilities to include higher-risk personal appearance services in their ICMP.

It is proposed to amend the Public Health Act to ensure that higher-risk personal appearance services provided within facilities that are exempt from the ICPAS Act are captured by the ICMP framework.

This amendment reflects the significant infection risks associated with higher-risk personal appearance services and will ensure that these services are subject to a single, whole-of-facility infection control framework, regardless of whether they are undertaken for a therapeutic or aesthetic purpose.

Facilities that are currently exempt from establishing an ICMP will remain exempt and, therefore, will not be required to establish an ICMP for higher-risk personal appearance services provided at that facility. This includes, for example, private health facilities, facilities

accredited against the ‘Standards for general practices’ and local government immunisation services.

To complement the proposed amendment to the ICPAS Act exemption, it is also proposed to amend the Public Health Act to clarify that higher-risk personal appearance services regulated under the ICPAS Act are not declared health services for the purpose of the ICMP framework.

This exclusion will apply only to higher-risk personal appearance services regulated under the ICPAS Act. A facility that provides higher-risk personal appearance services will still be required to establish an ICMP for any other services it provides that independently meet the definition of a declared health service. For example, if a licensed personal appearance services business also administers IV vitamin treatments, the business must maintain an ICMP for the provision of IV vitamin treatments.

This amendment will avoid unnecessary duplication between the two legislative schemes and reinforce the intended distinction between the infection control frameworks established under the ICPAS Act and Public Health Act.

Modernise key definitions in the ICPAS Act

Background

Key definitions in the ICPAS Act, including the definitions for higher-risk personal appearance service, skin penetration and business transaction, determine which services are regulated and what infection control requirements apply.

These definitions were developed more than 20 years ago and largely reflect the procedures and service delivery models that existed at that time.

Since then, the personal appearance services industry has evolved considerably. New procedures have emerged, businesses increasingly provide a combination of aesthetic and therapeutic services, and services are delivered through a broader range of commercial arrangements.

Issue

While the existing definitions have generally supported the operation of the framework, they do not always clearly address contemporary procedures and service delivery models.

This creates uncertainty for regulators and businesses about whether modern procedures and service delivery models are regulated under the ICPAS Act and what infection control requirements apply.

The proposed amendments seek to modernise key definitions within the ICPAS Act to ensure the framework continues to operate as intended and applies consistently to services presenting comparable infection risks.

Definition of 'higher-risk personal appearance service'

Background

Section 14 of the ICPAS Act currently defines **higher-risk personal appearance service** as a personal appearance service involving any of the following skin penetration procedures in which the release of blood or bodily fluid is an expected result:

- body piercing;
- implanting natural or synthetic substances into a person's skin, for example, hair or beads;
- scarring or cutting a person's skin using a sharp instrument to make a permanent mark, pattern or design;
- tattooing; and
- another skin penetration procedure prescribed by the ICPAS Regulation.

Tattoo removal is the only skin penetration procedure prescribed under the ICPAS Regulation.

The existing definition largely reflects procedures that were common when the legislation was developed. Since that time, a range of new procedures have become commonplace within the industry.

Examples of modern procedures include:

- Cosmetic injectable procedures, such as anti-wrinkle injections, dermal fillers and polynucleotide injections (e.g. Rejuran®).
- Blood-derived (platelet) treatments, such as platelet-rich fibrin and platelet-rich plasma (e.g. vampire facials).
- Microneedling procedures.

Issue

While many of these contemporary procedures fall within the scope of the existing definition,[3] the legislation does not clearly address them. This creates uncertainty for businesses about whether licensing and other infection control requirements apply.

[3] 'Queensland Health', *Position on Cosmetic Injectables and Skin Penetration Procedures* (Web Document, October 2023) <https://www.health.qld.gov.au/__data/assets/pdf_file/0020/1272062/cosmetic-injectable-skin-penetration-industry.pdf>.

Proposed changes

Amend the definition of higher-risk personal appearance service in the ICPAS Act to reflect contemporary procedures.

It is proposed to amend the definition of higher-risk personal appearance service so that it more clearly reflects contemporary procedures commonly provided by the industry.

The proposed amendments will expressly include procedures involving the injection of a substance beneath the skin or into a person's tissue or muscle using a needle, microcannula or similar instrument.

This is intended to capture procedures, such as:

- anti-wrinkle treatments (for example, botulinum toxin injections);
- dermal filler treatments;
- platelet-rich plasma treatments; and
- polynucleotide and bio-remodelling treatments.

It is also proposed to expressly include procedures involving the intentional penetration of skin using fine needles to create controlled microinjuries, whether performed using manual devices (e.g. rollers) or powered devices (e.g. pen-style instruments). This would capture services such as collagen induction therapy (microneedling).

It is also proposed to incorporate tattoo removal directly into the primary definition of higher-risk personal appearance service within the ICPAS Act.

As tattoo removal is currently prescribed under the ICPAS Regulation, the ICPAS Regulation will also be amended to remove the reference to tattoo removal.

Definition of 'skin penetration'

Background

Contemporary businesses increasingly provide procedures that may be undertaken for different purposes but involve the same substances, equipment, techniques and infection risks.

For example, botulinum toxin injections may be administered for aesthetic purposes, such as for anti-wrinkle treatments, or to treat medical conditions such as hyperhidrosis, migraines, temporomandibular joint disorders or bruxism.

Issue

The infection risks associated with a procedure arise from the nature of the procedure itself rather than the purpose for which it is provided.

However, the current definition of skin penetration is linked to procedures intended to alter or enhance a person's appearance.

What is skin penetration?

Section 17 of the ICPAS Act defines **skin penetration** as a procedure intended to alter or enhance a person's appearance that involves the piercing, cutting, scarring, scraping, puncturing or tearing of a person's skin or mucous membrane with an instrument.

The existing definition of skin penetration does not capture botulinum toxin injections administered for a therapeutic purpose, despite presenting comparable infection risks to botulinum toxin injections administered for an aesthetic purpose.

This can create uncertainty for businesses and regulators and may result in procedures presenting comparable infection risks being regulated differently.

Proposed changes

Amend the definition of 'skin penetration' in the ICPAS Act to capture therapeutic botulinum toxin injections.

It is proposed to amend the definition of skin penetration to capture botulinum toxin injections provided by a personal appearance service business, regardless of whether the service is administered for a therapeutic or aesthetic purpose.

This proposal recognises that infection risks arise from the procedure itself, including the substances, equipment and techniques used, rather than whether the procedure is described as aesthetic or therapeutic.

Example

Under the proposed amendment, a clinic licensed to provide higher-risk personal appearance services would also be regulated under the ICPAS Act when administering botulinum toxin injections for a therapeutic purpose, such as treating hyperhidrosis.

While the purpose of the treatment may be therapeutic, the infection risks arise from the same injectable substance, equipment and skin penetration process used when administering botulinum toxin injections for an aesthetic purpose.

Importantly, this amendment will only apply to businesses that are not otherwise exempt under section 3 of the ICPAS Act. Health care facilities and other prescribed exempt facilities will continue to be regulated under the Public Health Act and other applicable legislative and professional frameworks.

Definition of ‘business transaction’

Background and issue

The ICPAS Act defines **personal appearance service** as beauty therapy, hairdressing or skin penetration provided as part of a business transaction.

What is a business transaction?

Schedule 2 of the ICPAS Act defines **business transaction** as a transaction in which a service is provided for payment or other consideration.

The ICPAS Act was intended to regulate personal appearance services provided in a commercial or business setting.

Issue

The current definition of business transaction may create unintended gaps where services are provided without payment despite being delivered in a commercial context.

For example, training providers may ask students to bring a friend or volunteer to receive procedures as part of a training exercise.

Similarly, live demonstrations at promotional events or industry exhibitions may involve procedures being performed without payment.

The infection risks associated with a procedure do not depend on whether a fee is charged, whether the procedure is performed as part of training, or whether it is undertaken during a demonstration or promotional activity.

The same infection control considerations arise regardless of the commercial arrangement under which the procedure is provided. As a result, the current definition may unintentionally exclude activities that present identical infection risks to services that are otherwise regulated under the ICPAS Act.

Proposed changes

Amend the definition of ‘business transaction’ in the ICPAS Act to capture personal appearance services provided free of charge or for nominal consideration.

It is proposed to amend the definition of business transaction to ensure that personal appearance services provided in a business or commercial context are captured, regardless of whether payment is made.

This change is intended to clarify that the ICPAS Act applies to services provided as part of:

- training activities;

- demonstrations;
- promotional events;
- industry exhibitions; and
- similar commercial activities,

even where no fee is charged, or only nominal consideration is provided (such as a volunteer's time).

The amendment is intended to ensure services presenting comparable infection risks are subject to consistent infection control requirements regardless of the commercial arrangement under which they are provided.

Transitional arrangements

Background

The proposed amendments clarify the operation of the ICPAS Act and Public Health Act, and reflect modern personal appearance services and business models.

Many businesses that provide higher-risk personal appearance services have been licensed and regulated under the current framework. However, the proposed amendments to the health services-based exemption will clarify circumstances in which premises providing services for both aesthetic and therapeutic purposes are required to be licensed under the ICPAS Act.

Additionally, the proposed amendments to the Public Health Act will require facilities exempt from the ICPAS Act to update their ICMP to ensure any higher-risk personal appearance services they provide are appropriately captured.

Issue

The proposed amendments may affect businesses that have relied on the operation of the existing health services-based exemption or where there has previously been uncertainty about whether particular services or procedures were regulated under the ICPAS Act.

As a result, uncertainty may arise about how existing licences will continue to apply under the amended framework, and whether businesses will automatically transition to the new arrangements.

In addition, some businesses may not currently hold a licence due to uncertainty about the application of the existing exemption. These businesses may become subject to the licensing requirements once the amendments commence.

Similarly, businesses that are exempt from the ICPAS Act may not currently capture higher-risk personal appearance services in their ICMP. Appropriate transitional arrangements are required to provide certainty for businesses, regulators and consumers, and to support the smooth implementation of the amended framework.

Proposed changes

Insert transitional arrangements and provide a six-month grace period for licensable businesses to apply for a licence.

It is proposed to include transitional provisions to support implementation of the clarified framework and minimise disruption to businesses currently operating under the ICPAS Act and ICMP framework.

The transitional provisions will confirm that licences issued under the current ICPAS framework to businesses providing higher-risk personal appearance services continue to have effect under the amended framework. Existing licences will remain in force until they expire, or are renewed, suspended or cancelled in accordance with the ICPAS Act.

To remove any doubt about the operation of licences issued under the current ICPAS framework, the transitional provisions will also confirm that those licences are taken to have been validly issued and remain effective under the amended arrangements.

It is also proposed to provide a six-month grace period following commencement of the amendments to the ICPAS Act and Public Health Act. During this period, businesses that do not hold a licence but are required to be licensed under the clarified facility-based exemption framework may continue to operate without being in breach of the licensing requirements, provided they obtain a licence within that period.

Additionally, this six-month grace period will allow for ICPAS-exempt facilities to update their ICMP where necessary, to capture higher-risk personal appearance services provided at the facility.

This transition period is intended to provide affected businesses with sufficient time to understand the requirements, submit licence applications, update existing ICMPs, and make any necessary operational adjustments to comply with the amended framework.

Infection control guidelines

Background

The ICPAS Act currently enables the Minister for Health and Ambulance Services to make and notify infection control guidelines stating ways for businesses to minimise infection risks associated with personal appearance services.

The guidelines support the operation of the legislative framework by providing practical guidance on infection control practices, equipment, procedures and standards. They assist businesses to understand their obligations under the ICPAS Act and support the consistent application of infection control requirements across the industry.

Issues

The personal appearance services industry continues to evolve, with new procedures, technologies, equipment and infection control practices emerging over time.

To remain effective, infection control guidance must be capable of being reviewed and updated in a timely manner to reflect emerging evidence, public health advice, industry practices and changes in infection risks.

Under the current framework, infection control guidelines are made and notified by the Minister for Health and Ambulance Services. This process can be administratively burdensome and may reduce the ability to update guidance efficiently as industry practices and evidence evolve.

Many legislative frameworks enable appropriately qualified statutory office holders or chief executives to issue guidelines and require those guidelines to be published, rather than formally notified.

Examples of legislative frameworks in Queensland

- Section 305(2) of the *Mental Health Act 2016* enables the chief psychiatrist to make a practice guideline relating to the administration of the Act. There is no requirement to notify the guideline, however, it must be made publicly available as soon as practicable after it is made.
- Section 107 of the *Biosecurity Act 2014* enables the chief executive to make guidelines about matters relating to the administration of the Act, ways of discharging general biosecurity obligations, and complying with other requirements imposed by the Act. The guidelines must be published on the department's website.
- Section 154 of the *Plumbing and Drainage Act 2018* enables the chief executive to make guidelines to support compliance with the Act. The guidelines must be published on the department's website.

Proposed changes

Enable the Chief Health Officer to make and publish infection control guidelines.

It is proposed to enable the Chief Health Officer to make and publish infection control guidelines stating ways for businesses to minimise infection risks associated with personal appearance services.

The Chief Health Officer is appropriately placed to perform this function, given their statutory role in providing public health advice, including on infection control, emerging risks, and best practice standards.

It is also proposed to remove the requirement to notify the guideline and instead require that the guideline be published as soon as practicable after being made.

The proposed amendments are intended to maintain public accessibility and transparency while enabling infection control guidance to be reviewed and updated more efficiently.

This will support the guidelines remaining up to date, being responsive to emerging evidence and industry practice, while continuing to assist businesses to comply with contemporary infection control obligations.

To support regulatory continuity, transitional provisions will also be inserted to clarify that once the proposed amendments have passed, the *Infection control guidelines for personal appearance services 2024* will continue to have effect until new guidelines are published.

Remake of the ICPAS Regulation

Background and issue

The *Public Health (Infection Control for Personal Appearance Services) Regulation 2016* (**ICPAS Regulation**) supports the operation of the ICPAS Act by prescribing matters necessary for the administration of the infection control framework.

Under the *Statutory Instruments Act 1992*, all regulations automatically expire after 10 years.

The ICPAS Regulation must be remade before 1 September 2027. This will ensure the matters in the ICPAS Regulation are retained and legally effective to support the operation of the ICPAS Act.

The proposed Public Health (Infection Control for Personal Appearance Services) Regulation 2027 (**2027 Regulation**) is intended to replace the existing ICPAS Regulation.

The ICPAS Regulation currently prescribes:

- Tattoo removal as a higher-risk personal appearance service for section 14(e) of the ICPAS Act.
- The infection control competency standard for the definition of infection control qualification in schedule 2 of the ICPAS Act.

Proposed changes

The proposed 2027 Regulation is intended to largely remake the existing ICPAS Regulation without substantive policy change. The intent is to preserve the existing regulatory framework while ensuring it remains legally effective and continues to support the operation of the ICPAS Act.

‘Tattoo removal’ as a higher risk personal appearance service

Tattoo removal is currently prescribed in section 3 of the ICPAS Regulation as an additional higher-risk personal appearance service.

As outlined on page 42, the proposed amendments to the ICPAS Act will incorporate tattoo removal into the primary definition of higher-risk personal appearance service in the ICPAS Act.

As a result, the existing provision in the ICPAS Regulation prescribing tattoo removal will no longer be required and will be removed from the 2027 Regulation.

Food Act 2006 and *Food Regulation 2026*

Overview: Removing outdated, duplicative or unnecessary regulatory requirements for food businesses

Context for reforms

Foodborne illness is a serious and largely preventable health problem, with an estimated annual cost of $3 billion in Australia. Since 2000, all jurisdictions have operated under a nationally consistent framework for food regulation. This includes adopting the *Australia New Zealand Food Standards Code* (**Food Standards Code**).

In 2023, Queensland Health undertook a consultation process in relation to food safety regulation in Queensland. This process identified legislative requirements that were difficult to administer and frequently perceived as arbitrary and confusing, including exemptions in the *Food Act 2006* for certain foods and food businesses that were intended to reduce regulatory burden.

In response to the issues identified, it is proposed to improve Queensland's food safety framework through a suite of targeted amendments to the Food Act and the *Food Regulation 2026*. The amendments will remove outdated, duplicative or unnecessary regulatory requirements, particularly in relation to lower-risk food activities.

Operation of current legislative framework

In Queensland, the Food Act is the primary legislation regulating food safety. The Food Act aims to ensure that food for sale is safe and suitable for human consumption, prevent misleading conduct relating to the sale of food and apply the Food Standards Code in Queensland. The Act is supported by the Food Regulation.

Enforcement of the Food Act is shared between Queensland Health and local governments. Local governments are solely responsible for licensing food businesses and conducting food business inspections.

What is the Food Standards Code?

The Food Standards Code was developed by Food Standards Australia New Zealand. The Code sets legal requirements for the safety, handling, processing, labelling and advertising of food. The Code also regulates the composition of food, including contaminants and additives. All food sold in Australia and New Zealand must comply with the Code.

Removing the requirement for caterers to have an accredited food safety program

Background

The Food Act requires businesses conducting on-site or off-site catering to have an accredited food safety program.

On-site catering means preparing and serving potentially hazardous food at the premises of the food business, pursuant to an agreement about the number of persons to be served and the type and cost of the food. Off-site catering involves serving the potentially hazardous food at a place other than the premises of the business.

What is an accredited food safety program?

An accredited food safety program is a documented program that identifies food safety hazards and how they should be monitored and controlled.

- Where a food business is required to have their food safety program accredited, they must engage an independent auditor to review the program. Local government will not licence the business without advice from an auditor that the food program complies with the Food Act.
- Following licensing, compliance audits of the accredited food safety program must be conducted, at the frequency determined by the local government.
- Food businesses are responsible for engaging the auditor and paying the costs of the audit, which may be significant.

Issue

Although the requirement to have an accredited food safety program aims to effectively regulate food businesses to protect consumers, it operates alongside, and substantially duplicates, obligations under Standard 3.2.2A of the Food Standards Code.

What does Standard 3.2.2A provide?

Standard 3.2.2A of the Food Standards Code requires a 'category one food business' to comply with the requirements for food safety training for food handlers, supervision of food handlers and substantiation of food safety management.

A **category one food business** is a business that processes food into potentially hazardous food that is ready to eat. This would include a restaurant, takeaway outlet, caterer or bakery.

As a category one business under the Food Standards Code, caterers in Queensland are already required to substantiate their food safety management. This requires businesses to identify, manage and demonstrate control of food safety risks, which is the equivalent of having an accredited food safety program without the need for costly auditing.

Maintaining similar regulatory requirements under both the Food Act and the Food Standards Code imposes additional compliance and audit costs on food businesses without improving food safety outcomes. Queensland is the only Australian jurisdiction to have the additional requirement for caterers to have their food safety program, or equivalent, accredited.

A related issue concerns certain childcare centres. Under part 3 of the Food Regulation, childcare centres that provide a food service are required to have an accredited food safety program. However, some smaller childcare centres only provide food by cutting up fruit and vegetables for immediate consumption by the children at the centre, which is considered a low-risk activity. The requirement for accreditation may make it cost prohibitive for smaller childcare centres to continue providing a food service.

Proposed changes

Remove the requirement for caterers to have an accredited food safety program and adopt a more proportionate approach to low-risk activities undertaken by childcare centres

To reduce unnecessary administrative requirements, it is proposed to amend the Food Act to remove the duplicative and costly requirement for on-site and off-site caterers to have an accredited food safety program.

To align with this change, it is also proposed to amend the Food Regulation to exempt a childcare centre from the requirement to have an accredited food safety program where it only provides food by cutting up fruit and vegetables for immediate consumption by the children at the centre. All other food services at a childcare centre will continue to require an accredited food safety program.

Safeguards

As caterers and childcare centres that provide a food service are both a category one food business under the Food Standards Code, they must still comply with Standard 3.2.2A of the Code. This will ensure that existing food safety outcomes are maintained while reducing regulatory burden.

Extending the term of a provisional licence in limited circumstances

Background

Under the Food Act, local government may only licence a food business if the prescribed application criteria have been satisfied. These criteria are:

- the applicant must be a suitable person;
- the business premises must be suitable; and
- there must be a compliant and effective food safety program.

The Food Act also allows local government to grant a provisional food business licence. This applies if the local government reasonably believes a licence will be granted based on the information available to them, but all the application criteria have not yet been satisfied.

In practice, provisional licences are often granted where the purchaser of an existing food business needs to make minor structural changes to the premises to comply with the Food Standards Code.

Issue

Although provisional licences are intended to allow food businesses to operate while any outstanding application criteria are addressed, the maximum term of a provisional licence is very short.

A provisional licence may only be granted for a maximum of three months. In practice, this may be insufficient time for applicants to complete the required structural changes to their premises to finalise their application. This issue has been exacerbated due to the current delays in the construction industry.

Proposed changes

Extend the term of a provisional licence in limited circumstances

To ensure the provisional licence framework operates effectively and meets its intended purposes, it is proposed to amend the Food Act to extend the maximum term of a provisional licence from three months to six months.

This will allow food businesses to operate as usual while the outstanding application criteria are addressed.

However, regardless of the term of the provisional licence, if all the criteria have not been satisfied by the end of the term, the application will lapse and a fresh application will be required. Allowing a longer term should avoid this in most cases, which will reduce the regulatory burden for both food businesses and local governments.

Safeguards

To ensure food businesses are still appropriately regulated, the proposed new term for a provisional licence will not apply where the outstanding application criterion relates to the food safety program.

This recognises that businesses that require an accredited food safety program usually service a vulnerable cohort, such as the elderly. It would be too risky to allow such a business to operate under a provisional licence for up to six months if their food safety program was inadequate.

Removing the requirement to notify changes to a food safety supervisor

Background

The Food Act imposes requirements on food businesses in relation to their food safety supervisor.

In particular, the Food Act requires a food business to:

- appoint a food safety supervisor, who must be reasonably contactable by the food handlers; and
- notify local government when a food safety supervisor starts in the role, leaves the role or if their contact details change.

Similar to these requirements, Standard 3.2.2A of the Food Standards Code requires a food safety supervisor to be appointed and reasonably available to advise and supervise the food handlers.

What is a food safety supervisor?

A food safety supervisor is a person employed by a food business to ensure the business is handling food in a safe manner. They have advanced food safety knowledge and the authority to supervise and give directions to the food handlers at the business.

Food handlers include persons employed at a food business to make, cook, prepare, serve, pack, display or store food.

Issue

While the role of a food safety supervisor is important, the Food Act duplicates requirements that are already contained in the Food Standards Code in relation to the appointment and availability of food safety supervisors.

In addition, the requirement for food businesses to notify local government of changes to a food safety supervisor is onerous, particularly in industries experiencing high staff turnover, such as hospitality. Some local governments also charge a fee for lodging notifications in relation to a food safety supervisor.

These requirements increase the administrative burden for food businesses without actually strengthening the regulatory oversight of the industry. Local governments are also able to obtain this information when undertaking inspections of food businesses.

Proposed changes

Remove the requirement for food businesses to notify changes to a food safety supervisor and remove duplicative food safety supervisor requirements

To reduce duplicative regulatory requirements, it is proposed to amend the Food Act to remove the requirement for a food business to have food safety supervisor, and for the supervisor to be reasonably contactable by the food handlers.

It is also proposed to amend the Food Act to remove the requirement for a food business to advise local government about any change to their food safety supervisor. Instead, food businesses will be required to record and keep a copy of the details of each food handler.

Safeguards

To enable food safety supervisors to continue providing necessary oversight of food businesses, they will continue to be recognised and required pursuant to Standard 3.2.2A of the Food Standards Code.

To maintain effective compliance monitoring, the duplicative requirements in the Food Act will be replaced with new requirements for a food business to:

- record and keep a copy of the details of each food handler;
- retain these records for the duration of the person's appointment as a food handler;
- keep the records in English and at the food business premises; and
- provide this information to an authorised person upon request.

Exempt taste testing from requiring a licence

Background

The Food Act requires a food business to be licensed if it sells unpackaged food by retail, including the giving away of food for advertising purposes. In practice, this requirement captures food businesses that only provide samples or taste-testings, which commonly occurs in supermarkets and farmers markets.

Issue

As providing samples or taste-testings of food involves small, controlled portion sizes that are typically consumed immediately after preparation, the potential for food safety hazards is minimised. This means the requirement to licence these low-risk activities is administratively burdensome and does not improve food safety outcomes.

A related issue concerns non-profit organisations. Under part 2 of the Food Regulation, there is a very narrow licensing exemption for a meal prepared by a surf lifesaving club that is sold to a member of the club for a nominal amount. Despite the similarities, this exemption does

not apply to other non-profit organisations that prepare meals for, or at, a one-off or infrequent fundraising event—for example, an occasional barbecue or sausage sizzle to raise funds for charity. As food at these events is typically consumed immediately after preparation, the potential for food safety hazards is minimised.

Proposed changes

Exempt taste-testing from requiring a licence and expand an existing licensing exemption to all non-profit organisations

To remove administrative burden, it is proposed to amend the Food Act to clarify that a licensable food business does not include a food business that only offers a sample or taste test of unpackaged food.

It is also proposed to amend the Food Regulation to expand the existing licensing exemption to capture any non-profit organisation that prepares meals for, or at, a one-off or infrequent fundraising event.

Safeguards

Even where a food business, including a non-profit organisation, is exempt from being licensed, it must still comply with the food safety obligations in the Food Act and the Food Standards Code. This will ensure that existing food safety outcomes are maintained while reducing regulatory burden.

Removing a licensee's personal details from their licence

Background

The Food Act requires a licence to be prominently displayed at the premises of the food business and for the licence to include the licensee's name and address.

Issue

The requirement to include the licensee's name and address on the licence raises privacy concerns as the licence is visible to members of the public.

When a person applies for a food business licence, their name and personal address are provided to local government as part of the application process. This means the requirement to display this information is unnecessary, given the information is already available for compliance purposes.

Proposed changes

Remove a licensee's personal details from their licence and include the trading name of the food business

To address these privacy concerns, it is proposed to amend the Food Act to remove the requirement for a licensee's personal information to be stated on their licence.

Safeguards

It is also proposed to amend the Food Act to include a replacement requirement for the licence to state the trading name of the food business. This will allow consumers to be notified of who is operating the business. It will also assist local government to check whether an improvement notice has been issued or some other compliance action taken against the business.