Queensland Government

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09 JUN 2016

Ms Leanne Linard MP
Chair
Health, Communities, Disability Services
and Domestic and Family Violence Prevention Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Chair

Thank you for your letter dated 3 June 2016, regarding the inquiry of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee into the Public Health (Medicinal Cannabis) Bill 2016.

Please find enclosed, as requested, the Department of Health's written briefing to the Committee on the Bill.

Should you require further information, the Department of Health's contact is Mr David Harmer, Director, Legislative Policy Unit [redacted]

Yours sincerely

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Queensland Parliamentary Health, Communities, Disability Services and Family Violence Prevention Committee

Departmental Briefing on the Public Health (Medicinal Cannabis) Bill 2016

OVERVIEW OF THE BILL

1. SUMMARY

The purpose of the Bill is to establish a new regulatory framework under which medicinal cannabis products may be prescribed and dispensed to patients in Queensland.

2. CONTEXT

There is a growing body of evidence about the therapeutic potential of medicinal cannabis, in particular that cannabinoids (the substances contained within cannabis that produce pharmacological effects) are effective for the treatment of muscle spasticity for patients with multiple sclerosis, reducing seizures in children with treatment-resistant epilepsy, wasting due to HIV/AIDS, and in controlling nausea for cancer patients. Treatment with medicinal cannabis for these conditions and symptoms may have a beneficial impact on a patient's quality of life, particularly where traditional treatments have failed.

The Bill will permit the use of medicinal cannabis products under strict medical supervision and integrated into a patient's treatment plan. This will ensure controlled use of medicinal cannabis products, and enable effective monitoring of treatment and prompt identification of any unwanted side effects.

The Bill does not change the law to enable recreational use of cannabis. It will be unlawful for Queenslanders to obtain medicinal cannabis products from illegal sources or cultivate cannabis plants for individual use. Cannabis used outside of the proposed regulatory framework will remain illegal.

3. STATE AND COMMONWEALTH RESPONSIBILITIES

3.1 Introduction

Access to medicinal cannabis, and its use for therapeutic purposes, is jointly regulated by Commonwealth and state/territory laws.

3.2 Commonwealth scheduling of substances

A national classification system controls how medicines and poisons are made available to the public. Medicines and poisons are classified into schedules according to the level of regulatory control required to protect public health and safety.

Scheduling occurs under the *Poisons Standard 2015* (Cth), also known as the Standard for the Uniform Scheduling of Medicines and Poisons (SUSMP). The scheduling scheme is administered by the Therapeutic Goods Administration (TGA).

Schedule 9 (S9) substances are classified as *'prohibited poisons'* because they are considered dangerous or dependence forming. Schedule 8 (S8) substances are classified as *'controlled drugs'* and Schedule 4 (S4) substances are classified as *'restricted drugs'* because both are considered medicines.

Unless otherwise scheduled, cannabis and cannabis-derived products are automatically scheduled S9 due to their potential toxicity, potential for abuse and other unknown harms, and generally cannot be used for therapeutic purposes.

Three medicinal cannabis products have been scheduled S8, although they are classified in the higher category of *'regulated controlled drugs'* because they require safety and security controls additional to those needed for other S8 medicines. These three S8 medicinal cannabis products are nabiximols (also known as Sativex), dronabinol and nabilone. One cannabinoid (cannabidiol) has been scheduled S4, and any therapeutic product containing this cannabis extract would also be scheduled S4.

3.3 State adoption of scheduling

Before the national scheduling scheme takes effect in a state or territory, the jurisdiction must enact legislation adopting the scheme. In Queensland, the use of drugs and poisons is regulated under the *Health (Drugs and Poisons) Regulation 1996* (HDPR), which also adopts the SUSMP scheduling.

3.4 State regulation of substances

In relation to the S8 and S4 medicinal cannabis products, the HDPR allows these products to be used for therapeutic purposes, where the person using the product has either an as-of-right authority or an approval granted by the chief executive of Queensland Health. However, the therapeutic applications of the three S8 products are limited to the treatment of only certain specific conditions.

In relation to S9 medicinal cannabis, prior to December 2015, the HDPR prohibited any S9 substance being used in Queensland for a human therapeutic purpose. This restriction prevented any therapeutic use of potentially beneficial S9 medicinal cannabis products, including their use in the clinical drug trials needed to establish a reliable safety and efficacy profile for the products.

As a result of these limitations, the HDPR was amended in December 2015 to empower the chief executive to approve the use of an S9 medicinal cannabis product for individual patient treatment or a clinical drug trial. While this amendment addressed the immediate need to remove barriers to medicinal cannabis research and treatment, a more comprehensive and flexible regulatory framework was required. In response, the Bill was developed, which expanded the power of the chief executive to approve a doctor either prescribing medicinal cannabis to treat a particular patient or using medicinal cannabis in a clinical drug trial.

3.5 Commonwealth re-scheduling of medicinal cannabis

In April 2016, the TGA made an interim decision proposing an extensive re-scheduling of S9 cannabis when used for therapeutic purposes. If the interim decision is affirmed, all botanical cannabis products and botanically-derived cannabis extracts, when prepared and packed for therapeutic use, will be re-scheduled from S9 prohibited poisons to S8 controlled drugs.

Synthetic cannabis products are excluded from the re-scheduling and will remain S9 substances unless individually re-scheduled at some later time. Assuming the proposal is approved, the TGA re-scheduling decision will be implemented before the end of 2016.

To support the re-scheduling, a national working party will be convened to decide the classes of medical practitioners that, because of their speciality training, will have an as-of-right authority to prescribe, supply or use the re-scheduled S8 medicinal cannabis products.

3.6 State implementation of re-scheduling

Re-scheduling alone will not enable newly-re-scheduled S8 medicinal cannabis products to be used in Queensland. Complementary state legislation is required, to create a new category of controlled drugs for these S8 products and to give an as-of-right authority to prescribe, supply or use re-scheduled S8 medicinal cannabis products to a nationally-agreed list of specialists. The Bill was amended to become the vehicle for these legislative changes.

It should be noted that as the Bill is not expected to be debated until late 2016, urgent amendments were made to the HDPR on 1 June 2016 to enable Queensland patients to take immediate advantage of the re-scheduling decision should it be implemented before the Bill becomes law. These amendments essentially replicate the specialist pathway in the Bill and will be automatically repealed once the Bill is enacted.

3.7 Commonwealth registration of substances

While the use of substances for patient treatment is regulated by state legislation, the *Therapeutic Goods Act 1989* (Cth) regulates how a substance may be accessed for use. Before any drug may be used for a therapeutic purpose in Australia, it must either be registered on the Australian Register of Therapeutic Goods (ARTG) or the TGA must approve access to the drug for treatment of a particular patient (the *'special access scheme'*) or class of patient (the *'authorised prescriber scheme'*).

Therefore, any medicinal cannabis products that are not ARTG registered will require TGA approval before being used for therapeutic purposes. The only ARTG-registered medicinal cannabis product is nabiximols, although is only used for treating adult patients with spasticity due to multiple sclerosis.

3.8 Commonwealth licensing scheme

At present, no medicinal cannabis products are available in Australia, meaning that even with the necessary Commonwealth and state approvals to access and use medicinal cannabis, suitable products must still be imported from overseas pursuant to a customs licence. To address this issue, in February 2016 the Commonwealth passed amendments to the *Narcotic Drugs Act 1967* (Cth) to establish a legislative scheme for the cultivation, production and manufacture of medicinal cannabis for research and therapeutic purposes. Under the Commonwealth scheme, licenced businesses will develop the capacity to cultivate and manufacture medicinal cannabis in Australia.

3.9 State implementation of licensing scheme

The Commonwealth scheme is expected to commence in late 2016. Queensland is continuing to liaise closely with the Commonwealth, and other states and territories, during development of the regulations in support of the scheme, as these will have a significant impact on how jurisdictions take advantage of the opportunities afforded by the scheme. Legislation administered by Queensland Health and the Department of Agriculture and Fisheries may require amendment to fully implement the scheme in Queensland. The Bill does not regulate the cultivation, production or manufacture of medicinal cannabis in any way.

3.10 Conclusion and future steps

Despite these Commonwealth and Queensland initiatives to provide pathways for patients to access medicinal cannabis, most medicinal cannabis products will remain unapproved therapeutic goods for the foreseeable future. As a consequence, TGA approval will continue to be required in addition to any state-level approval. Queensland will continue to discuss with the Commonwealth ways in which the TGA process for approving access to medicinal cannabis

products can be streamlined, particularly once domestically-produced products become available.

4. SUMMARY OF KEY PROVISIONS

4.1 Prescribing pathways

As a result of the proposed re-scheduling of most S9 medicinal cannabis products and feedback regarding the need to ensure the regulatory framework facilitates efficient access to cannabis products, where such treatment is appropriate, the Bill now proposes two approval pathways for a patient to be permitted to use medicinal cannabis:

- where the patient has a prescribed condition, and a specialist medical practitioner has an as-of-right authority to use a specific medicinal cannabis product to treat that condition, the specialist may prescribe those products for the patient without obtaining chief executive approval (the *'patient-class prescriber'* pathway)
- in all other situations, the patient's treating medical practitioner may apply to the chief executive for approval to prescribe specific medicinal cannabis products for that individual patient (the *'single-patient prescriber'* pathway).

4.2 Patient-class prescriber

To become a patient-class prescriber, a doctor must be a specialist listed in the regulation. The regulation in support of the Bill will impose standard conditions on their authority to prescribe medicinal cannabis, such as requirements to notify the chief executive when they prescribe, supply or use the product, including the name and date of birth of the patient, the type of product, the condition being treated, the dosage, and the pharmacy or hospital pharmacy from where the product will be dispensed. Additional conditions may include requiring the patient-class prescriber to monitor and report on the patient's condition, or comply with prescribing requirements or with a stated code, guideline, protocol or standard.

The regulation will also list the medicinal cannabis products the patient-class prescriber may use for each specific medical condition or symptom.

4.3 Single-patient prescriber

To become a single-patient prescriber, a doctor must apply to the chief executive for a *'medicinal cannabis approval'*, authorising a medicinal cannabis product to be prescribed for a specific patient within their care. The chief executive will have regard to a patient's condition and symptoms before deciding whether to grant an approval. Again, the regulation will impose standard conditions on their authority to prescribe medicinal cannabis. The chief executive may also impose additional conditions as part of the terms of the medicinal cannabis approval itself.

If granted, a medicinal cannabis approval will note the form, dosage and dispensing intervals of the medicinal cannabis product, and details of the pharmacy or hospital pharmacy from where the medicinal cannabis will be dispensed.

4.4 Expert advisory panel

An expert advisory panel will be established to advise and assist the chief executive when deciding whether to grant a medicinal cannabis approval to a single-patient prescriber, including by recommending the conditions for which an approval may appropriately be granted, and the medicinal cannabis products suitable for use.

The expert advisory panel may also have a role in formulating the provisions in the regulation governing the as-of-right authority for patient-class prescribers, including the patient cohort to whom they may prescribe.

4.5 Approved pharmacist

Regardless of which approval pathway is used, only an approved pharmacist (a pharmacist holding a *'dispensing approval'* granted by the chief executive or a pharmacist working in a hospital pharmacy) will be authorised to dispense the medicinal cannabis to a patient. As such, the dispensing controls for medicinal cannabis products will be higher than for other S8 or S4 drugs, but these additional controls are thought to be necessary given the potential dangers and risk of diversion associated with these products.

4.6 Carers and restricted access patients

The Bill authorises the carer for a patient to obtain the medicinal cannabis prescribed for the patient from the dispensing pharmacy or hospital pharmacy, possess this medicinal cannabis, and supply or administer the medicinal cannabis to the patient.

Where the patient is in an institution, such as a hospital, school, nursing home or prison, they may be unable to possess or self-administer medicinal cannabis (*'restricted access patients'*). In this situation, a person with regular access to the patient will be authorised to facilitate the patient's treatment, and the person in charge of the institution will be required to develop a medicinal cannabis management plan in relation to the risks associated with possessing, supplying or administering medicinal cannabis at that institution.

4.7 Medicinal cannabis products

Pharmaceutical-grade products derived from cannabis may take several forms, including a capsule, spray or tincture, and may be taken orally or administered using a vaporiser.

The Bill does not apply to ARTG-approved products. Therefore, nabiximols will continue to be regulated under the HDPR. The reason for this exclusion is because the safety and efficacy profile of nabiximols is well established, and the existing controls in the HDPR are sufficient for it to be safely prescribed by medical practitioners.

Other than this, there are no explicit restrictions in the Bill on the forms of medicinal cannabis products that may be prescribed. However, patient-class prescribers will only be able to prescribe certain medicinal cannabis products, and single-patient prescribers seeking approval to use a specific medicinal cannabis product will need to provide evidence of its safety and efficacy for the condition or symptom being treated.

4.8 Offences

The Bill makes it an offence to perform a regulated activity with medicinal cannabis unless it is authorised under the Bill. Regulated activities include prescribing, possessing, supplying or administering medicinal cannabis. The penalty for this offence is 750 penalty units (from 1 July 2016 - $91,425).

Any activity with medicinal cannabis that is not authorised by the Bill will also be an offence in the *Drugs Misuse Act 1986*. These offences, which include unlawful possession, supply, production and trafficking of a dangerous drug, carry penalties ranging from 15 to 25 years imprisonment.

4.9 Clinical drug trials

In addition to authorising the treatment of a specific patient under a medicinal cannabis approval, the chief executive may also grant a *'clinical trial approval'* to facilitate the treatment of patients enrolled in a recognised medicinal cannabis clinical research trial.

4.10 Safety and security controls

The HDPR provides a regulatory framework for S8 controlled drugs. The Bill creates a parallel regulatory framework for those medicinal cannabis products that, as a result of the proposed TGA re-scheduling decision, will also become S8 controlled drugs. However, unlike medicinal cannabis S8 products, almost all of the S8 products already regulated under the HDPR are ARTG-registered. Scheduling, or in the case of the recent TGA interim decision, re-scheduling, does not automatically make a substance eligible for ARTG registration. To be registered, a drug must undergo extensive safety and efficacy testing, and despite the increase in both local and international clinical drug trials involving medical cannabis products, the necessary safety and efficacy profile to support registration of these products is still far from established.

As a result, the safety and security controls in the Bill around the use of S8 medicinal cannabis products are stricter than for other S8 controlled drugs, in recognition of their status as unregistered therapeutic goods. For example, oxycodone (OxyContin) is another S8 controlled drug, and is subject to controls on its use because it is an opioid pain medication. However, as oxycodone is ARTG-registered, and therefore its safety profile is well-established, these controls will be different to those applying to S8 medicinal cannabis products. The additional controls for medicinal cannabis products include a more robust approval process for medical practitioners under the single-patient prescriber pathway, and expanded reporting requirements for specialists under the patient-class prescriber pathway. The requirement for all medicinal cannabis products, regardless of the prescriber pathway chosen, to only be dispensed from an approved pharmacist or a hospital pharmacy is yet another additional control.

4.11 Review

The regulatory framework will be reviewed after two years of operation, to ensure it meets the needs of patients, health service providers and enforcement agencies, and complements related developments in this rapidly-evolving policy space, particularly with regards to the proposed domestic cultivation, production and manufacture of medicinal cannabis.

5. CONSULTATION FEEDBACK

5.1 Consultation overview

From 1 March 2016 to 1 April 2016, the Department of Health undertook a consultation process on an earlier draft of the Bill. At that time, the TGA had not made its interim decision to re-schedule medicinal cannabis, and therefore the consultation draft only included the single-patient prescriber pathway. The patient-class prescriber pathway was inserted into the Bill following the close of the consultation process.

5.2 Consultation process

Community consultation on the Bill was undertaken using the Queensland Government *Get involved* website. The website hosted a copy of the draft Bill and a discussion paper which clearly explained the regulatory framework proposed in the Bill. Community members made submissions on the Bill by completing an online survey.

Targeted consultation was also conducted with key health industry stakeholders, particularly medical professionals in speciality areas for which medicinal cannabis treatment may be sought, and health care workers likely to be involved in delivering treatment. This consultation included one-on-one meetings with representatives from the Australian Medical Association Queensland and the Royal Australasian College of Physicians, and forums with executives from Queensland Hospital and Health Services and with clinicians. Peak industry bodies also provided detailed written submissions.

5.3 Summary of stakeholder feedback

A majority of stakeholders supported the availability of treatment with medicinal cannabis. 1,052 people completed the *Get involved* online survey, and of these, over 96% were in favour of treatment with medicinal cannabis.

There was considerable positive recognition of the processes in the Bill designed to expand the existing pathways for treatment to a wider range of patient groups. Some submitters to the online survey were critical of prescriptive aspects of the framework, however stakeholders praised the strong controls proposed to prevent unlawful diversion and to ensure only patients who may genuinely benefit from treatment could access medicinal cannabis.

The criticism about the level of prescription in the Bill centred on the steps involved in the application process for approvals. Some stakeholders also raised concerns about the power of the chief executive to seek specialist medical reports and criminal history checks in the course of considering applications. However, it was generally acknowledged that the application process balanced an informed, scientific approach, particularly with regards to the role of an expert advisory panel, with flexible, case-by-case considerations of the personal circumstances of individual patients.

Most of the issues and concerns raised were operational or administrative in character, and Queensland Health will have regard to these matters during implementation of the new regulatory framework.

5.4 Summary of survey feedback

Some of the key themes arising from an analysis of the online survey results are as follows:

- Many submitters strongly expressed a view that patients should have expanded treatment options. They often commented that compared to conventional pharmaceutical medication, particularly opioid-based treatment, medicinal cannabis does not produce the same detrimental physical and psychological side effects, and is not dependence forming.
- Concerns were raised that government will have too much control over the administrative and operational framework for medicinal cannabis, creating a high level of bureaucracy. Many submitters were strongly in favour of patients being empowered to 'grow their own', however noted it was preferable to have lawful access to medicinal cannabis rather than access by covert means.
- Many of the concerns raised about the introduction of medicinal cannabis focused on it potentially being the catalyst for legalising recreational cannabis. Other issues involved doctors being coerced into prescribing medicinal cannabis for addicts and unworthy patients, the high risk of unlawful diversion, and the general harm it may cause through unauthorised use and abuse.
- There was strong support for medicinal cannabis being used to treat numerous conditions, with the continuum running from soft aliments (e.g. anxiety) to terminal physical conditions and psychological ailments (e.g. cancer, autoimmune disease).
- Concerns were raised in relation to the absence of proven, reliable and objective scientific evidence about the safety and efficacy of medicinal cannabis. In particular, it was noted

clinical trials had not conclusively demonstrated the superiority of medicinal cannabis to traditional medicine in the treatment of many conditions, including general pain relief.

- There was also widespread concern about patients being impaired while medicated, particularly when driving, and risking injury or death to other members of the community.
- Submitters advocated for the need for patients and the public to be educated and informed, and for there to be close monitoring of use/dosage and adequate supervision of patients while undergoing treatment.
- Almost all survey respondents believed there was a need for strong governance arrangements for medicinal cannabis patients with impaired capacity. Almost all survey respondents also believed there was a need for easy access arrangements for medicinal cannabis patients in rural or remote areas.

5.5 Post-consultation changes to the Bill

Given the timing of the interim TGA re-scheduling decision, the consultation process did not canvass the new patient-class prescriber pathway.

However, based on the consultation feedback received, it is anticipated this addition to the Bill will be supported for the following reasons:

- there was concern expressed about the perceived complexity and inflexibility of the single-patient prescriber process – however, there will be less 'red tape' for a patient-class prescriber to navigate as no case-by-case approval by the chief executive is required
- many clinicians referred to the lack of knowledge around using cannabis for therapeutic purposes, and were concerned about prescribing approvals being granted to general practitioners - however, the patient-class prescriber pathway only allows a doctor with relevant specialist training and expertise to prescribe.

5.6 Post-consultation feedback

Although no specific consultation has been undertaken on the introduced version of the Bill, industry and community feedback on this version has been received during ongoing consultation about the Commonwealth licensing scheme for domestic cultivation and production of medicinal cannabis. As with the feedback received during the formal consultation process, stakeholders are generally supportive of the Bill, and no additional concerns have been raised in relation to insertion of the patient-class prescriber pathway into the Bill.

6. CHANGES TO THE BILL FOLLOWING CONSULTATION

6.1 Summary of changes to Bill

Almost immediately following the close of the consultation period for the Bill, the TGA announced its interim rescheduling decision. To implement the re-scheduling in Queensland, legislative amendments are required and the Bill was changed accordingly.

In summary, the necessary changes to the Bill are as follows:

- insertion of provisions to establish the patient-class prescriber pathway, and the consequential structural changes needed to accommodate these provisions
- material changes to reflect issues raised by government stakeholders during consultation on the Bill
- stylistic changes initiated by the Office of the Queensland Parliamentary Counsel in the course of finalising the Bill for introduction.

A copy of the Bill, showing the marked-up changes between the consultation version of the Bill and the version of the Bill introduced into Parliament, is attached to this briefing.

6.2 Explanation of changes to Bill

- Clause 4

  An objects clause was inserted to clarify there are now two separate prescribing pathways in the Bill, being those for a single-patient prescriber and a patient-class prescriber.

- Clause 15(2)

  A new requirement was included to recognise the 'Gillick competence' standard in relation to whether a child (16 years or younger) is able to give consent for their own medical treatment.

  In obtaining consent from a person with authority to consent to treatment on behalf of the patient, but who is not the patient, the applicant for a 'medicinal cannabis approval' must consider whether the patient is able to give consent on their own behalf. If the patient themselves can give consent, the applicant should obtain consent from the patient.

  This clause was inserted in response to an issue raised by the Queensland Family and Child Commission during intra-government consultation processes.

- Clause 38

  With the creation of the patient-class prescriber pathway, the term used to describe the existing prescriber pathway, being 'approved prescriber', required changing to clarify and differentiate what this pathway involved. Accordingly, the term 'approved prescriber' was changed to 'single-patient prescriber' in this clause, and elsewhere throughout the Bill.

- Clauses 38(b)(v), 39(b)(v) and 40(b)(iv)

  The clauses in relation to a 'medicinal cannabis approval', 'dispensing approval' and 'clinical trial approval' were changed to clarify that the conditions applying to the approval must be detailed in the instrument of approval.

  This change was considered important because an approval holder must comply with the conditions applying to their approval when undertaking the regulated activities authorised by the approval.

- Clauses 51 to 68

  Chapter 4 of the Bill was re-configured into a series of parts, to insert the patient-class prescriber pathway and modify the existing general provisions for the single-patient prescriber pathway so these provisions could apply to both pathways. Also, new general provisions were inserted for both pathways.

  Clause 51 was inserted to clarify that the conditions applicable to the performance of regulated activities may be found in a regulation or on the instrument of approval itself.

  Clauses 52 to 56 insert the patient-class prescriber pathway into the Bill. Supporting provisions, in relation to patients, approved pharmacists and carers, were also inserted. Although these provisions largely mirror similar existing provisions relevant to the single-patient prescriber pathway, the duplication was considered necessary because of the differences between the two pathways that would otherwise have made one set of general provisions potentially confusing to apply.

- Clause 61(6)

  A new provision was inserted, allowing a regulation to detail how medicinal cannabis may be administered to a restricted access patient by a facilitator who is a 'prescribed person'. The term 'prescribed person' is then defined in clause 61(7) to mean a person who is a member of a class of persons prescribed by regulation.

  Originally, the provision allowed a facilitator to administer where they were a health practitioner (or a trainee health practitioner). The new provision extended the types of facilitators who may administer to include a class of persons ('prescribed persons') detailed in the regulation, to address situations where an institution does not have access to a health practitioner at all times when administration of medicinal cannabis may be required. For example, at a school this prescribed person may be an employee who has completed a recognised training course and is under the ongoing supervision of a registered nurse.

  This clause was inserted in response to an issue raised by the Department of Education and Training during intra-government consultation processes.

- Clause 173(1)

  A new provision was inserted to clarify that a member of the expert advisory panel is entitled to be paid any remuneration and allowances decided by the chief executive. Originally, the Bill was silent on the issue of whether the terms and conditions upon which a member holds office could include remuneration.

  This clause was inserted in response to an issue raised by the Department of the Premier and Cabinet during intra-government consultation processes.

- Clauses 193(3), 194(2) and 195(2)

  New provisions were inserted to replace the existing protections from liability for state employees. Chapter 1, part 3 of the *Public Service Act 2008* provides broad, standardised protection from civil liability for all state employees, and the new provisions simply reference the relevant sections of the Act rather than replicating this protection in the Bill.

2016

A Bill

for

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

An Act to regulate distribution and use of medicinal cannabis in Queensland and to amend the *Health Act 1937* and the *Health (Drugs and Poisons) Regulation 1996* for particular purposes

The Parliament of Queensland enacts—

Chapter 1 Preliminary

1 Short title

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

2 Commencement

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

3 Act binds all persons

(1) This Act binds all persons including the State and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.

(2) Nothing in this Act makes the State, the Commonwealth or another State liable to be prosecuted for an offence against this Act.

4 Object of Act

The object of this Act is to provide for regulated access to medicinal cannabis in Queensland through—

(a) the prescription of medicinal cannabis, under a system of medicinal cannabis approvals, by single-patient prescribers; and

(b) the prescription of medicinal cannabis, without medicinal cannabis approvals, by patient-class prescribers.

Chapter 2 Interpretation

~~4~~5 Definitions

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

~~5~~6 Meaning of *medicinal cannabis*

(1) ***Medicinal cannabis*** is a cannabis product that is—

(a) not an approved good; and

(b) used, or is intended by the manufacturer of the product to be used, for human therapeutic purposes.

~~6~~ In this section—

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

7 Meaning of *cannabis product*

A ***cannabis product*** is any product—

(a) that is or was any part of a plant of the genus *Cannabis*, whether living or dead; or

(b) otherwise derived, wholly or in part, from any part of a plant of the genus *Cannabis*, whether living or dead; or

(c) that has, or is intended by the manufacturer of the product to have, a pharmacological effect that is substantially similar to the pharmacological effect of a product mentioned in paragraph (a) or (b).

~~7~~8 References to particular terms relating to medicinal cannabis approvals

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

~~(a) a reference in the provision to 'the approved prescriber' is a reference to the approved prescriber that is the holder of the approval; and~~

(~~b~~a) a reference in the provision to 'the ~~patient~~single-patient prescriber' is a reference to the single-patient prescriber that is the holder of the ~~approved prescriber to whom the approval applies~~approval; and

(~~c~~b) a reference in the provision to 'the ~~carer~~patient' is a reference to the ~~carer stated in~~ patient of the single-patient prescriber to whom the ~~approval~~approval applies; and

(~~d~~c) a reference in the provision to 'the dispensing pharmacy' is a reference to the dispensing pharmacy stated in the approval; and

(~~e~~d) a reference in the provision to '~~the~~ medicinal cannabis' is a reference to the medicinal cannabis that is the subject of the approval.

Chapter 3 Approvals

Part 1 Application for approvals

Division 1 Preliminary

~~8~~9 Definitions for ~~pt 1~~part

In this part—

application means the following applications made under ~~this chapter~~chapter 3—

(a) an original application for an approval;

(b) an amendment application for an approval;

(c) a replacement application for an approval;

(d) a renewal application for an approval, other than a medicinal cannabis approval or a clinical trial approval.

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

(a) given to the applicant by the chief executive; and

(b) stating the information the chief executive reasonably considers is required from the applicant to decide the application.

~~9~~10 Suitability of person to hold approval

(1) In deciding whether a person is a suitable person to hold, or to continue to hold, an approval the chief executive may have regard to, and may make inquiries about, the following—

(a) the ~~applicant~~person's qualifications and experience;

(b) the ~~applicant~~person's character and standing;

(c) the ~~applicant~~person's criminal history but only to the extent it is relevant to the application;

(d) whether the ~~applicant~~ person engages, or has engaged, in conduct that risks, or is likely to risk, medicinal cannabis being used for a purpose that is unlawful under a law of a State or the Commonwealth;

(e) the ~~applicant~~person's knowledge and understanding of the applicant's obligations under this Act;

(f) whether the ~~applicant~~person, in the chief executive's reasonable opinion, will be able to comply with—

(i) this Act; and

(ii) the conditions proposed to apply to the approval;

(g) whether the ~~applicant~~person—

(i) has held a similar instrument under a relevant law that was suspended, cancelled or had conditions imposed on it; or

(ii) has been refused a similar instrument under a relevant law.

(2) Subsection (1) does not limit the ~~matter~~ matters to which the chief executive may have regard in considering the suitability of the ~~applicant~~ person to hold an approval.

~~10~~11 Suitability of patient to undergo treatment with medicinal cannabis

In deciding whether a patient is a suitable person to undergo treatment with medicinal cannabis under a medicinal cannabis approval, the chief executive may have regard to the following—

(a) the information in the application for approval;

(b) the patient's personal circumstances;

(c) the patient's criminal history but only to the extent it is relevant to the application;

(d) the advice of the expert advisory panel;

(e) the advice of a specialist medical practitioner;

(f) whether the patient, in the chief executive's reasonable opinion, will be able to comply with—

(i) this Act; and

(ii) the conditions proposed to apply to the approval.

~~11~~12 Approved form

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

Division 2 Particular provisions for application for medicinal cannabis approval

~~12~~13 Purpose of division

This division states ~~the requirements, in addition~~ particular matters relating to ~~the requirements in division 1, that apply to an application~~ applications for ~~a~~ medicinal cannabis ~~approval~~approvals.

~~13~~14 Who may apply for medicinal cannabis approval

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

~~14~~15 Requirements before making application for medicinal cannabis approval

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

(a) ~~the treatment of~~ treat the patient; and

(b) ~~the making of~~ make the application.

~~15~~ (2) For subsection (1), if the patient is a person with authority to consent to the treatment, the applicant must obtain the consent of the patient.

16 Opinion of specialist medical practitioner to accompany application

(1) This section applies if, before making the application, the applicant has obtained a written opinion from a specialist

medical practitioner relating to the treatment of the patient with medicinal cannabis.

(2) The applicant must include a copy of the opinion in the application.

Division 3 Particular provisions for application for dispensing approval

~~16~~17 Purpose of division

This division states ~~the requirements, in addition~~ particular matters relating to ~~the requirements in division 1, that apply to an application~~ applications for ~~a~~ dispensing ~~approval~~approvals.

~~17~~18 Who may apply for dispensing approval

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

Division 4 Particular provisions for clinical trial approval

~~18~~19 Purpose of division

This division states ~~the requirements, in addition~~ particular matters relating to ~~the requirements in division 1, that apply to an application~~ applications for ~~a~~ clinical trial ~~approval~~approvals.

~~19~~20 Who may apply for clinical trial approval

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

Division 5 Process for deciding applications

~~20~~21 Consideration by the expert advisory panel

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

~~21~~22 Requirement to seek opinion of specialist medical practitioner

(1) The chief executive may require the applicant for a medicinal cannabis approval to seek, in writing, an opinion from a specialist medical practitioner in a specialty the chief executive reasonably considers is related to the medical condition or associated symptoms of the patient stated in the application.

(2) The opinion mentioned in subsection (1) must relate to the appropriateness and effectiveness of treating the patient's medical condition or associated symptoms with medicinal cannabis.

(3) The applicant must—

(a) obtain the written opinion; and

(b) if the chief executive requests a copy of the written opinion—give a copy of the opinion to the chief executive.

(4) The chief executive may exercise the powers under subsection (1) and (3)(b)—

(a) as many times as the chief executive reasonably considers necessary for the purpose of deciding the application; and

(b) despite the applicant being a specialist medical practitioner in a specialty related to the medical condition or associated symptoms of the patient; and

(c) despite the applicant having already obtained, or provided to the chief executive, a written ~~opinion,~~ opinion of a specialist medical ~~practitioner,~~ practitioner relating to the treatment of the patient with medicinal cannabis.

~~22~~23 Decision on application for approval

(1) The chief executive must consider an application and decide to—

(a) grant the application; or

(b) grant the application subject to conditions; or

(c) refuse to grant the application.

(2) If the chief executive decides to grant the application, the chief executive must—

(a) if the application is for the grant of ~~the~~ an approval—give the ~~approval holder~~ applicant the approval; or

(b) if the application is an amendment application for ~~the~~ an approval—

(i) endorse the approval with the amendment; or

(ii) cancel the approval and give the approval holder a new approval with the amendment; or

(c) if the application is a replacement application for ~~the~~ an approval—give the approval holder the replacement approval; or

(d) if the application is a renewal application for ~~the~~ an approval—give the approval holder the new approval.

(3) If the chief executive decides to endorse or cancel an approval, the chief executive must, as soon as practicable, give the approval holder a notice requiring the approval holder to return the instrument for the approval.

(4) The chief executive must give the applicant an information notice about the following decisions, as soon as practicable after the decision is made—

(a) a decision to refuse to grant the application for the approval;

(b) a decision to impose conditions on the approval, other than conditions sought by the applicant.

~~23~~24 Criteria for grant of medicinal cannabis approval

(1) When considering an application for a medicinal cannabis approval the chief executive may ~~have regard to~~ consider the following—

(a) whether the applicant is a suitable person to hold the approval;

(b) whether the patient is a suitable person to undergo treatment with medicinal cannabis;

(c) the patient's medical condition and associated symptoms of the medical condition;

(d) the form and dosage of medicinal cannabis for which the applicant intends to give a lawful direction under the approval;

(e) whether treatment with medicinal cannabis can be integrated into the patient's existing medical treatment;

(f) ~~the~~ any opinion of a specialist medical practitioner given to the chief executive under section 16 or 22;

(g) alternative treatments suitable for the patient's medical condition or associated symptoms;

(h) the patient's history of drug dependence, if any, including current use of cannabis;

(i) whether the medicinal cannabis to which the approval will apply—

(i) has, or will be, manufactured or imported ~~under a~~ in accordance with the applicable law of the Commonwealth; and

(ii) is, or will be, approved or authorised to be supplied, for the purpose of treating the patient, ~~under a~~ in accordance with the applicable law of the Commonwealth;

(j) any other information in the application for the approval;

(k) any other matters the chief executive reasonably considers relevant to deciding the application.

(2) Without limiting subsection (1), the chief executive may ~~only~~ grant a medicinal cannabis approval only if the chief executive is satisfied of the following matters—

(a) the applicant is a suitable person to hold the approval;

(b) the patient is a suitable person to undergo treatment with medicinal cannabis;

(c) the medicinal cannabis to which the approval will apply—

(i) has, or will be, manufactured or imported ~~under a~~ in accordance with the applicable law of the Commonwealth; and

(ii) is, or will be, able to be supplied, for the purpose of treating the patient, ~~under a~~ in accordance with the applicable law of the Commonwealth.

~~24~~25 Criteria for grant or renewal of dispensing approval

(1) When considering an application for the grant or renewal of a dispensing approval the chief executive may ~~have regard to~~ consider the following—

(a) whether the applicant is a suitable person to hold the approval;

(b) the applicant's familiarity with the use of medicinal cannabis for therapeutic purposes;

(c) the location and facilities of the pharmacy from which the applicant intends to dispense medicinal cannabis;

(d) any other information in the application for the approval;

(e) any other matters the chief executive reasonably considers relevant to deciding the application.

(2) Without limiting subsection (1), the chief executive may grant or renew a dispensing approval only if the chief executive is satisfied the applicant is a suitable person to hold the approval.

~~25~~26 Criteria for grant of clinical trial approval

(1) When considering an application for a clinical trial approval the chief executive may have regard to the following—

(a) whether the applicant is a suitable person to hold the approval;

(b) ~~the~~ any approval ~~of~~ required for the clinical trial ~~by~~ under the *Therapeutic Goods* ~~Administration or a human research ethics committee; or~~*Act 1989* (Cwlth);

(c) whether the medicinal cannabis to which the approval will apply has, or will be, manufactured or imported ~~under a~~ in accordance with the applicable law of the Commonwealth;

(d) any other information in the application for the approval~~.~~;

(e) any other matters the chief executive reasonably considers relevant to deciding the application.

(2) Without limiting subsection (1), the chief executive may ~~only~~ grant a clinical trial approval only if the chief executive is satisfied—

(a) the applicant is a suitable person to hold the approval; and

(b) the medicinal cannabis to which the approval will apply has, or will be, manufactured or imported ~~under a~~ in accordance with the applicable law of the Commonwealth.

~~26~~27 Chief executive may require information or documents

(1) Before deciding an application for an approval, the chief executive may investigate the following—

(a) the applicant;

(b) for a medicinal cannabis approval—the patient.

(2) The chief executive may give the applicant an information requirement notice—

(a) for a renewal application—within 14 days after the chief executive receives the application; or

(b) for another application—within 60 days after the chief executive receives the application.

(3) The information requirement notice must state a reasonable period for compliance with the notice that is—

(a) for a renewal application—at least 14 days after the giving of the notice; or

(b) for another application—at least 30 days after the giving of the notice.

(4) The information ~~stated in~~ required under the information requirement notice must be verified by statutory declaration if the notice requires it.

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

~~27~~28 Criminal history report

(1) The chief executive may ask the commissioner of police for a written report about the criminal history of an individual mentioned in section 29.

(2) Also, the chief executive may ask the commissioner of police for a brief description of the circumstances of a conviction or charge mentioned in the individual's criminal history.

(3) For subsections (1) and (2), the chief executive's request may include the following information—

(a) the individual's name and any other name the chief executive believes the individual may use or may have used;

(b) the individual's residential address;

(c) the individual's ~~gender~~sex;

(d) the individual's date and place of birth.

(4) After receiving the written report about the criminal history of the individual, the chief executive may request further information about the individual's criminal history from the commissioner of police.

(5) Further information ~~provided~~ requested under subsection (4) is taken to be part of the individual's criminal history check.

(6) Subject to subsection (7), the commissioner of police must comply with a request under this section.

(7) The commissioner of police's obligation to comply with the request applies only to information in the possession of the commissioner or to which the commissioner has access.

~~28~~29 Individuals for whom criminal history checks may be conducted

(1) The chief executive may conduct a criminal history check for the following individuals—

(a) the applicant for an approval;

(b) for an application for a medicinal cannabis approval—the patient stated in the application;

(c) either of the following individuals if the chief executive knows, or reasonably suspects, the individual has been convicted of an offence that is relevant to the approval—

(i) the approval holder;

(ii) for a medicinal cannabis approval—the patient.

(2) ~~A regulation may prescribe a fee for a criminal history check.~~

A regulation may prescribe a fee for a criminal history check payable by the person of whom the check is being conducted.

~~29~~30 Commissioner of police must notify changes in criminal history

(1) This section applies to an individual—

(a) for whom a criminal history check has been conducted under section 29; and

(b) who is subsequently charged with an offence.

(2) The commissioner of police must notify the chief executive about the change in the individual's criminal history.

(3) The notice must state the following—

(a) the individual's name and address;

(b) the individual's date of birth;

(c) the offence the individual is charged with;

(d) particulars of the offence;

(e) the date of the charge.

~~3031~~ ~~Exceptions to criminal history disclosure requirements~~

Application of *Criminal Law (Rehabilitation of Offenders) Act 1986*

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

~~31~~32 Chief executive may extend period for decision for complex application

(1) This section applies if the chief executive considers that, because of the complexity of the matters to be decided for an application, the chief executive needs extra time to consider the application.

(2) The chief executive—

(a) may extend the period for considering the application by the reasonable number of days the chief executive considers necessary to decide the application; and

(b) must give the applicant notice of the day the extended period ends.

~~32~~33 Failure to decide application

(1) Subject to subsections (2) and (3), the chief executive is taken to have refused to grant an application for an approval if the chief executive fails to ~~decide~~decide the application—

(a) ~~the~~ for an original application for ~~the approval~~ an approval—within 90 days after the chief executive receives the application; or

(b) ~~the~~ for a renewal application for ~~the approval~~ an approval—within 30 days after the chief executive receives the application; or

(c) for another application for ~~the approval~~ an approval—within 60 days after the chief executive receives the application.

(2) If the chief executive has given the applicant an information requirement notice, a period mentioned in subsection (1) starts from the day the chief executive receives the information ~~for~~ required under the information requirement notice.

(3) If the chief executive has extended the period for deciding the application for the approval under section 32, the chief executive is taken to have refused to grant the application if the chief executive does not decide the application within the extended period.

(4) If the chief executive ~~is~~ is, under this section, taken to have refused to grant an ~~application for an approval under this section~~application, the chief executive must give the applicant for the application an information notice for the deemed refusal.

Part 2 Grant of approvals

Division 1 Grant of approvals generally

~~33~~34 Standard conditions for approvals

(1) A regulation may prescribe the standard conditions that apply to an approval.

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

~~34~~35 Additional or varied conditions for approvals

(1) This section applies if the chief executive reasonably believes it is necessary for an additional or varied condition to apply to an approval.

(2) The chief executive may—

(a) impose additional conditions for the approval; or

(b) vary a standard condition prescribed by regulation by stating the variation in the instrument for the approval.

~~35~~36 Term of approvals

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

~~36~~37 Transfer of approvals prohibited

An approval can not be transferred.

Division 2 ~~Grant~~ Form of medicinal cannabis approval

~~37~~38 Form of medicinal cannabis approval

An instrument for a medicinal cannabis approval must—

(a) be in the approved form~~;~~; and

(b) contain the following information—

(i) the ~~approved~~ single-patient prescriber's ~~name,~~ name and professional ~~qualifications and address~~qualifications;

(ii) the name and address of the business or entity ~~for~~ in relation to which the ~~approved~~ single-patient prescriber practises medicine;

(iii) the name, residential address and date of birth of the patient;

(iv) the term of the approval;

(v) the conditions applying to the approval;

(vi) if a TGA approval approves or authorises the supply of the medicinal cannabis for the purpose of treating the patient—details of the TGA approval;

(~~vi~~vii) the type, form, dosage and dispensing intervals of the medicinal cannabis for which a lawful direction may be given under the approval;

(~~vii~~viii) the name and address of the dispensing pharmacy for the approval~~;~~.

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

Division 3 ~~Grant~~ Form of dispensing approval

~~38~~39 Form of dispensing approval

An instrument for a dispensing approval must—

(a) be in the approved form; and

(b) contain the following information—

(i) the approved pharmacist's ~~name,~~ name and professional ~~qualifications and address~~qualifications; and

(ii) the name and business address of the pharmacy from which the approved pharmacist is authorised to dispense medicinal cannabis;

(iii) if another pharmacist is a secondary dispenser under the approval—the name, professional qualifications and address of the pharmacist;

(iv) the term of the approval;

(~~iv~~v) the ~~term of~~ conditions applying to the approval.

Division 4 ~~Grant~~ Form of clinical trial approval

~~39~~40 Form of clinical trial approval

An instrument for a clinical trial approval must—

(a) be in the approved form; and

(b) contain the following information—

(i) the approval holder's ~~name,~~ name and professional ~~qualifications and address~~qualifications; and

(ii) details of ~~the~~ any approval ~~of~~ required for the clinical trial ~~by~~ under the *Therapeutic Goods* ~~Administration or a human research ethics committee~~*Act 1989* (Cwlth); and

(iii) the term of the approval;

(~~iii~~iv)the ~~term of~~ conditions applying to the approval.

~~40~~41 Term of clinical trial approval

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

(2) In this section—

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

Part 3 Amendment, replacement and renewal of approvals

Division 1 Preliminary

~~41~~42 Making applications

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

(a) made to the chief executive; and

(b) in the approved form.

~~42~~43 Process for deciding application

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

Division 2 Amendment

~~43~~44 Application by holder to amend approval

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

(a) the things the holder, or another person, is authorised to do under the approval;

(b) for a medicinal cannabis approval—the treatment, or any aspect of the treatment, authorised under the approval;

(c) the conditions applying to the approval, including a standard condition prescribed by regulation.

~~44~~45 Minor amendment of approval by chief executive

(1) The chief executive may decide to amend an approval, on the chief executive's own initiative, if the amendment is only for—

(a) a formal or clerical reason; or

(b) another reason if the chief executive reasonably believes the amendment will not adversely affect the interests of a person to whom the approval applies.

(2) The chief executive must give notice ~~about~~ of the following to each person to whom the approval applies as soon as practicable after the chief executive decides to make the amendment—

(a) the amendment decided by the chief executive;

(b) the reason for the amendment;

(c) if the chief executive decides to endorse the instrument for the approval—that the holder must return the instrument to the chief executive to be endorsed.

Division 3 Replacement

~~45~~46 Application for replacement of approval

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

~~46~~47 Criteria for deciding replacement application

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

Division 4 Renewal

~~47~~48 Application for renewal of dispensing approval

(1) The holder of a dispensing approval may apply to the chief executive to renew the approval (a ***renewal application*** for the approval) within the period starting 60 days before the term of the approval ends.

(2) Despite subsection (1), the chief executive may accept a renewal application for the approval made within 30 days after the term of the approval ends if the chief executive is satisfied it is reasonable to do so in the circumstances.

~~48~~49 ~~Approval~~ Dispensing approval taken to be in force while renewal application considered

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

(2) The approval is taken to continue in force from the day that, apart from this section, the approval ~~expired or~~ would have expired.

(3) Subsection (2) applies until the application is—

(a) ~~taken to have been withdrawn~~ decided under section ~~26~~23; or

(b) ~~decided under section 22.~~

taken to have been withdrawn under section 27.

(4) However, if the application is refused, or taken to be refused under section 33, the approval continues in force until the information notice for the refusal is given to the applicant.

(5) Subsection (2) does not apply if the approval is earlier suspended or cancelled under chapter 5, part 2.

Part 4 Return and surrender of approvals

~~49~~50 Return of instrument of approval

(1) This section applies if—

(a) the chief executive gives a notice to an approval holder that requires the holder to return the original instrument for the approval to the chief executive; or

(b) the approval holder receives a replacement instrument for the approval and subsequently finds the original instrument for the approval.

(2) The approval holder must return the original instrument for the approval to the chief executive within 1 of the following periods, unless the holder has a reasonable excuse—

(a) if the holder has received a notice from the chief executive—7 days after receiving the notice;

(b) if the holder finds the original instrument for the approval—as soon as practicable after finding the instrument.

Maximum penalty—20 penalty units.

Chapter 4 Dealings with medicinal cannabis

~~50 Definition for ch 4~~

~~In this chapter—~~

~~*personal supervision*—~~

Part 1 Preliminary

51 Authority subject to Act and approval

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

(a) in accordance with this Act; and

(b) if an approval, or the conditions imposed on the approval, restricts or states the way in which the person must perform the activity—in accordance with the restriction or stated way; and

(c) if a condition stated in a regulation made under section 52(1)(b) restricts or states the way in which the person must perform the activity—in accordance with the restriction or stated way.

Part 2 Medicinal cannabis prescribed by patient-class prescribers

52 Prescription of medicinal cannabis other than under medicinal cannabis approval

(1) A regulation may prescribe—

(a) a class of specialist medical practitioners who may prescribe medicinal cannabis under this Act; and

(b) conditions applying to the way in which the class of specialist medical practitioners may exercise the authority given to them under this chapter.

(2) The regulation may also prescribe—

(a) the class of patients to whom a member of the class of specialist medical practitioners mentioned in subsection (1)(a) may prescribe medicinal cannabis; and

(b) the type of medicinal cannabis with which a member of the class of specialist medical practitioners, mentioned in subsection (1)(a), may treat a member of the class of patients, mentioned in paragraph (a).

(3) Without limiting subsection (1)(b), a condition may do either or both of the following—

(a) require members of the class of specialist medical practitioners to comply with a stated code, guideline, protocol or standard;

(b) require members of the class of specialist medical practitioners to notify the chief executive if a particular thing happens.

53 Patient-class prescribers

(1) If a patient-class prescriber is satisfied an eligible patient the patient-class prescriber is treating (the ***patient***) needs eligible medicinal cannabis for therapeutic use as a part of the patient's medical treatment, the patient-class prescriber is authorised to give a lawful direction for the—

(a) issue or supply of eligible medicinal cannabis for the purpose of treating the patient; or

(~~a~~b) ~~means supervision by a person (the ***supervisor***) of another person; and~~

administration of eligible medicinal cannabis to the patient.

(~~b~~2) ~~includes supervision using any technology that allows reasonably contemporaneous and continuous —~~

The patient-class prescriber is authorised to obtain and possess compliant eligible medicinal cannabis if the patient-class prescriber is temporarily possessing the medicinal cannabis—

(~~i~~a) ~~communication between the persons; and~~

until the patient can be treated with, or use, the medicinal cannabis; and

(~~ii~~b) ~~observation by~~ only for the ~~supervisor~~ purpose of ~~actions taken by~~ treating the ~~other person~~patient.

~~51~~ ~~Authority subject to Act and approval~~

(3) The patient-class prescriber is authorised to do the following in accordance with the lawful direction—

(a) supply the medicinal cannabis to the patient;

(b) issue the medicinal cannabis to a carer for the patient;

(c) administer the medicinal cannabis to the patient.

54 Eligible patients

(1) This section applies if a patient-class prescriber has given a lawful direction for the administration, issue or supply of eligible medicinal cannabis for the treatment of an eligible patient.

(2) The patient is authorised to obtain, possess or self-administer compliant eligible medicinal cannabis in accordance with the lawful direction.

(3) ~~A person~~ The patient is also authorised to ~~perform an activity under this chapter only~~ issue the medicinal cannabis to the ~~extent the person performs the activity~~following persons—

(a) the patient-class prescriber for the purpose of administering the medicinal cannabis to the patient;

(b) a carer for the patient;

(c) if section 61 applies to the patient—a facilitator or a responsible person within the meaning of that section.

55 Carers

(1) A carer, for an eligible patient, is authorised to obtain and possess compliant eligible medicinal cannabis if the carer is temporarily possessing the medicinal cannabis—

(a) until the patient can be treated with, or use, the medicinal cannabis; and

(b) only for the purpose of treating the patient.

(2) The carer is authorised to—

(a) if the patient is able to self-administer the medicinal cannabis—supply the medicinal cannabis to the patient; or

(b) administer the medicinal cannabis to the patient in accordance with a lawful direction for the medicinal cannabis; or

(c) issue the medicinal cannabis to—

(~~a~~i) ~~in accordance with this Act; and~~

a patient-class prescriber for administration to the patient; or

(ii) if section 61 applies to the patient—a facilitator or a responsible person within the meaning of that section.

56 Approved pharmacists and secondary dispensers

(1) An approved pharmacist is authorised to obtain eligible medicinal cannabis and possess the medicinal cannabis at the approved pharmacist's dispensary if the approved pharmacist is possessing the medicinal cannabis for the purpose of—

(a) selling or supplying the medicinal cannabis to eligible patients; or

(b) selling or issuing the medicinal cannabis to carers for eligible patients or other persons authorised to obtain and possess the medicinal cannabis.

(2) The approved pharmacist, when at the dispensary, is authorised to—

(a) do the following in accordance with a lawful direction for eligible medicinal cannabis—

(i) sell or supply eligible medicinal cannabis to eligible patients;

(ii) sell or issue eligible medicinal cannabis to carers for eligible patients or other persons authorised to obtain and possess the medicinal cannabis; and

(b) manufacture eligible medicinal cannabis within the meaning of schedule 1, definition *manufacture*, paragraph (a)(vi) to (viii).

(~~b~~3) ~~if an approval, or the conditions imposed on the approval, restrict or state the way in which the person must perform the activity in accordance with the restriction or stated way.~~

~~52~~ ~~Approved prescriber~~

If the approved pharmacist is not at the dispensary, the secondary dispenser under the dispensing approval is authorised to possess, sell, supply, issue and manufacture eligible medicinal cannabis in accordance with subsections (1) and (2) when at the dispensary.

Part 3 Medicinal cannabis prescribed under medicinal cannabis approvals

57 Single-patient prescribers

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

(a) issue or supply of the medicinal cannabis for the purpose of treating the patient; and

(b) administration of the medicinal cannabis to the patient.

(2) ~~An approved prescriber, for a medicinal cannabis approval,~~ The single-patient prescriber is authorised to obtain and possess compliant medicinal cannabis if the ~~approved~~ single-patient prescriber is temporarily possessing the medicinal cannabis—

(a) until the patient can be treated with, or use, the medicinal cannabis; and

(b) only for the purpose of treating the patient.

(3) The ~~approved~~ single-patient prescriber is authorised to do the following in accordance with the ~~prescription or~~ lawful direction—

(a) supply the medicinal cannabis to the patient;

(b) issue the medicinal cannabis to a carer for the ~~carer~~patient;

(c) administer the medicinal cannabis to the patient.

~~53~~58 Approved pharmacists and secondary dispensers

(1) An approved pharmacist, working in the dispensing pharmacy for a medicinal cannabis approval, is authorised to obtain medicinal cannabis and possess the medicinal cannabis at the dispensing pharmacy if the approved pharmacist is possessing the medicinal cannabis for the purpose of—

(a) selling or supplying the medicinal cannabis to the patient; or

(b) selling or issuing the medicinal cannabis to a carer for the patient or another person authorised to obtain and possess the ~~carer~~medicinal cannabis.

(2) The approved pharmacist, when ~~present~~ at the dispensing pharmacy, is authorised to—

(a) do the following in accordance with a lawful direction for the medicinal cannabis—

(i) sell or supply the medicinal cannabis to the patient;

(ii) sell or issue the medicinal cannabis to a carer for the patient or another person authorised to obtain and possess the ~~carer~~medicinal cannabis; and

(b) manufacture medicinal cannabis within the meaning of schedule 1, definition *manufacture*, paragraph (a)(vi) to (viii).

(3) If the approved pharmacist is not ~~present~~ at the dispensing pharmacy, the secondary dispenser under the dispensing approval is authorised to possess, sell, supply, ~~supply~~ issue and ~~issue~~ manufacture medicinal cannabis in accordance with subsections (1) and (2) when ~~present~~ at the dispensing pharmacy.

~~54 Patient~~

59 Patients

(1) The patient for a medicinal cannabis approval is authorised to obtain, possess or self-administer compliant medicinal cannabis in accordance with a lawful direction for the medicinal cannabis.

(2) The patient is authorised to issue compliant medicinal cannabis to the following persons—

(a) the ~~approved~~ single-patient prescriber for the purpose of administering the medicinal cannabis to the patient;

(b) a carer for the ~~carer~~patient;

(c) if section 61 applies to the patient—a facilitator or a responsible person within the meaning of that section.

~~55~~ ~~Carer~~

60 Carers

(1) ~~The~~ A carer, for a patient to whom a medicinal cannabis approval applies, is authorised to obtain and possess compliant medicinal cannabis if the carer is temporarily possessing the medicinal cannabis—

(a) until the patient can be treated with, or use, the medicinal cannabis; and

(b) only for the purpose of treating the patient.

(2) The carer is authorised to—

(a) if the patient is able to self-administer the medicinal cannabis—supply the medicinal cannabis to the patient; or

(b) administer the medicinal cannabis to the patient in accordance with a lawful direction for the medicinal cannabis; or

(c) issue the medicinal cannabis to—

(i) the ~~approved~~ single-patient prescriber for administration to the patient; or

(ii) if section 61 applies to the patient—a facilitator or a responsible person within the meaning of that section.

~~56~~Part 4 General provisions

61 Restricted access patients

(1) This section applies if—

(a) a patient ~~for a medicinal cannabis approval~~ is ~~not reasonably able~~ authorised to obtain, possess or self-administer compliant medicinal ~~cannabis due to the~~

~~patient's age, medical condition or location~~cannabis; and

(b) ~~if there is a carer for~~ the ~~approval the carer~~ patient is not reasonably able to obtain, possess or self-administer ~~or supply compliant~~ the medicinal cannabis ~~to the patient due to~~ because of the patient's age, medical condition or location~~.~~; and

~~*Examples for subsection* (1~~c) ~~—~~ a carer for the patient is not reasonably able to administer or supply the medicinal cannabis to the patient because of the patient's medical condition or location.

Examples for subsection (1)—

1 The patient is in a remote location and is not reasonably able to obtain compliant medicinal cannabis from ~~the dispensing~~ a pharmacy.

2 The patient is not reasonably able to obtain, possess or self-administer compliant medicinal cannabis because the patient—

(a) is in a hospital; or

(b) is detained in a detention centre, prison, watch house or police establishment; or

(c) lives in a nursing home~~.~~; or

(d) is in the care of an out-of-home care service.

(2) A person (a ***facilitator***) who is an adult, and who has regular access to the patient, is authorised to obtain and possess ~~compliant~~ the medicinal cannabis if the facilitator is temporarily possessing the medicinal cannabis—

(a) until the patient can be treated with, or use, the medicinal cannabis; and

(b) only for the purpose of treating the patient.

(3) The facilitator is authorised to—

(a) if the patient is able to self-administer the medicinal cannabis—supply the medicinal cannabis to the patient; or

(b) issue the medicinal cannabis to another facilitator, who is a health ~~practitioner or~~ practitioner, a trainee health practitioner or a prescribed person treating the patient, for administration to the patient; or

(c) if the facilitator is a health practitioner, ~~or~~ a trainee health ~~practitioner,~~ practitioner or a prescribed person treating the patient—administer the medicinal cannabis to the patient in accordance with a lawful direction for the medicinal cannabis.

(4) If this section applies because the patient is in the care of an institution, a responsible person for the institution is authorised to—

(a) obtain ~~compliant~~ the medicinal cannabis and possess it at the premises of the institution while the patient is in the care of the institution; and

(b) issue the medicinal cannabis to a facilitator, who works at the institution, for treatment of the patient.

(5) If the facilitator is a trainee health practitioner, the facilitator must only administer the medicinal cannabis to the patient under the personal supervision of another facilitator who is a health practitioner treating the patient.

(6) A regulation may prescribe conditions for the administration of medicinal cannabis by prescribed persons under this section.

(~~6~~7) In this section—

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

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

~~***institution*** means—~~

~~(a) a hospital; or~~

~~(b) a detention centre, prison, watch house or police establishment; or~~

~~(c) an educational institution; or~~

~~(d) a nursing home; or~~

~~(e) another entity prescribed by regulation.~~

out-of-home care service means an entity mentioned in the *Child Protection Act 1999*, section 82(1).

prescribed person means a person who is a member of a class of persons prescribed by regulation for this section.

responsible person, for an institution, means—

(a) a person in charge of the institution; or

(b) a person in charge of the provision of health care ~~in~~ for the institution; or

(c) a person in charge of dispensing controlled drugs ~~in~~ for the institution.

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

~~57~~62 Carriers

(1) To the extent necessary to transport and deliver medicinal cannabis, the following persons are authorised to possess the medicinal cannabis—

(a) a person engaged by a single-patient prescriber, a lawful manufacturer or the chief executive to transport and deliver medicinal cannabis that is the subject of a medicinal cannabis approval to—

(i) the single-patient prescriber; or

(ii) a dispensing pharmacy;

(~~a~~b) a person engaged ~~by an approved prescriber, a lawful manufacturer or the chief executive~~ to ~~transport and~~

deliver ~~the~~ eligible medicinal cannabis to ~~the approved prescriber or~~ a ~~dispensing pharmacy~~dispensary;

(~~b~~c) a person engaged by a patient, a carer for the patient or the chief executive to transport and deliver the medicinal cannabis to a facilitator, or a responsible ~~person~~person for an institution, with authority to deal with the medicinal cannabis under section 61;

(~~c~~d) a person engaged by an authorised person, a State analyst or the chief executive to transport and deliver the ~~controlled drug~~ medicinal cannabis to a person authorised to possess the medicinal cannabis;

(~~d~~e) an adult acting for a person who is engaged ~~by a person mentioned in paragraph~~ under paragraphs (a~~), (b)~~ ~~or~~ to (~~c~~d) to transport and deliver the medicinal cannabis.

(2) In this section—

lawful manufacturer means a person who is, ~~under a~~ in accordance with the applicable law of the Commonwealth, authorised to manufacture medicinal cannabis.

~~**58**~~ ***patient*** means—

(a) a patient to whom a medicinal cannabis approval applies; or

(b) a person being treated with eligible medicinal cannabis in accordance with a lawful direction of a patient-class prescriber.

63 Authorised persons

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

(a) to obtain medicinal cannabis; or

(b) to possess medicinal cannabis; or

(c) in a disaster or emergency situation—to destroy medicinal cannabis.

~~59~~64 State analysts

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

(a) obtain ~~or manufacture~~ medicinal cannabis; or

(b) possess medicinal cannabis at the place where the analyst is performing official duties; or

(c) use medicinal cannabis for official purposes or destroy it.

(2) A trainee State analyst under the personal supervision of a State analyst is authorised to—

(a) obtain ~~or manufacture~~ medicinal cannabis; or

(b) possess medicinal cannabis at the place where the trainee is performing official duties; or

(c) use medicinal cannabis for official purposes or destroy it.

~~60~~65 State forensic and scientific service facilities

(1) To the extent necessary to perform the person's official duties, the person in charge of a forensic and scientific facility operated by the State is authorised to—

(a) possess medicinal cannabis; or

(b) destroy medicinal cannabis.

(2) The person in charge may delegate the authority to an appropriately qualified officer of the department.

~~(3) In this section—~~

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

~~61~~66 Approved clinical trials

(1) A person is authorised to possess, obtain, dispense, issue, supply, sell, administer or self-administer medicinal cannabis approved for ~~use,~~ use in an approved clinical ~~trial,~~ trial under a clinical trial approval.

(2) A medical practitioner is authorised to give a lawful direction for medicinal cannabis approved for ~~use,~~ use in an approved clinical ~~trial,~~ trial under a clinical trial approval.

(3) The authority mentioned in subsections (1) and (2) must only be exercised—

(a) to the extent necessary for ~~the~~ carrying out ~~of~~ the trial; and

(b) for the purpose of treating a ~~patient,~~ patient taking part in the ~~trial,~~ trial with the medicinal cannabis; and

(c) in accordance with—

(i) the clinical trial approval; and

(ii) ~~the~~ any approval required for the clinical trial ~~given by~~ under the *Therapeutic Goods* ~~Administration or a human research ethics committee.~~*Act 1989* (Cwlth); and

~~62~~

(iii) in relation to the dispensing, supplying or administration of medicinal cannabis to a patient, or the obtaining, possession and self-administration of medicinal cannabis by the patient—a lawful direction given in relation to the patient under subsection (2).

67 Use of instruments or things to administer medicinal cannabis

(1) This section applies to a person who is authorised under this chapter to administer medicinal cannabis or self-administer medicinal cannabis.

(2) For the purpose of administering or self-administering the medicinal cannabis, the person is authorised to ~~use any instrument or thing, used for administering medicinal cannabis, stated in the approval.~~use—

~~63~~

(a) for medicinal cannabis that is the subject of a medicinal cannabis approval—any instrument or thing, used for administering medicinal cannabis, stated in the approval; or

(b) for eligible medicinal cannabis—

(i) if a condition stated in a regulation made under section 52(1)(b) states or restricts the instruments or things that may be used to administer or self-administer the medicinal cannabis—an instrument or thing that complies with the condition; or

(ii) otherwise—any instrument or thing used for administering medicinal cannabis.

68 Regulation may prescribe authority

(1) An eligible person is authorised to deal with medicinal cannabis—

(a) in a way (an ***authorised way***) prescribed by regulation for the class of persons ~~for~~ of which the person is a member; and

(b) subject to any conditions prescribed by regulation for the authorised way or ~~for~~ the class of persons.

(2) Without limiting subsection (1)(b), a condition may do ~~1~~ either or both of the following—

(a) require an eligible person to comply with a stated code, guideline, protocol or standard;

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

(3) In this section—

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

(a) health practitioners;

(b) trainee health practitioners;

(c) ~~any of the following classes~~ a class of persons prescribed by regulation—

(i) who are persons required to deal with medicinal cannabis in the course of their occupation or engagement ~~in~~ in an institution or a Hospital and Health Service; or

~~(A) a hospital, or a Hospital and Health Service; or~~

(~~B~~ii) ~~a nursing home; or~~

~~(C) an educational institution; or~~

~~(D) a prison, detention centre, watch house or other police establishment; or~~

~~(E) other institutions, facilities or places mentioned in the regulation;~~

~~(ii) other persons~~ who otherwise deal with medicinal cannabis.

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

Chapter 5 Managing medicinal cannabis

Part 1 Medicinal cannabis management plans

~~64~~69 What is a medicinal cannabis management plan

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

(a) involves medicinal cannabis; and

(b) the entity or person is authorised to perform under this Act.

~~65~~70 What must be included in plan

(1) A medicinal cannabis management plan for an entity must state the following—

(a) the day on which the plan starts;

(b) the relevant activity to be performed by the ~~entity~~entity or person;

(c) the location where the medicinal cannabis will be stored or used to perform the relevant activity;

(d) details of the known or foreseeable risks associated with the medicinal cannabis and the relevant activity;

(e) the measures to be taken to manage the risks mentioned in paragraph (d);

(f) the way in which the effectiveness of the plan will be monitored;

(g) the persons to whom the plan applies;

(h) the information, training and instruction to be provided to the persons to whom the plan applies, including the way in which the persons are informed of changes to the plan;

(i) when and how the plan must be reviewed;

(j) the individual responsible for making, implementing and reviewing the plan.

(2) The medicinal cannabis management plan must—

(a) be written in a way likely to be understood easily by persons to whom the plan applies; and

(b) be signed by the individual mentioned in subsection (1)(j).

(3) A ~~single~~ medicinal cannabis management plan may deal with more than 1 relevant activity.

(4) A regulation may prescribe additional matters to be dealt with in a medicinal cannabis management plan, including, for example—

(a) the minimum standards or performance indicators to be included in a plan to deliver particular risk management outcomes; and

(b) the minimum requirements for reviewing a plan.

~~66~~71 Who must make plan

(1) Each of the following entities must make a medicinal cannabis management plan—

(a) ~~an approved~~ a single-patient prescriber if the ~~approved~~ single-patient prescriber is required, as a condition of ~~a~~ the single-patient prescriber's medicinal cannabis approval, to make a medicinal cannabis management plan;

(b) a patient-class prescriber if the patient-class prescriber—

(i) prescribes or administers medicinal cannabis under chapter 4, part 2; and

(ii) is required, under a condition in a regulation made under section 52(1)(b), to make a medicinal cannabis management plan;

(c) an approved pharmacist if the pharmacist is required, as a condition of the pharmacist's dispensing approval, to make a medicinal cannabis management plan;

(~~c~~d) if a responsible person for an institution is intending to exercise the authority mentioned in section 61(4)—the responsible person.

(2) A regulation may prescribe additional entities that must make medicinal cannabis management plans for dealing with particular relevant activities.

~~67~~72 Making and notifying plan

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

Maximum penalty—500 penalty units.

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

(a) when the medicinal cannabis management plan starts;

(b) when the relevant activity dealt with by the plan will be performed for the first time.

Maximum penalty—50 penalty units.

~~68~~73 Persons to be informed of plan

An entity ~~required to make~~ that has made a medicinal cannabis management plan must take reasonable steps to—

(a) inform persons to whom the plan applies about the contents of the plan; and

(b) ensure those persons comply with the plan.

Maximum penalty—200 penalty units.

~~69~~74 Review of plan

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

(a) in accordance with the terms of the plan; and

(b) in ~~compliance~~ accordance with any requirements prescribed by regulation; and

(c) not more than 5 years after the day the plan starts.

Maximum penalty—200 penalty units.

~~70~~75 Offence for failure to comply with plan

(1) A person to whom a medicinal cannabis management plan applies must comply with the plan, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(2) In a proceeding for an offence against subsection (1), it is a defence for the person to prove the person—

(a) was not informed about the contents of the medicinal cannabis management plan; or

(b) took all reasonable steps to comply with the plan.

Part 2 Administrative action

~~71~~76 Definitions for ~~pt 2~~part

In this ~~part 2~~part—

administrative action, in relation to an approval, means—

(a) suspension of the approval; or

(b) cancellation of the approval; or

(c) variation of the approval; or

(d) imposition of conditions on the approval.

~~72~~77 Grounds for action to be taken

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

(a) the approval holder has contravened this Act or a condition of the approval;

(b) for a medicinal cannabis approval—

(i) the chief executive reasonably believes the administrative action is necessary to ensure the welfare of the patient; or

(ii) the patient or a carer for the patient has contravened this Act or a condition of the approval applying to the patient or the carer~~;~~; or

(~~e~~iii) the patient is not, or is no longer, suitable to undergo treatment with medicinal cannabis;

(c) the chief executive believes the administrative action is necessary to prevent or minimise a diversion risk or a substance risk;

(d) the approval holder is not, or is no longer, suitable to hold the approval;

(e) ~~for a medicinal cannabis approval—the patient is not, or is no longer, suitable to undergo treatment with medicinal cannabis; or~~

~~(f)~~ any of the following persons made a materially false or misleading representation or declaration to obtain the approval—

(i) generally—the approval holder; or

(ii) for a medicinal cannabis approval—a carer for the ~~patient, a carer,~~ patient or a person with authority to consent to the patient's treatment with medicinal cannabis.

~~73~~78 Show cause notice

(1) This section applies if—

(a) the chief executive reasonably believes a ground exists to take administrative action in relation to an approval; and

(b) the approval holder—

(i) has been given a compliance notice about the matter to which the ground relates and the holder has failed, without reasonable excuse, to comply with the notice; or

(ii) has not been given, and it is not intended to give the holder, a compliance notice about the matter to which the ground relates.

(2) The chief executive must give the approval holder a notice under this section (a ***show cause notice***).

(3) The show cause notice must state the following—

(a) the administrative action (the ***proposed action***) in relation to the approval the chief executive proposes to take;

(b) the grounds for the proposed action;

(c) an outline of the facts and circumstances forming the basis for the grounds;

(d) if the proposed action is a suspension of the approval—the proposed suspension period;

(e) if the proposed action is a variation of the approval—details of the variation;

(f) if the proposed action is the imposition of conditions—details of the conditions;

(g) an invitation to the approval holder to show within a stated period (the ***show cause period***) why the proposed action should not be taken.

(4) The show cause period must be a period ending not less than 21 days after the show cause notice is given to the approval holder.

~~74~~79 Representations about show cause notices

(1) The approval holder may make written representations to the chief executive about the show cause notice given to the holder within the show cause period for the notice.

(2) The chief executive must consider all representations (the ***accepted representations***) made under subsection (1).

~~75~~80 Ending show cause process without further action

(1) This section applies if, after considering the accepted representations from the approval holder for the show cause notice, the chief executive no longer believes a ground exists to take administrative action in relation to the approval.

(2) The chief executive must not take any further action about the show cause notice.

(3) The chief executive must give notice to the holder that no further action is to be taken about the show cause notice.

~~76~~81 Decision to take administrative action

(1) This section applies if, after considering the accepted representations from the approval holder for the show cause notice, the chief executive—

(a) still reasonably believes a ground exists to take administrative action in relation to the approval; and

(b) reasonably believes the administrative action is warranted.

(2) This section also applies if there are no accepted representations for the show cause notice.

(3) The chief executive may decide—

(a) if the proposed action stated in the show cause notice was to suspend the approval for a stated period—to suspend the approval for no longer than the stated period; or

(b) if the proposed action stated in the show cause notice was to cancel the approval—to either cancel the approval or suspend it for a period; or

(c) if the proposed action stated in the show cause notice was to vary the approval—to either vary the approval as proposed or ~~impose~~ vary the approval in a less onerous ~~variation on the approval~~way; or

(d) if the proposed action stated in the show cause notice was to impose conditions on the approval—to either impose the conditions proposed or impose less onerous conditions on the approval.

(4) As soon as practicable after making the decision, the chief executive must give an information notice about the decision to the approval holder.

(5) The decision takes effect on—

(a) the day the information notice is given to the holder; or

(b) if a later day of effect is stated in the information notice—the later day.

~~77~~82 Immediate administrative action

(1) The chief executive may decide to immediately take administrative action in relation to an approval if the chief executive reasonably believes—

(a) a ground exists to take the administrative action in relation to the approval; and

(b) it is necessary to take the administrative action immediately because there is an imminent and serious risk to the life, health or safety of a person.

(2) The administrative action in relation to the approval—

(a) takes effect when both of the following notices are given to the approval holder—

(i) a show cause notice for the administrative action;

(ii) an information notice for the chief executive's decision to take the action; and

(b) continues in effect until the earliest of the following—

(i) the chief executive decides to stop the administrative action;

(ii) the show cause notice is finally dealt with;

(iii) 60 days after the day the notices were given to the holder.

~~78~~83 Additional power for immediate amendment or cancellation of medicinal cannabis approval

(1) The chief executive may also decide to—

(a) amend a medicinal cannabis approval immediately if—

(i) the chief executive is reasonably satisfied the immediate amendment is reasonably necessary in the circumstances; or

(ii) the expert advisory panel recommends the immediate amendment of the approval; or

(b) cancel a medicinal cannabis approval immediately if the chief executive is reasonably satisfied—

(i) the approval holder (the ***first approval holder***) has ceased to treat the patient to whom the approval relates; and

(ii) it is reasonably necessary, for the welfare of the patient, for the chief executive to urgently give a medicinal cannabis approval that relates to the patient to a person other than the first approval holder.

(2) The amendment or cancellation takes effect on—

(a) the day an information notice for the chief executive's decision is given to the approval holder; or

(b) if a later day of effect is stated in the information notice—the later day.

(3) For subsection (1)(b)(i), the chief executive may be reasonably satisfied the first approval holder has ceased to treat a patient, ~~regardless of~~ whether or not the chief executive has regard to—

(a) the reason the treatment ceased; or

(b) when the holder last treated the ~~person~~patient.

~~79~~84 Chief executive to give notice of administrative action to boards

(1) This section applies if—

(a) the chief executive takes administrative action in relation to an approval; and

(b) the profession in which the approval holder is registered has a board.

(2) The chief executive must, as soon as practicable after taking the administrative action, give written notice about the administrative action to the approval holder's board.

~~80~~85 Chief executive may inform boards about particular matters

(1) This section applies if—

(a) the chief executive reasonably believes—

(i) the holder of an ~~approval~~ approval, or a patient-class prescriber, has committed an offence against this Act: or

(ii) a ground exists to take administrative action in relation to an approval; and

(b) the profession in which the approval ~~holder~~ holder, or the patient-class prescriber, is registered has a board.

(2) The chief executive may give information about the belief, including the grounds for the belief, to the ~~approval holder's~~ board.

Part 3 Compliance notices

~~81~~86 Giving a compliance notice

(1) This section applies if the chief executive or an authorised person reasonably believes—

(a) a person (the ***contravener***) has contravened a provision of this Act or a condition of an approval in circumstances that make it likely the contravention will continue or be repeated; and

(b) a matter relating to the contravention is reasonably capable of being rectified; and

(c) it is appropriate to give the contravener an opportunity to rectify the matter.

(2) The chief executive or authorised person may give the contravener a notice (a ***compliance notice***) requiring the contravener to rectify the matter.

Note—

Failure to comply with a compliance notice is an offence under section 96.

~~82~~87 Content of compliance notice

The compliance notice must state the following—

(a) that the chief executive or authorised person reasonably believes the contravener has contravened a provision of this Act or a condition of an approval in circumstances that make it likely the contravention will continue or be repeated;

(b) the provision or condition the chief executive or authorised person believes has been contravened;

(c) briefly, how it is believed the provision or condition has been contravened;

(d) the matter relating to the contravention that the chief executive or authorised person believes is reasonably capable of being rectified;

(e) the reasonable steps the contravener must take to rectify the matter;

(f) that the contravener must take the steps within a stated period that is reasonable, having regard to any diversion risks or substance risks posed by the contravention;

(g) that it is an offence to fail to comply with the compliance notice unless the contravener has a reasonable excuse.

Part 4 Medicinal cannabis register

~~83~~88 Chief executive to keep register

The chief executive must keep a register about—

(a) approvals; and

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

~~84~~89 Content of register—approvals

The register must contain the following particulars for each approval—

(a) any identification number allocated to the approval;

(b) the name of the approval holder;

(c) for a medicinal cannabis approval—the name of—

(i) the ~~patient for the approval~~patient; and

(ii) the dispensing pharmacy; and

(~~iii~~d) for a dispensing approval—the name of any ~~carers~~ secondary dispenser for the approval;

(~~d~~e) ~~for a dispensing approval—~~the ~~name~~ type of ~~any secondary dispenser for~~ the approval;

(~~e~~f) the ~~type~~ term of the approval;

(~~f~~g) the ~~term of~~ conditions applying to the approval.

~~85~~90 Content ~~or~~ of register—administrative action

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

(a) the name of the person;

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

~~86~~91 Register not to be made public

(1) The register must not be made available to the public.

(2) If asked by the commissioner of the police service, the chief executive may give the commissioner ~~of the police service~~ information contained in the register.

Chapter 6 Offences

~~87~~92 Offence to perform regulated activities for medicinal cannabis

(1) A person must not—

(a) perform, or attempt to perform, a regulated activity for medicinal cannabis; or

(b) agree to perform, or otherwise offer to perform, a regulated activity for medicinal cannabis.

Maximum penalty—750 penalty units.

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

(a) is authorised to perform the regulated activity under this Act or another Act; or

(b) if the regulated activity is manufacturing medicinal cannabis—is, ~~under a~~ in accordance with the applicable law of the Commonwealth, authorised to manufacture medicinal cannabis; or

(c) has a reasonable excuse.

(3) For ~~subsections~~ subsection (1), the following are immaterial—

(a) the quantity of medicinal cannabis involved in the regulated activity;

(b) if the regulated activity involves the interaction of two or more persons—whether or not—

(i) the persons are in the same place at the same time; or

(ii) the interaction is by indirect means such as the internet, email, ~~telephone~~phone, ~~facsimile~~fax, mail order or a vending machine;

(c) in relation to a regulated activity other than possession of medicinal cannabis—whether or not the person

performing the regulated activity is authorised to possess medicinal cannabis.

(4) In this section—

regulated activity, for medicinal cannabis, means—

(a) giving, or purporting to give, a lawful direction for medicinal cannabis; or

(b) possessing medicinal cannabis; or

(c) obtaining medicinal cannabis; or

(d) manufacturing medicinal cannabis; or

(e) ~~dispensing,~~ issuing, supplying or selling medicinal cannabis; or

(f) administering or self-administering medicinal cannabis; or

~~(g) if a person may, under an approval, administer, dispense, issue, obtain, possess, or sell medicinal cannabis, or give a lawful direction for a medicinal cannabis —~~

(~~i~~g) destroying medicinal cannabis; or

(~~ii~~h) otherwise disposing of medicinal cannabis as waste.

~~88~~93 Misuse of lawful direction for medicinal cannabis

(1) A person must not obtain, or attempt to obtain, medicinal cannabis by using 1 or more of the following documents—

(a) a document the person has prepared, if the person is not ~~an approved~~ a single-patient prescriber or a patient-class prescriber;

(b) a document the person knows has been prepared by someone who is not ~~an approved~~ a single-patient prescriber or a patient-class prescriber;

(c) a written lawful direction the person knows falsely states the name or residential address of the patient to be treated under the lawful direction;

(d) a written lawful direction the person knows has been changed in any way by someone other than—

(i) ~~the approved prescriber for the lawful direction; or~~

the single-patient prescriber, or patient-class prescriber, for the lawful direction; or

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

Maximum penalty—100 penalty units.

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

(a) a single-patient prescriber;

(b) a patient-class prescriber.

Maximum penalty—100 penalty units.

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

(a) ~~the approved prescriber for the lawful direction; or~~

the single-patient prescriber, or patient-class prescriber, for the lawful direction; or

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

Maximum penalty—100 penalty units.

(4) A person does not commit an offence against subsection (3) if the person—

(a) accidentally makes a change to the lawful direction; and

(b) takes reasonable steps to rectify the change.

(5) In this section—

single-patient prescriber, for a lawful direction, means the single-patient prescriber who prepared the lawful direction in

accordance with this Act and the medicinal cannabis approval for the medicinal cannabis.

~~approved~~ patient-class prescriber, for a lawful direction, means the ~~approved~~ patient-class prescriber who prepared the lawful direction in accordance with ~~a medicinal cannabis authority~~this Act.

~~89~~94 Offence for false or misleading statements or documents

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

(a) in relation to—

(i) an application for an approval under this Act; or

(ii) an application for the amendment, replacement or renewal of an approval under this Act; or

(iii) a response to a request for information under this Act from the chief executive; or

(b) for the purpose of obtaining a lawful direction for medicinal cannabis.

Maximum penalty—50 penalty units.

~~90~~95 Offence for failure to comply with approval conditions

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

Maximum penalty—200 penalty units.

~~91~~96 Offence for failure to comply with compliance notice

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

Maximum penalty—200 penalty units.

Note—

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

~~92~~97 Offence for failure to comply with recall order

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

Maximum penalty—500 penalty units.

Note—

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

~~93~~98 State officers not liable for an offence

(1) Nothing in this chapter makes the following persons liable for an offence for an act done, or omission made, honestly and without negligence, in the performance of the person's function under this Act or another law—

(a) an authorised person;

(b) a State analyst or trainee State analyst;

(c) a person employed or engaged by a forensic and scientific facility operated by the State;

(d) a person authorised by another law to deal with medicinal cannabis in performing the person's functions under that law.

Example—

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

(2) In this section—

function includes power and responsibility.

Chapter 7 Monitoring, investigations and enforcement

Part 1 General provisions about authorised persons

Division 1 Appointment of authorised persons

~~94~~99 Authorised persons under ~~ch 7~~chapter

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

~~95~~100 Functions of authorised persons

An authorised person has the following functions—

(a) to investigate, monitor and enforce compliance with this Act;

(b) to investigate or monitor whether an occasion has arisen for the exercise of powers under this Act;

(c) to facilitate the exercise of powers under this Act.

~~96~~101 Appointment and qualifications

(1) The chief executive may, by instrument in writing, appoint any of the following persons as authorised persons—

(a) a public service employee;

(b) other persons prescribed by regulation.

(2) However, the chief executive may appoint a person as an authorised person only if the chief executive is satisfied the person is appropriately qualified.

~~97~~102 Appointment conditions and limit on powers

(1) An authorised person holds office on any conditions stated in—

(a) the authorised person's instrument of appointment; or

(b) a signed notice given to the authorised person; or

(c) a regulation.

(2) The instrument of appointment, a signed notice given to the authorised person or a regulation may limit the authorised person's powers.

(3) In this section—

signed notice means a notice signed by the chief executive.

~~98~~103 When office ends

(1) The office of a person as an authorised person ends if any of the following happens—

(a) the term of office stated in a condition of office ends;

(b) under another condition of office, the office ends;

(c) the authorised person's resignation under section 104 takes effect.

(2) Subsection (1) does not limit the ways the office of a person as an authorised person ends.

(3) In this section—

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

~~99~~104 Resignation

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

Division 2 Identity cards

~~100~~105 Issue of identity card

(1) The chief executive must issue an identity card to each authorised person.

(2) The identity card must—

(a) contain a recent photo of the authorised person; and

(b) contain a copy of the authorised person's signature; and

(c) identify the person as an authorised person under this Act; and

(d) state an expiry date for the card.

(3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

~~101~~106 Production or display of identity card

(1) In exercising a power in relation to a person in the person's presence, an authorised person must—

(a) produce the authorised person's identity card for the person's inspection before exercising the power; or

(b) have the identity card displayed so it is clearly visible to the person when exercising the power.

(2) However, if it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the person's inspection at the first reasonable opportunity.

(3) For subsection (1), an authorised person does not exercise a power in relation to a person only because the authorised person has entered a place as mentioned in section 110(1)(b) or (d).

~~102~~107 Return of identity card

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

Maximum penalty—20 penalty units.

Division 3 Preliminary

~~103~~108 References to exercise of powers

If—

(a) a provision of this chapter refers to the exercise of a power by an authorised person; and

(b) there is no reference to a specific power~~.~~;

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

~~104~~109 Reference to document includes reference to reproductions from electronic document

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

(a) produced from an electronic document; or

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

Part 2 Entry of places by authorised persons

Division 1 Power to enter

~~105~~110 General power to enter places

(1) An authorised person may enter a place if—

(a) an occupier at the place consents under division 2 to the entry and section 114 has been complied with for the occupier; or

(b) it is a public place and the entry is made when the place is open to the public; or

(c) the entry is authorised under a warrant and, if there is an occupier of the place, section 122 has been complied with for the occupier; or

(d) the place is a ~~dispensing pharmacy~~dispensary, or the address of the business or entity ~~for~~ in relation to which ~~an approved~~ a single-patient prescriber or a patient-class prescriber practices medicine, and is—

(i) open for carrying on business; or

(ii) otherwise open for entry; or

(iii) required to be open for inspection under this Act or an approval; or

(e) the entry is authorised under section 111.

(2) For subsection (1)(d) and (e), entry to a place does not include entry to a part of the place where a person resides without the person's consent or a warrant.

(3) If the power to enter arose only because an occupier of the place consented to the entry, the power is subject to any conditions of the consent and ceases if the consent is withdrawn.

(4) The consent may provide consent for re-entry and is subject to the conditions of consent.

(5) If the power to enter is under a warrant, the power is subject to the terms of the warrant.

(6) If the power to re-enter is under a warrant, the re-entry is subject to the terms of the warrant.

~~106~~111Power to enter place to check compliance with notice or order

(1) This section applies if a person has been given a compliance notice or recall order in relation to medicinal cannabis at a place.

(2) An authorised person may, at reasonable times, enter the place to check whether the compliance notice or recall order has been complied with.

~~*Note*~~*Notes*—

1 See, however, the restrictions on entry under section 110(2).

2 See section 116 for the procedure for entry under this section.

Division 2 Entry by consent

~~107~~112Application of ~~div 2~~division

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

~~108~~113Incidental entry to ask for access

For the purpose of asking the occupier for the consent, an authorised person may, without the occupier's consent or a warrant—

(a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

(b) enter part of the place the authorised person reasonably considers members of the public ordinarily are allowed to enter when they wish to contact an occupier of the place.

~~109~~114 Matters authorised person must tell occupier

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

(a) about the purpose of the entry, including the powers intended to be exercised; and

(b) that the occupier is not required to consent; and

(c) that the consent may be given subject to conditions and may be withdrawn at any time.

~~110~~115 Consent acknowledgement

(1) If the consent is given, the authorised person may ask the occupier to sign an acknowledgement of the consent.

(2) The acknowledgement must state—

(a) the purpose of the entry, including the powers to be exercised; and

(b) the following has been explained to the occupier—

(i) the purpose of the entry, including the powers intended to be exercised;

(ii) that the occupier is not required to consent;

(iii) that the consent may be given subject to conditions and may be withdrawn at any time; and

(c) the occupier gives the authorised person or another authorised person consent to enter the place and exercise the powers; and

(d) the time and day the consent was given; and

(e) any conditions of the consent.

(3) If the occupier signs the acknowledgement, the authorised person must immediately give a copy to the occupier.

(4) If—

(a) an issue arises in a proceeding about whether the occupier consented to the entry; and

(b) a signed acknowledgement complying with subsection (2) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

Division 3 Entry for checking compliance

~~111~~116 Entry of place under s 111

(1) This section applies to an authorised person intending to enter a place under section 111.

(2) The authorised person must, before entering the place, make a reasonable attempt to locate an occupier and obtain the occupier's consent to the entry.

Note—

See division 2 about entry by consent.

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

(4) If the authorised person is unable to locate an occupier after making a reasonable attempt to do so, the authorised person may enter the place.

(5) If the authorised person enters the place after being unable to locate an occupier, the authorised person must leave a notice in a conspicuous position and in a reasonably secure way stating the date, time and purpose of the entry.

Division 4 Entry under warrant

Subdivision 1 Obtaining warrant

~~112~~117 Application for warrant

(1) An authorised person may apply to a magistrate for a warrant for a place.

(2) The authorised person must prepare a written application that states the grounds on which the warrant is sought.

(3) The written application must be sworn.

(4) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the written application to be given by statutory declaration.

~~113~~118 Issue of warrant

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

(2) The warrant must state—

(a) the place to which the warrant applies; and

(b) that an authorised person may with necessary and reasonable help and force—

(i) enter the place and any other place necessary for entry to the place; and

(ii) exercise the authorised person's powers; and

(c) particulars of the offence that the magistrate considers appropriate; and

(d) the name of the person suspected of having committed the offence unless the name is unknown or the magistrate considers it inappropriate to state the name; and

(e) the evidence that may be seized under the warrant; and

(f) the hours of the day or night when the place may be entered; and

(g) the magistrate's name; and

(h) the day and time of the warrant's issue; and

(i) the day, within 14 days after the warrant's issue, the warrant ends, unless the warrant allows for re-entry of a place under subsection (3).

(3) If the warrant relates to a diversion risk or a substance risk for medicinal cannabis, the warrant may also state that an authorised person may enter the place again to check compliance with a disposal order for the medicinal cannabis issued as a result of the authorised person's entry of the place under the warrant.

(4) To the extent that the warrant allows for the re-entry of a place as mentioned in subsection (3), it expires on—

(a) the day that is 7 days after the expiration of the period stated in the disposal order for completing the steps stated in the order; or

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

~~114~~119 Electronic application

(1) An application under section 117 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised person reasonably considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances, including, for example, the authorised person's remote location.

(2) The application—

(a) may not be made before the authorised person prepares the written application under section 117(2); but

(b) may be made before the written application is sworn.

~~115~~120 Additional procedure if electronic application

(1) For an application made under section 119, the magistrate may issue the warrant (the ***original warrant***) only if the magistrate is satisfied—

(a) it was necessary to make the application under section 119; and

(b) the way the application was made under section 119 was appropriate.

(2) After the magistrate issues the original warrant—

(a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised person, including, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the authorised person; or

(b) otherwise—

(i) the magistrate must tell the authorised person the information mentioned in section 118(2); and

(ii) the authorised person must complete a form of warrant, including by writing on it the information mentioned in section 118(2) provided by the magistrate.

(3) The copy of the warrant mentioned in subsection (2)(a), or the form of warrant completed under subsection (2)(b) (in either case the ***duplicate warrant***), is a duplicate of, and as effectual as, the original warrant.

(4) The authorised person must, at the first reasonable opportunity, send to the magistrate—

(a) the written application complying with section 117(2) and (3); and

(b) if the authorised person completed a form of warrant under subsection (2)(b), the completed form of warrant.

(5) The magistrate must keep the original warrant and, on receiving the documents under subsection (4)—

(a) attach the documents to the original warrant; and

(b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.

(6) Despite subsection (3), if—

(a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and

(b) the original warrant is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.

(7) This section does not limit section 117.

(8) In this section—

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

~~116~~121 Defect in relation to a warrant

(1) A warrant is not invalidated by a defect in—

(a) the warrant; or

(b) compliance with this subdivision;

unless the defect affects the substance of the warrant in a material particular.

(2) In this section—

warrant includes a duplicate warrant mentioned in section 120(3).

Subdivision 2 Entry procedure

~~117~~122 Entry procedure

(1) This section applies if an authorised person is intending to enter a place under a warrant issued under this division.

(2) Before entering the place, the authorised person must do or make a reasonable attempt to do the following things—

(a) identify himself or herself to a person who is an occupier of the place and is present by producing the authorised person's identity card or another document evidencing the authorised person's appointment;

(b) give the person a copy of the warrant;

(c) tell the person the authorised person is permitted by the warrant to enter the place;

(d) give the person an opportunity to allow the authorised person immediate entry to the place without using force.

(3) However, the authorised person need not comply with subsection (2) if the authorised person believes on reasonable grounds that entry to the place without compliance is required to ensure the execution of the warrant is not frustrated.

(4) In this section—

warrant includes a duplicate warrant mentioned in section 120(3).

Part 3 Other authorised persons' powers and related matters

Division 1 Stopping or moving vehicles

~~118~~123Application of ~~div 1~~division

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

~~119~~124Power to stop or move

(1) If the vehicle is moving, the authorised person may, to exercise his or her powers, signal or otherwise direct the person in control of the vehicle to stop the vehicle and to bring the vehicle to, and keep it at, a convenient place within a reasonable distance to allow the authorised person to exercise the powers.

(2) If the vehicle is stopped, the authorised person may direct the person in control of the vehicle—

(a) not to move it until the authorised person has exercised the authorised person's powers; or

(b) to move the vehicle to, and keep it at, a stated reasonable place to allow the authorised person to exercise the powers.

(3) When giving the direction under subsection (2), the authorised person must give the person in control an offence warning for the direction.

~~120~~125Identification requirements if vehicle moving

(1) This section applies if the authorised person proposes to give a direction under section 124(1) and the vehicle is moving.

(2) The authorised person must clearly identify himself or herself as an authorised person exercising the authorised person's powers.

Examples—

1 If the authorised person is in a moving vehicle, he or she may use a loudhailer to identify himself or herself as an authorised person exercising powers.

2 If the authorised person is standing at the side of the road, he or she may use a sign to identify himself or herself as an authorised person exercising powers.

(3) When the vehicle stops, the authorised person must—

(a) have with him or her the authorised person's identity card; and

(b) immediately produce the identity card for the inspection of the person in control of the vehicle.

(4) Subsection (3) applies despite section 106.

~~121~~126 Failure to comply with direction

(1) The person in control of the vehicle must comply with a direction under section 124 unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is a reasonable excuse for the person not to comply with a direction if—

(a) the vehicle was moving and the authorised person did not comply with section 125; or

(b) to comply immediately would have endangered someone else or caused loss or damage to property, and the person complies as soon as it is practicable to do so.

(3) Subsection (2) does not limit subsection (1).

(4) A person does not commit an offence against subsection (1) if—

(a) the direction the person fails to comply with is given under section 124(2); and

(b) the person is not given an offence warning for the direction.

Division 2 General powers of authorised persons after entering places

~~122~~127 Application of ~~div 2~~division

(1) The powers under this division may be exercised if an authorised person enters a place under section 110(1)(a), (c), (d) or (e).

(2) However, if the authorised person enters under section 110(1)(a), (c) or (e), the powers under this division are subject to any conditions of the consent or terms of the warrant.

~~123~~128 General powers

(1) The authorised person may do any of the following (each a ***general power***)—

(a) search any part of the place;

(b) inspect, examine or film any part of the place or anything at the place;

(c) take for examination a thing, or a sample of or from a thing, at the place;

(d) place an identifying mark in or on anything at the place;

(e) take an extract from, or copy, a document at the place, or take the document to another place to copy;

(f) produce an image or writing at the place from an electronic document or, to the extent it is not practicable, take a thing containing an electronic document to another place to produce an image or writing;

(g) take to, into or onto the place and use any person, equipment and materials the authorised person reasonably requires for exercising the authorised person's powers under this division;

(h) remain at the place for the time necessary to achieve the purpose of the entry.

(2) The authorised person may take a necessary step to allow the exercise of a general power.

(3) If the authorised person takes a document from the place to copy it, the authorised person must copy the document and return it to the place as soon as practicable.

(4) If the authorised person takes from the place an article or device reasonably capable of producing a document from an electronic document to produce the document, the authorised person must produce the document and return the article or device to the place as soon as practicable.

(5) In this section—

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

film includes photograph, videotape and record an image in another way.

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

~~124~~129 Power to require reasonable help

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

(2) When making the help requirement, the authorised person must give the person an offence warning for the requirement.

~~125~~130 Offence to contravene help requirement

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

Maximum penalty—50 penalty units.

(2) It is a reasonable excuse for an individual not to comply with a help requirement if complying might tend to incriminate the individual or expose the individual to a penalty.

(3) However, subsection (2) does not apply if a document or information the subject of the help requirement is required to be held or kept by the defendant under this Act.

Note—

See, however, section 162.

Division 3 Seizure by authorised persons and forfeiture

Subdivision 1 Power to seize

~~126~~131 Seizing evidence at a place that may be entered without consent or warrant

An authorised person who enters a place the authorised person may enter under this Act without the consent of an occupier of the place and without a warrant may seize a thing at the place if the authorised person reasonably believes the thing is evidence of an offence against this Act.

~~127~~132 Seizing evidence at a place that may be entered only with consent or warrant

(1) This section applies if—

(a) an authorised person is authorised to enter a place only with the consent of an occupier of the place or a warrant; and

(b) the authorised person enters the place after obtaining the consent or under a warrant.

(2) If the authorised person enters the place with the occupier's consent, the authorised person may seize a thing at the place only if—

(a) the authorised person reasonably believes the thing is evidence of an offence against this Act; and

(b) seizure of the thing is consistent with the purpose of entry as explained to the occupier when asking for the occupier's consent.

(3) If the authorised person enters the place under a warrant, the authorised person may seize the evidence for which the warrant was issued.

(4) The authorised person may also seize anything else at the place if the authorised person reasonably believes—

(a) the thing is evidence of an offence against this Act; and

(b) the seizure is necessary to prevent the thing being hidden, lost or destroyed.

(5) The authorised person may also seize a thing at the place if the authorised person reasonably believes it has just been used in committing an offence against this Act.

~~128~~133 Seizure of property subject to security

(1) An authorised person may seize a thing, and exercise powers relating to the thing, despite a lien or other security over the thing claimed by another person.

(2) However, the seizure does not affect the other person's claim to the lien or other security against a person other than the authorised person or a person acting for the authorised person.

Subdivision 2 Powers to support seizure

~~129~~134 Power to secure seized thing

(1) Having seized a thing under this division, an authorised person may—

(a) leave it at the place where it was seized (the ***place of seizure***) and take reasonable action to restrict access to it; or

(b) move it from the place of seizure.

(2) For subsection (1)(a), the authorised person may, for example—

(a) seal the thing, or the entrance to the place of seizure, and mark the thing or place to show access to the thing or place is restricted; or

(b) for equipment—make it inoperable; or

Example—

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

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

~~130~~135 Offence to contravene other seizure requirement

A person must comply with a requirement made of the person under section 134(2)(c) unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

~~131~~136Offence to interfere

(1) If access to a seized thing is restricted under section 134, a person must not tamper with the thing or with anything used to restrict access to the thing without—

(a) an authorised person's approval; or

(b) a reasonable excuse.

Maximum penalty—100 penalty units.

(2) If access to a place is restricted under section 134, a person must not enter the place in contravention of the restriction or tamper with anything used to restrict access to the place without—

(a) an authorised person's approval; or

(b) a reasonable excuse.

Maximum penalty—100 penalty units.

Subdivision 3 Safeguards for seized things

~~132~~137Receipt and information notice for seized thing

(1) This section applies if an authorised person seizes anything under this division unless—

(a) the authorised person reasonably believes there is no-one apparently in possession of the thing or it has been abandoned; or

(b) because of the condition, nature and value of the thing it would be unreasonable to require the authorised person to comply with this section.

(2) The authorised person must, as soon as practicable after seizing the thing, give an owner or person in control of the thing before it was seized—

(a) a receipt for the thing that generally describes the thing and its condition; and

(b) ~~relate to more than 1 seized thing.~~

an information notice about the decision to seize it.

(3) However, if an owner or person from whom the thing is seized is not present when it is seized, the receipt and information notice may be given by leaving them in a conspicuous position and in a reasonably secure way at the place at which the thing is seized.

(4) The receipt and information notice may—

(a) be given in the same document; and

(b) relate to more than 1 seized thing.

(5) The authorised person may delay giving the receipt and information notice if the authorised person reasonably suspects giving them may frustrate or otherwise hinder an investigation by the authorised person under this chapter.

(6) However, the delay may be only for so long as the authorised person continues to have the reasonable suspicion and remains in the vicinity of the place at which the thing was seized to keep it under observation.

~~133~~138 Access to seized thing

(1) Until a seized thing is forfeited or returned, the authorised person who seized the thing must allow an owner of the thing—

(a) to inspect it at any reasonable time and from time to time; and

(b) if it is a document—to copy it.

(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

(3) The inspection or copying must be allowed free of charge.

~~134~~139 Return of seized thing

(1) This section applies if a seized thing is not—

(a) forfeited or transferred under subdivision 4 or 5; or

(b) subject to a disposal order under division 4.

(2) As soon as the chief executive stops being satisfied there are reasonable grounds for retaining the thing, the chief executive must return it to its owner.

(3) If the thing is not returned to its owner within 3 months after it was seized, the owner may apply to the chief executive for its return.

(4) Within 30 days after receiving the application, the chief executive must—

(a) if the chief executive is satisfied there are reasonable grounds for retaining the thing and decides to retain it—give the owner notice of the decision, including the grounds for retaining the thing; or

(b) otherwise—return the thing to the owner.

(5) For this section, there are reasonable grounds for retaining a seized thing if—

(a) the thing is being, or is likely to be, examined; or

(b) the thing is needed, or may be needed, for the purposes of—

(i) a proceeding for an offence against this Act that is likely to be started or that has been started but not completed; or

(ii) an appeal from a decision in a proceeding for an offence against this Act; or

(c) it is not lawful for the owner to possess the thing.

(6) Subsection (5) does not limit the grounds that may be reasonable grounds for retaining the seized thing.

(7) Nothing in this section affects a lien or other security over the seized thing.

(8) In this section—

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

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

Subdivision 4 Forfeiture

~~135~~140 Forfeiture by chief executive decision

(1) The chief executive may decide a seized thing is forfeited to the State if an authorised person—

(a) after making reasonable inquiries, can not find an owner; or

(b) after making reasonable efforts, can not return it to an owner; or

(c) reasonably believes it is necessary to keep the thing to prevent it being used to commit the offence for which it was seized.

(2) However, the authorised person is not required to—

(a) make inquiries if it would be unreasonable to make inquiries to find an owner; or

(b) make efforts if it would be unreasonable to make efforts to return the thing to an owner.

Example for paragraph (b)—

The owner of the thing has migrated to another country.

(3) Regard must be had to the thing's condition, nature and value in deciding—

(a) whether it is reasonable to make inquiries or efforts; and

(b) if inquiries or efforts are made—what inquiries or efforts, including the period over which they are made, are reasonable.

~~136~~141 Information notice about forfeiture decision

(1) If the chief executive decides under section 140(1) to forfeit a thing, the chief executive must as soon as practicable give a person who owned the thing immediately before the forfeiture (the ***former owner***) an information notice about the decision.

(2) If the decision was made under section 140(1)(a) or (b), the information notice may be given by leaving it at the place where the thing was seized, in a conspicuous position and in a reasonably secure way.

(3) The information notice must state that the former owner may apply for a stay of the decision if he or she appeals against the decision.

(4) However, subsections (1) to (3) do not apply if—

(a) the decision was made under section 140(1)(a) or (b); and

(b) the place where the thing was seized is—

(i) a public place; or

(ii) a place where the notice is unlikely to be read by the former owner.

Subdivision 5 Dealing with property forfeited or transferred to State

~~137~~142 When thing becomes property of the State

A thing becomes the property of the State if—

(a) the thing is forfeited to the State under section 140(1); or

(b) the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.

~~138~~143How property may be dealt with

(1) This section applies if, under section 142, a thing becomes the property of the State.

(2) The chief executive may deal with the thing as the chief executive considers appropriate, including, for example, by destroying it or giving it away.

(3) The chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal against the forfeiture under this chapter.

(4) If the chief executive sells the thing, the chief executive may, after deducting the costs of the sale, return the proceeds of the sale to the former owner of the thing.

(5) This section is subject to any disposal order made for the thing.

Division 4 Disposal orders

~~139~~144Disposal order

(1) This section applies if a person is convicted of an offence against this Act.

(2) The court may make an order (a ***disposal order***), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person—

(a) anything that was the subject of, or used to commit, the offence;

(b) another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.

(3) The court may make a disposal order for a thing—

(a) whether or not it has been seized under this Act; and

(b) if the thing has been seized—whether or not it has been returned to the former owner.

(4) In deciding whether to make a disposal order for a thing, the court—

(a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and

(b) must hear any submissions that any person claiming to have any property in the thing may wish to make.

(5) The court may make any order to enforce the disposal order that it considers appropriate.

(6) This section does not limit the court's powers under another law.

Division 5 Other information-obtaining powers of authorised persons

~~140~~145 Power to require name and address

(1) This section applies if an authorised person—

(a) finds a person committing an offence against this Act; or

(b) finds a person in circumstances that lead the authorised person to reasonably suspect the person has just committed an offence against this Act; or

(c) has information that leads the authorised person to reasonably suspect a person has just committed an offence against this Act.

(2) The authorised person may require the person to state the person's name and residential address.

(3) The authorised person may also require the person to give evidence of the correctness of the stated name or address if, in the circumstances, it would be reasonable to expect the person to—

(a) be in possession of evidence of the correctness of the stated name or address; or

(b) otherwise be able to give the evidence.

(4) When making a personal details requirement, the authorised person must give the person an offence warning for the requirement.

(5) A requirement under this section is a ***personal details requirement***.

~~141~~146 Offence to contravene personal details requirement

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

Maximum penalty—50 penalty units.

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

~~142~~147 Power to require production of document

(1) An authorised person may require a person to make available for inspection by an authorised person, or to produce to the authorised person for inspection, at a reasonable time and place nominated by the authorised person—

(a) a document issued to the person under this Act; or

(b) a document required to be kept by the person under this Act; or

(c) if a document or information required to be kept by the person under this Act is stored or recorded by means of a device—a document that is a clear written reproduction of the stored or recorded document or information.

(2) A requirement under subsection (1) is a ***document production requirement***.

(3) For an electronic document, compliance with the document production requirement requires the making available or production of a clear written reproduction of the electronic document.

(4) The authorised person may keep the document to copy it.

(5) If the authorised person copies the document, or an entry in the document, the authorised person may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.

(6) A requirement under subsection (5) is a ***document certification requirement***.

(7) The authorised person must return the document to the person as soon as practicable after copying it.

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

~~143~~148 Offence to contravene document production requirement

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

Maximum penalty—50 penalty units.

(2) It is not a reasonable excuse for a person to fail to comply with a document production requirement on the basis that complying with the requirement might tend to incriminate the person or expose the person to a penalty.

Note—

See, however, section 162.

(3) The authorised person must inform the person, in a way that is reasonable in the circumstances—

(a) that the person must comply with the document production requirement even though complying might

tend to incriminate the person or expose the person to a penalty; and

(b) that, under section 162, there is a limited immunity against the future use of the information or document given in compliance with the requirement.

(4) If the person fails to comply with the document production requirement when the authorised person has failed to comply with subsection (3), the person can not be convicted of the offence against subsection (1).

(5) If a court convicts a person of an offence against subsection (1), the court may, as well as imposing a penalty for the offence, order the person to comply with the document production requirement.

~~144~~149 Offence to contravene document certification requirement

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

Maximum penalty—50 penalty units.

(2) It is not a reasonable excuse for a person to fail to comply with a document certification requirement on the basis that complying with the requirement might tend to incriminate the person or expose the person to a penalty.

Note—

See, however, section 162.

(3) The authorised person must inform the person, in a way that is reasonable in the circumstances—

(a) that the person must comply with the document certification requirement even though complying might tend to incriminate the person or expose the person to a penalty; and

(b) that, under section 162, there is a limited immunity against the future use of the information or document given in compliance with the requirement.

(4) If the person fails to comply with the document certification requirement when the authorised person has failed to comply with subsection (3), the person can not be convicted of the offence against subsection (1).

~~145~~150 Power to require information

(1) This section applies if an authorised person reasonably believes—

(a) an offence against this Act has been committed; and

(b) a person may be able to give information about the offence.

(2) The authorised person may, by notice given to the person, require the person to give the authorised person information related to the offence at a stated reasonable time and place.

(3) A requirement under subsection (2) is an ***information requirement***.

(4) For information that is an electronic document, compliance with the information requirement requires the giving of a clear image or written version of the electronic document.

(5) In this section—

information includes a document.

~~146~~151 Offence to contravene information requirement

(1) A person of whom an information requirement is made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is a reasonable excuse for an individual not to give the information if giving the information might tend to

incriminate the individual or expose the individual to a penalty.

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

~~147~~152 Power to remove or reduce risk stated in warrant

(1) This section applies if—

(a) an authorised person enters a place after obtaining a warrant; and

(b) the warrant authorises the authorised person to exercise powers under this division.

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

Note—

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

Part 4 Analysis of things

~~148~~153 Chief executive may approve laboratory

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

~~149~~154Analysis

(1) If an authorised person takes a thing for analysis under this Act, the authorised person must as soon as practicable give it to a State analyst for analysis.

(2) If a State analyst receives a thing for analysis under subsection (1), the State analyst must as soon as practicable—

(a) analyse the thing; or

(b) give the thing to an approved laboratory for analysis.

(3) If the State analyst analyses the thing, the State analyst must, as soon as practicable after analysing it—

(a) complete a certificate of analysis for it; and

(b) give the certificate to the authorised person who took the thing for analysis.

(4) If an approved laboratory analyses the thing, the State analyst must, as soon as practicable after it is analysed—

(a) obtain a certificate of analysis for it from the approved laboratory; and

(b) give the certificate to the authorised person who took the thing for analysis.

~~150~~155Certificate must indicate ~~methodology~~ method used

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

Part 5 Miscellaneous provisions relating to authorised persons

Division 1 Damage

~~151~~156 Duty to avoid inconvenience and minimise damage

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

Note—

See also section 158.

~~152~~157 Notice of damage

(1) This section applies if—

(a) an authorised person damages something when exercising, or purporting to exercise, a power; or

(b) a person (the ***assistant***) acting under the direction or authority of an authorised person damages something.

(2) However, this section does not apply to damage the authorised person reasonably considers is trivial or if the authorised person reasonably believes—

(a) there is no-one apparently in possession of the thing; or

(b) the thing has been abandoned.

(3) The authorised person must give notice of the damage to a person who appears to the authorised person to be an owner, or person in control, of the thing.

(4) However, if for any reason it is not practicable to comply with subsection (3), the authorised person must—

(a) leave the notice at the place where the damage happened; and

(b) ensure it is left in a conspicuous position and in a reasonably secure way.

(5) The authorised person may delay complying with subsection (3) or (4) if the authorised person reasonably suspects complying with the subsection may frustrate or otherwise hinder the performance of the authorised person's functions.

(6) The delay may be only for so long as the authorised person continues to have the reasonable suspicion and remains in the vicinity of the place.

(7) If the authorised person believes the damage was caused by a latent defect in the thing or other circumstances beyond the control of the authorised person or the assistant, the authorised person may state the belief in the notice.

(8) The notice must state—

(a) particulars of the damage; and

(b) that the person who suffered the damage may claim compensation under section 158.

Division 2 Compensation

~~153~~158 Compensation

(1) A person may claim compensation from the State if the person incurs loss because of the exercise, or purported exercise, of a power by or for an authorised person including a loss arising from compliance with a requirement made of the person under part 3, division 3, 4 or 5.

(2) The compensation may be claimed and ordered in a proceeding—

(a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or

(b) for an alleged offence against this Act the investigation of which gave rise to the claim for compensation.

(3) A court may order the payment of compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

(4) In considering whether it is just to order compensation, the court must have regard to—

(a) any relevant offence committed by the claimant; and

(b) whether the loss arose from a lawful seizure or lawful forfeiture.

(5) A regulation may prescribe other matters that may, or must, be taken into account by the court when considering whether it is just to order compensation.

(6) Section 156 does not provide for a statutory right of compensation other than ~~is~~ as provided by this section.

(7) In this section—

loss includes costs and damage.

Division 3 Other offences relating to authorised persons

~~154~~159 Giving authorised person false or misleading information

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

Maximum penalty—50 penalty units.

(2) Subsection (1) applies to information given in relation to the administration of this Act whether or not the information was given in response to a specific power under this Act.

(3) Subsection (1) does not apply to a person if the person, when giving information in a document—

(a) tells the authorised person, to the best of the person's ability, how the document is false or misleading; and

(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

~~155~~160 Obstructing authorised person

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

Maximum penalty—100 penalty units.

(2) If a person has obstructed an authorised person, or someone helping an authorised person, and the authorised person decides to proceed with the exercise of the power, the authorised person must warn the person that—

(a) it is an offence to cause an obstruction unless the person has a reasonable excuse; and

(b) the authorised person considers the person's conduct an obstruction.

(3) In this section—

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

~~156~~161 Impersonating authorised person

A person must not impersonate an authorised person.

Maximum penalty—100 penalty units.

Division 4 Other provisions

~~157~~162 Evidential immunity for individuals complying with particular requirements

(1) Subsection (2) applies if an individual gives or produces information or a document to an authorised person under section 129 or 147.

(2) Evidence of the information or document, and other evidence directly or indirectly derived from the information or document, is not admissible against the individual in any proceeding to the extent it tends to incriminate the individual, or expose the individual to a penalty, in the proceeding.

(3) Subsection (2) does not apply to a proceeding about the false or misleading nature of the information or anything in the document or in which the false or misleading nature of the information or document is relevant evidence.

Part 6 Recall orders and public warnings

Division 1 Recall orders

~~158~~163 Chief executive may make recall order

(1) This section applies if the chief executive reasonably considers a form or type of medicinal cannabis poses a substance risk.

(2) The chief executive may make a written order (a ***recall order***) that—

(a) is directed to a stated person (the ***responsible person***) who is authorised under this Act to ~~dispense, manufacture~~ dispense or give a lawful direction for medicinal cannabis; and

(b) requires a stated ~~product,~~ product that is, or contains, the medicinal ~~cannabis,~~ cannabis to be recalled from use or distribution by the responsible person.

(3) Without limiting subsection (1), the chief executive may make a recall order for a product if the chief executive considers the order is necessary to prevent or minimise harm to persons because—

(a) the labelling, or instruction for use, of the product is inaccurate; or

(b) the packaging of the product is not sufficiently secure having regard to the nature of the product; or

(c) the product is not safe or effective when used in accordance with the instruction for the use of the product.

Note—

Failure to comply with a recall order is an offence under section 97.

~~159~~164Notice required for making recall order

(1) The chief executive must do the following before making the recall order—

(a) ~~notify, in writing,~~ give notice to the responsible person for the order that the chief executive intends to make the order and the reasons for making the order;

(b) give the responsible person a copy of the proposed order;

(c) invite the responsible person to show cause why the chief executive should not make the proposed order.

(2) However, if the chief executive reasonably considers the recall order must be made immediately to prevent significant and imminent harm to a person, the chief executive may make the order without complying with subsection (1).

(3) If subsection (2) applies, the chief executive must do the following as soon as practicable, and no later than 48 hours, after the recall order is made—

(a) give a copy of the order to the responsible person for the order;

(b) advise the responsible person by notice about the reasons for making the order;

(c) invite the responsible person to show cause why the chief executive should revoke the order.

(4) A responsible person for a recall order may make written submissions to the chief executive within 7 days after receiving the notice, or notice and ~~order~~ order, from the chief executive.

(5) The chief executive must consider any written submissions made by the responsible person under subsection (4) before making, or deciding whether to revoke, the recall order.

~~160~~165 Decision about recall order

(1) This section applies if, after considering any written submissions made by the responsible person under section 164(4), the chief executive decides—

(a) to make a recall order; or

(b) not to revoke a recall order.

(2) The chief executive must give the responsible person—

(a) a copy of the recall order; and

(b) an information notice for the decision to make, or not revoke, the recall order.

~~161~~166 Notifying public about recall order

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

~~162~~167 Content of recall order

(1) The recall order must state the following—

(a) the reasons for the recall of the stated product;

(b) what the responsible person for the order must do to recall the product from use;

(c) the reasonable period for which the order is in effect.

(2) Without limiting subsection (1), a recall order for a stated product may state the responsible person for the order must do any of the following—

(a) stop the ~~manufacture~~ sale, issue or supply of the product;

(b) take reasonable steps to recover the product from another person;

(c) isolate or destroy the product;

(d) repackage or relabel the product;

(e) publish warnings about the product.

~~163~~168 Nature of recall order

(1) The responsible person for a recall order is liable for any cost incurred in relation to complying with the order.

(2) The recall order remains in force for the period stated in the order unless it is sooner revoked by the chief executive.

Division 2 Public warnings

~~164~~169 Statement of warning

(1) The Minister or chief executive may make or issue a public statement identifying and giving warnings or information about any of the following—

(a) ~~contraventions of this Act that have resulted in~~ notification action being taken and ~~the~~ persons who have committed ~~the contraventions~~contraventions of this Act;

(b) practices regulated under a relevant law that, in the reasonable opinion of the Minister or chief executive, are unlawful;

(c) offences committed against a relevant law and the person or persons who committed the offences.

(2) The statement may identify particular contraventions, practices, offences and persons.

(3) The Minister or chief executive must not make or issue a statement under this section unless satisfied—

(a) it is in the public interest to do so; and

(b) a public statement or warning has not been released, or is not about to be released, under another process that is more appropriate to the circumstances.

(4) Without limiting subsection (3)(a), it is in the public interest if the Minister or chief executive considers that the statement is necessary to prevent or minimise a substance risk for medicinal cannabis.

(5) In this section—

notification action means a recall order, compliance notice or show cause notice.

relevant law includes the *Therapeutic Goods Act 1989* (Cwlth).

Chapter 8 Expert advisory panel

Part 1 Establishment

~~165~~170 Establishment

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

~~166~~171 Role

The expert advisory panel must—

(a) at the request of the chief executive—

(i) provide advice, and make recommendations, to the chief executive regarding applications for approvals; and

(ii) make recommendations about current or proposed research related to the therapeutic use of cannabis products; and

(b) undertake ongoing monitoring of—

(i) the use of medicinal cannabis in Queensland; and

(ii) research related to the therapeutic use of cannabis products; and

(iii) advancements and developments in the field.

~~167~~172 Membership

(1) The chief executive may—

(a) appoint members of the expert advisory panel; and

(b) revise the membership of the panel by adding, or removing, panel members.

(2) The chief executive may appoint members under subsection (1)(a) on a permanent or temporary basis.

(3) In appointing a person as a member of the expert advisory panel, the chief executive must have regard to the person's experience and expertise related to the manufacture and use of cannabis products for therapeutic purposes, including, for ~~example~~ example, experience and expertise in the following areas—

(a) science or medicine;

(b) justice and law;

(c) ethics, culture or sociology;

(d) agriculture.

~~168 Terms of appointment~~

173 Remuneration and appointment conditions of members

(1) A member is entitled to be paid the remuneration and allowances, if any, decided by the chief executive.

(2) ~~A~~ The member otherwise holds office on the terms and conditions, not provided by this Act, that are decided by the chief executive.

~~169~~174 Resignation and removal of members

(1) A person is no longer a member of the expert advisory panel if the person—

(a) resigns by signed notice given to the chief executive; or

(b) is removed from office by the chief executive under subsection (2).

(2) The chief executive may at any time remove a member from the panel for any reason or none.

~~170~~175 Chairperson

(1) The chief executive must appoint 1 member to be the chairperson of the expert advisory panel (the ***chairperson***).

(2) The chairperson holds office for the term decided by the chief executive.

(3) However, a vacancy occurs in the office of chairperson if the person holding the office—

(a) resigns from the office by signed notice given to the chief executive; or

(b) stops being a member of the panel.

(4) A person resigning the office of chairperson may continue to be a member of the panel.

~~171~~176 Deputy chairperson

(1) The chief executive must appoint 1 member to be the deputy chairperson of the expert advisory panel (the ***deputy chairperson***).

(2) The deputy chairperson holds office for the term decided by the chief executive.

(3) However, a vacancy occurs in the office of deputy chairperson if the person holding the office—

(a) resigns from the office by signed notice given to the chief executive; or

(b) stops being a member of the panel.

(4) A person resigning the office of deputy chairperson may continue to be a member of the panel.

(5) The deputy chairperson may act as chairperson during—

(a) a vacancy in the office of chairperson; or

(b) a period the chairperson is absent from duty.

Part 2 Operations

~~172~~177 Conduct of operations and proceedings

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

~~173~~178 Working groups

(1) The ~~chairman~~ chairperson may, with the agreement of the chief executive, establish ~~one~~ 1 or more working groups to assist the expert advisory panel in performing its functions.

(2) The ~~chairman~~ chairperson may decide on the membership and functions of a working group established under subsection (1).

Chapter 9 Review and appeals

Part 1 Interpretation

~~174~~179 Definitions for ~~ch 9~~chapter

In this chapter—

internal review application means an application made to the chief executive under section 181.

internal review decision see section 184(1)(b).

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

(a) a condition about the way in which the medicinal cannabis is to be dispensed, ~~issued, supplied,~~ sold, administered or self-administered under the approval;

(b) a condition about the making of lawful directions for the medicinal cannabis;

(c) a condition requiring the ~~approved~~ single-patient prescriber to, at stated times, examine the patient or conduct tests in relation to the patient—

(i) to ensure the medicinal cannabis is being used in the way the ~~approved~~ single-patient prescriber has directed; or

(ii) to detect the use of other drugs or poisons by the ~~patient~~ patient, or the presence of other drugs or poisons in the patient.

Part 2 Internal reviews

~~175~~180 External review or appeal process starts with internal review

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

~~176~~181 Who may apply for internal review

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

(2) A person who has not been given, but is entitled to be given, an information notice for an original decision may ask the chief executive for an information notice for the decision.

(3) The failure by the chief executive to give a person an information notice for an original decision does not limit or otherwise affect the person's right to apply for a review of the decision under subsection (1).

~~177~~182 Internal review application

(1) An internal review application must be—

(a) in the approved form; and

(b) supported by enough information to enable the chief executive to decide the application; and

(c) made within 14 days after the applicant is given the information notice for the original decision the subject of the application.

(2) However, the chief executive may, at any time, extend the time for making an internal review application.

~~178~~183Stay of operation of original decision

(1) An internal review application does not stay the original decision the subject of the application.

(2) However, the applicant may immediately apply to a reviewing body for a stay of the original ~~decision to a reviewing body~~decision.

(3) The reviewing body may stay the original decision to secure the effectiveness of the internal review and a later appeal to a court or external review by QCAT.

(4) The stay—

(a) may be given on conditions the reviewing body considers appropriate; and

(b) operates for the period fixed by the reviewing body; and

(c) may be amended or revoked by the reviewing body.

(5) The period of the stay must not extend past the time when the chief executive makes an internal review decision about the original decision and any later period the reviewing body allows the applicant to enable the applicant to appeal against, or apply for an external review of, the internal review decision.

(6) An internal review application affects the original decision, or carrying out of the decision, only if the decision is stayed.

(7) In this section—

reviewing body means—

(a) for an original decision to seize or forfeit a thing—the court; or

(b) for another original decision—QCAT.

~~179~~184Internal review

(1) The chief executive must, within 28 days after receiving an internal review application—

(a) conduct an internal review of the original decision; and

(b) make a decision (the ***internal review decision***) to—

(i) confirm the original decision; or

(ii) amend the original decision; or

(iii) substitute another decision for the original decision.

(2) The application must be dealt with by—

(a) a person who is not the person who made the original decision; and

(b) a person in a more senior office than the person who made the original decision.

(3) Subsection (2)—

(a) applies despite the *Acts Interpretation Act 1954*, section 27A; and

(b) does not apply to an original decision made by the chief executive personally.

(4) If the internal review decision confirms the original decision, for the purpose of an appeal or external review, the original decision is taken to be the internal review decision.

(5) If the internal review decision amends the original decision, for the purpose of an appeal or external review, the original decision as amended is taken to be the internal review decision.

~~180~~185 Notice of internal review decision

(1) The chief executive must, within 14 days after making the internal review decision for an internal review application, give notice of the decision to the applicant for the application.

(2) If the internal review decision is not the decision sought by the applicant, the notice must—

(a) for an internal review of an original decision to seize or forfeit a thing—state the following—

(i) the day the notice is given to the applicant;

(ii) the reason for the internal review decision;

(iii) that the applicant may, within 28 days after the notice is given, appeal against the internal review decision to the court;

(iv) how to appeal the internal review decision;

(v) that the applicant may apply to the court for a stay of the internal review decision; or

(b) for an internal review of another original decision—be accompanied by ~~a QCAT~~ an information notice for the internal review decision.

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

Part 3 External reviews by QCAT

~~181~~186 Who may apply for external review

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

Part 4 Appeals

~~182~~187 Who may appeal

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

~~183~~188 Procedure for an appeal to court

(1) An appeal is started by filing a notice of appeal with the clerk of the court.

(2) A copy of the notice must be served on the chief executive.

(3) The notice of appeal must be filed within 28 days after the appellant receives notice of the internal review decision appealed against.

(4) However, the court may, at any time, extend the time for filing the notice of appeal.

(5) The notice of appeal must state fully the grounds of the appeal.

~~184~~189 Stay of operation of internal review decision

(1) The court may grant a stay of the operation of an internal review decision appealed against to secure the effectiveness of the appeal.

(2) A stay—

(a) may be granted on conditions the court considers appropriate; and

(b) operates for the period fixed by the court; and

(c) may be amended or revoked by the court.

(3) The period of a stay stated by the court must not extend past the time when the court decides the appeal.

(4) An appeal against an internal review decision affects the decision, or the carrying out of the decision, only if the decision is stayed.

~~185~~190 Powers of court on appeal

(1) In deciding an appeal, the court—

(a) has the same powers as the chief executive in making the internal review decision appealed against; and

(b) is not bound by the rules of evidence; and

(c) must comply with natural justice.

(2) An appeal is by way of rehearing.

(3) The court may—

(a) confirm the internal review decision; or

(b) set aside the internal review decision and substitute another decision; or

(c) set aside the internal review decision and return the matter to the chief executive with directions the court considers appropriate.

~~186~~191 Effect of decision of court on appeal

(1) If the court sets aside the internal review decision and returns the matter to the chief executive with directions, and the chief executive makes a new decision in accordance with the directions, the new decision is not subject to review or appeal under this chapter.

(2) If the court substitutes another decision for the internal review decision—

(a) the substituted decision is taken to be the decision of the chief executive; and

(b) the chief executive may give effect to the substituted decision as if the decision were the original decision of the chief executive and no application for review or appeal had been made.

Chapter 10 Protection from liability

~~187~~192 Definitions for ~~ch 10~~chapter

In this chapter—

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

(a) means a claim based in tort, contract or another form of action in relation to the act, omission or result, including, for example, breach of statutory duty or defamation; and

(b) includes, for a fatal injury, a claim for the deceased's dependants or estate.

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

~~188~~193 ~~Protecting officials~~ Protection from liability in relation to monitoring and enforcement

(1) ~~An official~~ A prescribed person does not incur civil liability for—

(a) an act done, or omission made, in good faith and without negligence, under chapter 7; or

(b) a result of the act or omission.

(2) If subsection (1) prevents a civil liability attaching to ~~an official~~a prescribed person, the liability attaches instead to the State.

(3) This section does not apply to the extent the prescribed person is protected from the civil liability under the *Public Service Act 2008*, section 26C.

(~~3~~4) In this section—

~~official~~ prescribed person means—

~~(a) the chief executive; or~~

(~~b~~a) an ~~inspector~~ authorised person or State analyst; or

(~~c~~b) ~~an officer of the department; or~~

~~(d)~~ a person acting under the direction of ~~someone mentioned in paragraphs (a), (b) or (c).~~any of the following—

~~189~~ ~~Protection from liability in relation to medicinal cannabis approvals~~

~~(1) This section applies to each of the following (a *protected person*)—~~

(~~a~~i) the chief executive;

(~~b~~ii) ~~an officer of the department;~~

a public service employee employed in the department;

(~~c~~iii) ~~a person acting under the direction of someone mentioned in paragraph (a) or (b);~~

~~(d) a member of the expert advisory panel;~~

~~(e) an approved prescriber;~~

~~(f)~~ an ~~approved pharmacist~~ authorised person or ~~secondary dispenser~~State analyst.

194 Protection from liability in relation to medicinal cannabis

(~~2~~1) A ~~protected~~ prescribed person does not incur civil liability for—

(a) an act or omission—

(i) done or made by the person in good faith and without negligence; and

(ii) that is, or is associated with—

(A) an application for the grant, amendment or replacement of a medicinal cannabis approval; or

(B) the grant, amendment or replacement of a medicinal cannabis approval; or

(C) administrative action relating to a medicinal cannabis approval; or

(D) ~~the giving of~~ a ~~lawful direction~~ regulated activity for medicinal cannabis carried out in accordance with ~~a medicinal cannabis approval and~~ this Act; or

(b) a result of the act or omission.

(2) This section does not apply to the extent the prescribed person is protected from the civil liability under the *Public Service Act 2008*, section 26C.

(~~E~~3) ~~the dispensing of medicinal cannabis in accordance with a medicinal cannabis approval, a lawful direction given in accordance with the approval and this Act; or~~

In this section—

prescribed person means—

(~~b~~a) a ~~result~~ member of the ~~act or omission.~~expert advisory panel;

~~190~~

(b) a single-patient prescriber;

(c) a patient-class prescriber;

(d) an approved pharmacist or secondary dispenser.

regulated activity, for medicinal cannabis, see section 92(4).

195 Protection from liability in relation to reviews

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

(a) applying for or otherwise being involved in a review of a decision under this Act;

(b) giving oral, written or other matter to the chief executive, or a person acting at the direction of the chief executive, for a review of a decision under this Act.

~~191~~ (2) This section does not apply to the extent the person is protected from the civil liability under the *Public Service Act 2008*, section 26C.

196 Civil remedies not otherwise affected

Apart from this chapter, nothing in this Act affects or limits a civil remedy a person may have against the holder of an approval or another person in relation to a matter dealt with under this Act.

Chapter 11 Legal proceedings

Part 1 Evidence

~~192~~197 Application of ~~pt 1~~part

This part applies to a legal proceeding under this Act.

~~193~~198Appointments and approvals

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

(a) the chief executive's appointment;

(b) the appointment of an authorised person or State analyst;

(c) the appointment of a member of the expert advisory panel;

(d) the authority of a person mentioned in paragraph (a), (b) or (c) to do anything under this Act.

~~194~~199Signatures

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

~~195~~200Evidentiary aids

(1) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

(a) a stated document is 1 of the following things made, given, issued or kept under this Act—

(i) an appointment or decision;

(ii) an approval;

(iii) a notice, direction or requirement;

(iv) a code, guideline, protocol or standard;

(b) a stated document is another document given to the chief executive or otherwise kept under this Act;

(c) a stated document is a copy of, or an extract from a part of, a thing mentioned in paragraph (a) or (b);

(d) on a stated day, or during a stated period, a stated person was or was not the holder of an approval;

(e) on a stated day, or during a stated period, an approval—

(i) was or was not in force; or

(ii) was or was not subject to a stated condition;

(f) on a stated ~~day,~~ day an approval was suspended for a stated period, surrendered or cancelled;

(g) on a stated day, or during a stated period, an appointment as an authorised person, State analyst or member of the expert advisory panel was, or was not, in force for a stated person;

(h) on a stated day—

(i) a stated person was given a stated notice or direction under this Act; or

(ii) a stated requirement under this Act was made of a stated person; or

(iii) a stated amount is or was payable under this Act by a stated person.

(2) In a complaint starting a proceeding, a statement that the matter came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant's knowledge.

(3) A certificate purporting to be that of a State analyst in relation to a thing seized or taken by an authorised person under chapter 7 stating any of the following matters is evidence of the matters—

(a) the analyst's qualifications;

(b) the analyst took, or received from a stated person, the thing;

(c) the thing was analysed at a stated place on a stated day or during a stated period;

(d) the ~~methodology~~ method used to analyse the thing;

(e) the results of the analysis.

(4) In a proceeding in which the chief executive ~~applies~~ applies, under section 205~~–~~, to recover costs incurred by the chief executive, a certificate by the chief executive stating that stated costs were incurred and the way in which, and purpose for which, they were incurred is evidence of the matters stated.

~~196~~201 Evidence of medicinal cannabis

(1) This section applies to a legal proceeding in which it is necessary to prove that a particular substance is medicinal cannabis.

(2) Evidence that a substance—

(a) is commonly supplied under the same name or description as the particular substance; and

(b) is a type or form of medicinal cannabis;

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

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

Part 2 Proceedings

~~197~~202 Offences against this Act

(1) An offence against this Act is a summary offence.

(2) A proceeding for the offence must start within the later of the following periods to end—

(a) 1 year after the offence was allegedly committed;

(b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence was allegedly committed.

~~198~~203 Proceeding not to commence if compliance notice in effect

(1) This section applies to a person given a compliance notice stating a provision that it is an offence to contravene.

(2) The person can not be prosecuted for the offence unless the person—

(a) fails to comply with the compliance notice; and

(b) does not have a reasonable excuse for the failure to comply.

~~199~~204 Allegations of false or misleading information or document

In a proceeding for an offence against this Act involving false or misleading information, or a false or misleading document, it is enough for a charge to state that the information or document was 'false or misleading' to the person's knowledge, without specifying which.

~~200~~205 Recovery of costs of investigation

(1) This section applies if—

(a) a court convicts a person of an offence against this Act; and

(b) the chief executive applies to the court for an order against the person for the payment of the costs the chief executive incurred in taking a thing, conducting an analysis or doing something else for the investigation of the offence; and

(c) the court finds the chief executive has reasonably incurred the costs.

(2) The court may order the person to pay the chief executive an amount equal to the costs if it is satisfied it would be just to make the order in the circumstances of the particular case.

(3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

(4) An application to a court under this section, and an order made by the court on the application, is a judgment in the court's civil jurisdiction.

(5) An issue on the application is to be decided on the balance of probabilities.

~~201~~206 Responsibility for acts or omissions of representatives

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

(2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

(a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the state of mind.

(3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

(4) In this section—

representative means—

(a) for a corporation—an executive officer, employee or agent of the corporation; or

(b) for an individual—an employee or agent of the individual.

state of mind means—

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

~~202~~207 Executive officer may be taken to have committed offence

(1) If a corporation commits an offence against a serious offence provision, each executive officer of the corporation is taken to have also committed the offence if—

(a) the officer authorised or permitted the corporation's conduct constituting the offence; or

(b) the officer was, directly or indirectly, knowingly concerned in the corporation's conduct.

(2) The executive officer may be proceeded against for, and convicted of, the offence whether or not the corporation has been proceeded against for, or convicted of, the offence.

(3) This section does not affect either of the following—

(a) the liability of the corporation for the offence;

(b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence.

(4) In this section—

~~***serious offence provision*** means each of the following provisions—~~

- ~~sections 87 to 92.~~

serious offence provision means section 92, 93, 94, 95, 96 or 97.

Chapter 12 General

Part 1 Confidentiality

~~203~~208 Definitions for ~~pt 1~~part

In this ~~chapter~~part—

administrator means the following—

(a) a person who is, or was, the chief executive;

(b) a person who is, or was, involved in the administration or enforcement of this Act, including, for example—

(i) a single-patient prescriber; or

(~~i~~ii) ~~an approved prescriber; or~~

a patient-class prescriber; or

(~~ii~~iii) ~~an approved pharmacist; or~~

an approved pharmacist or secondary dispenser; or

(~~iii~~iv) a ~~secondary dispenser~~health service employee; or

(~~iv~~v) a ~~health~~ public service employee; or

(~~v~~vi) ~~a public service employee.~~

a member of the expert advisory panel.

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

(a) about a person's personal affairs or health; and

(b) that has become known to an administrator in the course of performing the administrator's functions under this Act.

~~204~~209Confidentiality of information

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

Maximum penalty—50 penalty units.

(2) However, subsection (1) does not apply if—

(a) the confidential information is disclosed—

(i) under this Act; or

(ii) with the written consent of the person to whom the information relates; or

(iii) to the person to whom the information relates; or

(iv) in a way that could not identify any person; or

(b) the disclosure of the confidential information is authorised under another law.

(3) The *Hospital and Health Boards Act 2011*, section 142 does not apply to an administrator in relation to confidential information.

~~205~~210Disclosure of information to entities performing relevant functions

(1) An administrator may disclose confidential information to the following—

(a) a coroner investigating the death of a person under the *Coroners Act 2003*;

(b) the health ombudsman conducting an investigation under the *Health Ombudsman Act 2013*;

(c) a law enforcement agency for the purposes of detecting, preventing, investigating or prosecuting an offence involving medicinal cannabis;

(d) the APVMA for performing its functions under the *Agricultural and Veterinary Chemicals Act 1994* (Cwlth) or the *Agricultural and Veterinary Chemicals Code Act 1994* (Cwlth);

(e) the Therapeutic Goods Administration for performing its functions under the *Therapeutic Goods* ~~Act~~*Act 1989* (Cwlth);

(f) another Commonwealth or State entity for performing its functions relating to—

(i) services provided by health practitioners; or

(ii) the regulation of health practitioners; or

(iii) the administration of a corresponding law; or

(iv) the *Food Act 2006*, the *Food Production (Safety) Act 2000*, or a law of another jurisdiction that provides for the same or similar matters as those Acts.

(2) However, an administrator may disclose confidential information to an entity under subsection (1) only if the administrator is satisfied—

(a) the confidential information will be collected, stored and used by the entity to which it is disclosed in a way that protects, to the extent practicable, the privacy of the persons to whom the information relates; and

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

(3) In this section—

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

~~206~~211 Disclosure for care or treatment of person

An administrator may disclose confidential information if the disclosure is—

(a) to a health practitioner providing care or treatment to the person to whom the information relates; and

(b) necessary for the care or treatment of the person.

~~207~~212Disclosure for medicinal cannabis approval

A person may disclose confidential information if the disclosure—

(a) is to the chief executive; and

(b) relates to—

(i) if the person is ~~an approved~~ a single-patient prescriber for a medicinal cannabis approval—the patient; or

(ii) if the person is applying for a medicinal cannabis approval—the patient stated in the application.

~~208~~213Disclosure to protect public health or safety

(1) This section applies if—

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

(b) the chief executive reasonably believes a diversion risk or substance risk exists because of the person's actions in relation to medicinal cannabis; and

(c) the chief executive reasonably considers a Commonwealth or State entity may be required to take action in relation to the risk.

(2) The chief executive may give the Commonwealth or State entity the confidential information that is reasonably necessary for the entity to assess, or act in relation to, the diversion risk or substance risk.

~~209~~214Requests by chief executive for information

(1) Subsection (2) applies if the chief executive considers a public entity has information, including confidential information, that is necessary for the chief executive to—

(a) perform the chief executive's functions under this Act; and

(b) prevent an imminent diversion risk or substance risk for medicinal cannabis.

(2) The chief executive may, by notice, ask the public entity to give the information to the chief executive within a stated reasonable time.

(3) The public entity must comply with the notice unless the entity reasonably considers the disclosure of the information—

(a) would prejudice the investigation of a contravention, or possible contravention, of a law; or

(b) would prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; or

(c) would endanger a person's life or physical safety.

(4) However, in complying with the notice, the public entity and the chief executive must ensure—

(a) the information given to the chief executive relates only to the chief executive's functions under this Act; and

(b) to the extent possible, the privacy of a person to whom the information relates is protected from unjustified intrusion.

(5) In this section—

public entity means a public sector unit and includes the chief executive, however described, of a public sector unit.

Part 2 Miscellaneous

~~210~~215 Delegation by chief executive

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

(a) a public service officer or employee; or

(b) a health service employee.

~~211~~216Approved forms

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

~~212~~217Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) Without limiting subsection (1), a regulation may be made about the following—

(a) conditions for approvals;

(b) transporting and delivering medicinal cannabis;

(c) ~~dispensing, ~~issuing, supplying or selling medicinal cannabis;

(d) the giving of lawful directions for medicinal cannabis;

(e) ~~approvals, practices and standards for the manufacture of medicinal cannabis;~~

~~(f) qualifications or competencies for supervising the manufacture of medicinal cannabis;~~

to the extent a law of the State, in relation to the manufacture of medicinal cannabis, will not be inconsistent with Commonwealth law—manufacture of medicinal cannabis;

(~~g~~f) practices for wholesale and retail selling of medicinal cannabis;

(~~h~~g) medicinal cannabis management plans;

(~~i~~h) environmental requirements for places where medicinal cannabis is stored;

(~~j~~i) packaging, labelling or displaying medicinal cannabis;

(~~k~~j) advertising medicinal cannabis;

(k) the following for persons, or classes of persons, authorised to deal with medicinal cannabis under this Act—

(~~l~~i) monitoring requirements for ~~approval holders;~~medicinal cannabis;

(~~m~~ii) record-keeping and accounting requirements for medicinal cannabis, including requirements about purchase orders and invoices~~;~~;

(~~n~~iii) notification requirements for ~~approvals and~~ medicinal cannabis, including requirements for notifying the chief executive about lost or stolen medicinal cannabis and other circumstances where a diversion risk or substance risk exists;

(~~o~~iv) ~~reporting about compliance with this Act, including requirements for self-assessing compliance;~~

reporting requirements for medicinal cannabis, including requirements about self-assessing compliance with this Act and reporting about compliance with this Act;

(~~p~~l) destroying or disposing of medicinal cannabis;

(~~q~~m) methods for analysis of medicinal cannabis by a State analyst;

(~~r~~n) conducting approved clinical trials;

(~~s~~o) fees for applications and other matters under this Act, including criminal history checks and the analysis of medicinal cannabis by State analysts.

(3) A regulation made under this Act may impose a penalty of not more than ~~100~~ 20 penalty units for a contravention of the regulation.

Chapter 13 Transitional provision

~~213~~218 Existing approval for medicinal cannabis

(1) This section applies to an approval (the ***transitioned approval***)—

(a) granted under repealed section 270B; and

(b) in force immediately before the commencement.

(2) The transitioned approval is taken to be an equivalent approval granted to the holder of the transitioned approval until the earliest of the following—

(a) if repealed section 270B(b)(i) applied to the transitioned approval—an equivalent approval is granted to the holder of the transitioned approval;

(b) if repealed section 270B(b)(ii) applied to the transitioned approval—an equivalent approval is granted to the holder of the transitioned approval or another person;

(c) the term of the transitioned approval ends;

(d) the transitioned approval is cancelled;

(e) the transitioned approval is surrendered by the holder of the transitioned approval.

(3) However, subsection (4) applies if—

(a) before the term of the transitioned approval ends, a person applies for an equivalent approval; and

(b) the chief executive has not decided whether to grant the equivalent approval on the day the term of the transitioned approval ends.

(4) The transitioned approval is taken to be an equivalent approval, granted to the holder of the transitioned approval, until the chief executive makes a decision about the grant of the equivalent approval.

(5) In this section—

equivalent approval, in relation to a transitional approval, means—

(a) if repealed section 270B(b)(i) applied to the transitioned approval—a clinical trial approval applying to the clinical trial for the transitioned approval; and

(b) if repealed section 270B(b)(ii) applied to the transitioned approval—a medicinal cannabis approval applying to the person who was being treated under the transitioned approval.

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

Chapter 14 Consequential amendments

Part 1 Amendment of ~~*Health Act 1937*~~this Act

~~214~~219Act amended

This part amends this Act.

220 Amendment of long title

Long title, from 'and to amend'—

omit.

Part 2 Amendment of Health Act 1937

221 Act amended

This part amends the *Health Act 1937*.

~~215~~222 Amendment of section 5 (Interpretation)

~~**Amendment of section 5 (Interpretation**~~ 1) Section 5, definition *article*—

omit, insert—

article—

(a) ~~***article***~~ without limit to the generality of its meaning, includes—

(~~a~~i) ~~includes~~ any textile product, any toys, any medical or surgical apparatus or appliance, any absorbent wool or surgical dressing, and also includes boots, shoes, paint, poisons, drugs, biological preparations, pesticides, detergents, dangerous ~~substances and substances declared under a regulation to be articles~~substances; ~~but~~and

(ii) substances declared under a regulation to be articles; but

(b) does not include medicinal cannabis under the *Public Health (Medicinal Cannabis) Act 2016*, section 6.

(2) Section 5, definition *drug*—

omit, insert—

drug—

(a) without limiting the ordinary meaning of the term—

(i) means—any article used for or in the composition or preparation of medicine for internal or external consumption or use by humans; and

(ii) includes—

(A) disinfectants, germicides, antiseptics, pesticides, detergents, preservatives, deodorants, anaesthetics, tobacco, narcotics, soaps, cosmetics, dusting powders, essences, unguents, and all other toilet articles;

(B) goods for therapeutic use within the meaning of the *Therapeutic Goods Act 1989* (Cwlth);

(C) an article or substance declared under a regulation to be a drug; but

(b) does not include medicinal cannabis ~~within the meaning of~~ under the *Public Health (Medicinal Cannabis) Act 2016*, section 6.

(3) Section 5, definition *poison*—

omit, insert—

poison—

(a) means every substance or article prescribed as such; but

(b) does not include medicinal cannabis under the *Public Health (Medicinal Cannabis) Act 2016*, section 6.

Part ~~2~~3 Amendment of Health (Drugs and Poisons) Regulation 1996

~~216~~223 Regulation amended

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

~~217~~224 Omission of s 77 (Approved drug—dronabinol (*delta*-9-tetrahydrocannabinol))

Section 77—

omit.

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

Section 270A, 'Subject to section 270B, the'—

omit, insert—

The

~~218~~226 Omission of ~~section~~ s 270B (Approval for cannabis)

Section 270B—

omit.

Schedule 1 Dictionary

section ~~4~~5

accepted ~~***representations***, for chapter 5, part 2,~~ ***representations*** see section ~~74~~79(2).

administer, a substance, means—

(a) introduce a dose of the substance into the body of a person or an animal by any means; or

(b) give a dose of the substance to a person to be taken immediately.

Examples for paragraphs (a) and (b)—

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

~~***amendment application***~~***administrative action***, for ~~an approval~~chapter 5, ~~for chapter 3~~part 2, see section ~~43~~76.

administrator, for chapter 12, part 1, see section 208.

amendment application, for an approval, see section 44.

application for chapter 3, part 1, see section 9.

approval means—

(a) a medicinal cannabis approval; or

(b) a dispensing approval; or

(c) a clinical trial approval.

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

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

approved pharmacist means—

(a) a pharmacist who works in a hospital pharmacy; or

(b) a pharmacist who—

(i) does not work in a hospital pharmacy; and

(ii) holds a dispensing approval.

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

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

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

cannabis product see section ~~6~~7.

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

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

~~(a)~~***carer***, for a patient, means an adult who has responsibility for the immediate care and safety of the patient~~; and~~.

~~*Example —*~~

~~a parent or guardian of the patient~~

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

~~***clinical trial*** means a clinical trial approved by —~~

~~(a) the Therapeutic Goods Administration; or~~

~~(b) a human research ethics committee.~~

chairperson see section 175(1).

civil claim, for chapter 10, see section 192.

civil liability, for chapter 10, see section 192.

clinical trial means a clinical trial of medicinal cannabis, or another use of medicinal cannabis solely for experimental purposes in humans, approved by the Therapeutic Goods

Administration, or otherwise in accordance with the *Therapeutic Goods Act 1989* (Cwlth).

clinical trial approval see section ~~19~~20.

compliance notice see section ~~81~~86(2).

~~***compliant***~~ ***compliant***, for medicinal cannabis, ~~in relation to a medicinal cannabis approval,~~ means the medicinal cannabis ~~that is~~has been—

(a) prescribed, for the treatment of, or use by, a patient, in accordance with this Act; and

(b) dispensed in accordance with this Act, including any lawful direction under this Act; and

(c) if the medicinal cannabis is the subject of a medicinal cannabis approval—prescribed and dispensed in accordance with ~~this Act and~~ the approval; and

(~~b~~d) ~~dispensed in accordance with this Act, the prescription mentioned in subsection (a) and the approval; and~~

manufactured or imported in accordance with the applicable law of the Commonwealth; and

(~~c~~e) ~~for the treatment of, or use by, the patient.~~

approved, or authorised to be supplied, for the purpose of treating the patient, in accordance with the applicable law of the Commonwealth.

confidential information, for chapter 12, part 1, see section ~~203~~208.

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

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

court means a Magistrates Court.

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

(a) every conviction of the individual for an offence, in Queensland or elsewhere, whether before or after the commencement of this Act;

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

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

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

~~***dispense*** means sell or supply on prescription.~~

dispense means issue, sell or supply in accordance with a lawful direction.

dispensary means—

(a) for an approved pharmacist who works in a hospital pharmacy—the hospital pharmacy; or

(b) for another approved pharmacist—the pharmacy from which the approved pharmacist is authorised to dispense medicinal cannabis under the approved pharmacist's dispensing approval.

dispensing approval see section ~~17~~18.

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

disposal order see section ~~139~~144(2).

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

document certification requirement see section ~~142~~147(6).

document production requirement see section ~~142~~147(2).

drug means—

(a) a drug ~~see~~ under the *Health Act 1937*, section 5~~.~~; and

(b) medicinal cannabis.

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

(a) demonstrating ~~either~~ any of the following over the person's continued use of the drug—

(i) impaired control;

(ii) drug-seeking behaviour that suggests impaired control~~; and~~;

(iii) social impairment related to continued use of the drug;

(iv) continued use of the drug despite the known harms of the continued use; and

(b) ~~when the administration to the person of the drug ceases suffering, or likely suffering, mental or physical distress or disorder.~~

suffering, or likely suffering, mental or physical distress or disorder when the administration to the person of the drug ceases.

educational institution means—

(a) an approved education and care service ~~within the meaning of~~ under the Education and Care Services National Law (Queensland); or

(b) a QEC approved service ~~within the meaning of~~ under the *Education and Care Services Act 2013*; or

(c) a State school, or non-State school, ~~within the meaning of~~ under the *Education (General Provisions) Act 2006*.

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

eligible medicinal cannabis, in relation to a patient-class prescriber and an eligible patient, means—

(a) medicinal cannabis of a type stated in a regulation made under section 52 as being a type of medicinal cannabis with which the patient-class prescriber may treat the eligible patient; or

(b) if paragraph (a) does not apply—any medicinal cannabis.

eligible patient, in relation to a patient-class prescriber, means—

(a) a person who is a member of the class of patients stated in a regulation made under section 52 as being a class of patients to whom the patient-class prescriber may prescribe medicinal cannabis; or

(b) if paragraph (a) does not apply—any patient of the patient-class prescriber.

expert advisory panel see section ~~165~~170.

former owner see section ~~136~~141(1).

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

general power see section ~~123~~128(1).

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

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

help requirement see section ~~124~~129(1).

hospital means a public sector hospital or private hospital.

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

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

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

identity card, for a provision about authorised persons, means an identity card issued under section ~~100~~105(1).

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

(a) the decision and the reasons for it;

(b) the rights of review and appeal under this Act;

(c) the period in which any review or appeal under this Act must be started;

(d) how rights of review and appeal under this Act are to be exercised;

(e) that a stay of a decision the subject of an appeal under this Act may be applied for under this Act.

information ~~requirement~~ ~~, for chapter 7, part 3,~~ ***requirement*** see section ~~145~~150(3).

information requirement notice, for chapter 3, part 1, see section ~~8~~9.

institution means—

(a) a hospital; or

(b) a detention centre, prison, watch house or police establishment; or

(c) an educational institution; or

(d) a nursing home; or

(e) an entity conducting a departmental care service, or a licensed care service, under the *Child Protection Act 1999*, schedule 3; or

(f) an entity mentioned in the *Child Protection Act 1999*, section 82(1)(f); or

(g) another entity prescribed by regulation.

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

internal review application see section 179.

internal review decision see section 184(1)(b).

lawful direction, for medicinal cannabis—

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

(b) includes—

(i) a prescription for the medicinal cannabis; and

(ii) an instruction on a label or other packaging for medicinal cannabis.

manufacture, in relation to a substance—

(a) means any 1 or more of the following actions performed for the purpose of producing the substance—

(i) carry out a process or step in making, growing or cultivating the substance;

(ii) process or refine the substance;

(iii) convert the substance into another substance;

(iv) make or prepare an ampoule, capsule, tablet, vial or other dosage form that consists of, or contains, the substance;

(v) mix, compound or formulate the substance with any other substance;

(vi) assemble, label, pack or repack the substance;

(vii) store the substance;

(viii) sterilise the substance;

(ix) test, monitor or otherwise control the quality of the substance, including monitor the way in which the substance is supplied; but

(b) does not include either of the following if done for the treatment of an individual—

(i) mixing a lawfully supplied substance with another thing in accordance with instructions for the mixing of the substance with the thing; or

(ii) adding a lawfully supplied substance to another thing in accordance with instructions for the adding of the substance to the thing.

medical practitioner means either of the following—

(a) a general medical practitioner;

(b) a specialist medical practitioner.

medicinal cannabis see section ~~5~~6.

medicinal cannabis approval see section ~~13~~14.

medicinal cannabis management plan, for an entity, see section ~~64~~69.

notice means a written notice.

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

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

occupier, of a place, includes the following—

(a) if there is more than 1 person who apparently occupies the place—any 1 of the persons;

(b) any person at the place who is apparently acting with the authority of a person who apparently occupies the place;

(c) if no-one apparently occupies the place—any person who is an owner of the place.

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

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

original decision see section 179.

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

parent, of a child, includes—

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

(b) for an Aboriginal child—a person who, under Aboriginal tradition, is regarded as a parent of the child; and

(c) for a Torres Strait Islander child—a person who, under Island custom, is regarded as a parent of the child.

patient-class prescriber means—

(a) a specialist medical practitioner who is a member of a class of specialist medical practitioners prescribed by regulation under section 52(1)(a); or

(b) a registrar in the speciality of a specialist medical practitioner mentioned in paragraph (a), working under the personal supervision of the practitioner in the practitioner's specialty.

personal details requirement see section 145(5).

personal supervision—

(a) means supervision by a person (the ***supervisor***) of another person; and

(b) includes supervision using any technology that allows reasonably contemporaneous and continuous—

(i) communication between the persons; and

(ii) observation by the supervisor of actions taken by the other person.

person in control—

(a) of a vehicle, includes—

(i) the vehicle's driver or rider; and

(ii) anyone who reasonably appears to be, claims to be, or acts as if he or she is, the vehicle's driver or rider or the person in control of the vehicle; or

(b) of another thing, includes anyone who reasonably appears to be, claims to be, or acts as if he or she is, the person in possession or control of the thing.

~~***personal details requirement*** see section 140(5).~~

~~***personal supervision*** see section 50.~~

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

(a) if the patient ~~is a child~~has capacity to consent to the treatment~~ a parent of~~ the patient; or

(b) otherwise—

(~~b~~i) if the patient is ~~an adult~~a child—a parent of the patient; or

(~~i~~ii) if the patient ~~has capacity to consent to the treatment~~is an adult~~ the patient;~~

~~(ii) otherwise~~

(A) if a guardian or an administrator is appointed for the patient under the *Guardianship and Administration Act 2000*—the guardian or administrator; or

(B) if an attorney, appointed by the patient under an enduring power of attorney under the *Powers of Attorney Act 1998*, may consent to the treatment on behalf of the patient—the attorney.

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

place includes the following—

(a) premises;

(b) vacant land;

(c) a place in Queensland waters;

(d) a place held under more than 1 title or by more than 1 owner;

(e) the land or water where a building or structure, or a group of buildings or structures, is situated.

possess, medicinal cannabis, includes—

(a) have custody or control of medicinal cannabis; and

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

premises includes—

(a) a building or other structure; and

(b) a part of a building or other structure; and

(c) a caravan or vehicle; and

(d) a cave or tent; and

(e) premises held under more than 1 title or by more than 1 owner.

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

(a) a written, electronic or faxed instrument; and

(b) an entry for the dispensing of the medicinal cannabis in a medical record, medication chart or medication ordering system, whether the entry is made in writing or electronically.

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

proposed ~~***action***, for chapter 5, part 2,~~ ***action*** see section ~~73~~78(3)(a).

public place means—

(a) a place, or part of the place—

(i) the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or

Examples of a place that may be a public place under subparagraph (i)—

a beach, a park, a road

(ii) the occupier of which allows, whether or not on payment of money, members of the public to enter; or

Examples of a place that may be a public place under subparagraph (ii)—

a saleyard, a showground

(b) a place that is a public place under another Act.

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

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

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

recall order see section 163(2).

registrar, in a specialty, means a person who is undergoing a course of training, the successful completion of which will qualify the person as a specialist medical practitioner in the specialty.

~~***recall order***~~ ***relevant activity*** see section ~~158(2)~~69.

relevant law means the following—

(a) this Act;

(b) the *Health Act 1937*;

(c) a corresponding law.

renewal application, for an approval, ~~for chapter 3,~~ see section ~~47~~48(1).

replacement application, for an approval, ~~for chapter 3,~~ see section ~~45~~46.

responsible person, for a recall order, see section 163(2)(a).

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

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

show cause ~~notice~~, ~~for chapter 5, part 2,~~ ***notice*** see section ~~73~~78(2).

show cause ~~period~~, ~~for chapter 5, part 2,~~ ***period*** see section ~~73~~78(3)(g).

single-patient prescriber means a medical practitioner who is the holder of the medicinal cannabis approval.

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

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

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

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

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

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

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

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

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

vehicle—

(a) means a vehicle under the *Transport Operations (Road Use Management) Act 1995*; and

(b) includes a vessel under that Act.