

Health and Wellbeing Queensland Bill 2019

Explanatory Notes

Short title

The short title of the Bill is the Health and Wellbeing Queensland Bill 2019.

Policy objectives and the reasons for them

The objective of the Bill is to establish a health promotion agency, to be known as Health and Wellbeing Queensland (HWQ), as a statutory body. HWQ will contribute to:

- improving the health and wellbeing of Queenslanders;
- reducing the risk factors associated with chronic disease; and
- reducing health inequities.

The Bill also amends the *Hospital Foundations Act 2018* to enable the establishment of a foundation to support HWQ in achieving its objectives.

Background to the need for a health promotion agency

Despite the Queensland Government's health prevention and promotion programs showing some gains, *The health of Queenslanders 2018, Report of the Chief Health Officer Queensland* (Chief Health Officer Report) identified that the health system continues to face public health challenges including:

- high rates of obesity;
- an increasing chronic disease burden;
- disparity in the life expectancy and chronic disease burden for Aboriginal and Torres Strait Islander people; and
- the adverse effect of socioeconomic factors.

These factors, combined with a growing and ageing population, are negatively impacting the quality of life of Queenslanders, the capacity of the health system and the productivity of the Queensland economy. One third of the burden of disease is attributed to preventable risk factors, such as poor nutrition, obesity, high blood pressure and smoking, which account for 43 per cent of deaths in Queensland.

The costs associated with these risk factors are significant for individuals and the community. In adults, being overweight or obese frequently results in chronic diseases such as Type 2 diabetes, heart disease and cancer, which can reduce life expectancy by up to 10 years. It is estimated that obesity-related illness had an estimated cost on the Queensland healthcare system of \$756 million in 2015. When the additional costs of absenteeism from employment,

losses to productivity, loss of wellbeing and early death are included, the total financial impact on the Queensland economy was estimated to be \$11.2 billion.

A key challenge for Queensland is the significant health inequity that is related to a person's socioeconomic status, the remoteness of where they live and whether they are Indigenous. The Chief Health Officer Report highlighted an opportunity to improve health outcomes for these Queenslanders through a stronger focus on prevention. In socio-economically disadvantaged areas, the rates of death due to lifestyle-related chronic conditions were 50 per cent higher than those in advantaged areas in 2015. Remoteness is also a key factor in Queensland, with rates of death due to lifestyle-related chronic conditions in remote and very remote areas 33 per cent higher than in major cities in 2015. The disease and injury burden for Indigenous Queenslanders is 2.2 times that of non-Indigenous Queenslanders, and rates of death due to lifestyle-related chronic conditions is 70 per cent higher than the non-Indigenous population.

For Aboriginal and Torres Strait Islander people, social determinants of health can include connection to family, community, country, language and culture, racism, early childhood development, education, employment and income, housing, environment and infrastructure, interaction with government systems and services, law and justice, health status and food security.

There are large differences in the risk factors that lead to diseases and premature death across the Queensland population. Obesity rates are:

- 49 per cent higher in socioeconomically disadvantaged areas of Queensland compared to advantaged areas;
- 35 per cent higher in remote areas and 39 per cent higher in very remotes areas of Queensland, compared to major cities; and
- 39 per cent higher among Indigenous Queenslanders than non-Indigenous Queenslanders.

Chronic health problems are often caused by lifestyle-related behaviours which in turn are influenced by a complex mix of societal, environmental, socioeconomic and biological factors that are embedded into everyday life. Most, but not all Queenslanders have good health by national and international standards. Health inequity occurs when there are differences in health outcomes between different population groups that can arise from the social determinants of health, that is, the societal conditions in which people are born, grow, live, work and age. The health gap will widen unless steps are taken to address the social determinants that drive these disparities, and sustain action until equity of health outcomes is achieved.

Leading social determinants of health associated with obesity, being overweight and other unhealthy behaviours include early years of development, education, employment and working conditions, housing, and access to and use of health services. For example, education provides for the development of knowledge and skills for problem solving, and greater control over life circumstances. Education also increases an individual's work opportunities, security, satisfaction and income, which are all foundations of good health and wellbeing.

Preventing and reducing the risk factors associated with chronic disease requires more than a single intervention. The impacts of poor health continue to be addressed by the health system,

but many of the underlying determinants of health sit outside the health system. To bring about population-wide, sustainable improvements in health and wellbeing requires a new multi-strategy approach delivered in partnership with sectors not traditionally associated with health or health care services.

Investing in prevention has huge benefits for individuals, the community, the health system and the economy. Evidence shows that preventive strategies contribute to approximately 50 per cent and 75 per cent reduction of cardiovascular disease mortality in high-income countries. Sustained investment in preventive strategies is necessary to drive down the impact of these health system pressures. Studies have also shown that for every dollar invested in public health interventions, there is an average return of \$14. In 2015-2016, approximately 15 per cent of hospitalisations in Queensland were associated with preventable risk factors such as obesity and high blood pressure. Improving the health and wellbeing of Queenslanders over the longer term will be an important step in constraining future health expenditure and increasing the Government's ability to continue to invest in new services and infrastructure.

Parliamentary inquiry into the establishment of a Queensland health promotion commission

On 16 September 2015, the Legislative Assembly referred an inquiry into the establishment of a Queensland health promotion commission to the then Health and Ambulance Services Committee for consideration.

The Committee's terms of reference for the Inquiry were to inquire and report to the Legislative Assembly on:

- the potential role, scope and strategic directions of a Queensland health promotion commission; and
- the effectiveness of collaborative, whole-of-government and systems approaches for improving and sustaining health and wellbeing, including models used in other jurisdictions (including specific agencies or whole-of-government policy frameworks) and population-based strategies other than personal interventions delivered by telephone or ICT.

The Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee subsequently assumed responsibility for the Inquiry.

On 30 June 2016, this committee tabled Report No. 21: *Inquiry into the establishment of a Queensland Health Promotion Commission* in the Legislative Assembly. The report contained one recommendation: that a Queensland health promotion commission be established. However, the Committee could not reach consensus on a proposed model.

Establishment of a statutory health promotion commission

On 23 May 2017, the Healthy Futures Commission Queensland Bill 2017 was introduced into the Legislative Assembly to establish a health promotion commission. The Bill lapsed when the Queensland Parliament was dissolved in October 2017.

During the 2017 State Election, the Government committed to establishing a statutory health promotion commission to tackle Queensland's obesity and chronic disease rates. The *Our Future State: Advancing Queensland's Priorities (Our Future State)* reinforces the

Government's commitment to improving health, focusing on those challenges facing the State that require complex, integrated and innovative solutions. As part of its objective to make Queensland the leading healthy state, *Our Future State* has a target to increase the proportion of Queenslanders with a healthy body weight by 10 per cent by 2026.

Consistent with the direction of *Our Future State* and to meet the Government's election commitment, the Bill establishes HWQ as a statutory body focused on improving the health and wellbeing of Queenslanders. The advantages of establishing a statutory body under enabling legislation are that HWQ will:

- be empowered to act as a champion for change that is well placed to coordinate efforts across diverse sectors, and foster the innovative thinking required to support individual, community and environmental changes needed to reduce health inequities;
- help to strengthen linkages across sectors involved in illness prevention and health promotion, promote better alignment between federal, state and local jurisdictions and increase shared responsibility across the sectors; and
- facilitate the growing expectation for a new public health movement that focuses on building the capacity of people and communities to be a key force for social change in matters of health and wellbeing.

Achievement of policy objectives

The Bill establishes HWQ as a statutory body to improve the health and wellbeing of Queenslanders, reduce health inequity, and reduce the burden of chronic diseases through targeting risk factors for disease such as poor nutrition, physical inactivity and unhealthy weight.

It is intended that HWQ will take a multi-strategy, multi-sector approach to enable illness prevention and health promotion investments and activities to be implemented across traditional portfolio boundaries. HWQ will provide a new way of working, by investing in innovative projects generated by local community partnerships to create environments that support the health and wellbeing of Queensland communities. It will use flexible funding models to source private and non-government revenue streams such as corporate partnerships and sponsorships.

HWQ's contribution to reducing health inequity will include supporting activities to address the social determinants of health such as education, employment, housing, socioeconomic status and other environmental and societal factors that influence individual and community health and wellbeing. HWQ will also play a part in working and partnering to reduce the burden of chronic disease experienced by Aboriginal and Torres Strait Islander communities and addressing the gaps that exist between these communities and non-Indigenous communities.

HWQ will:

- adopt a multi-sector approach to improving health and wellbeing drawing on expertise from public health, sport and recreation, primary care, social behaviour, marketing and other fields;

- coordinate illness prevention and health and wellbeing promotion activities focused on reducing risk factors for chronic diseases such as eating well, being more active and creating environments that make healthier choices easier;
- develop partnerships and engage with sectors outside the health system, identify key leverage points and facilitate new opportunities to improve health and wellbeing;
- contribute to the evidence base by coordinating research, collecting, analysing and reporting data on the health of the population, and sharing information about the outcomes achieved through initiatives and programs; and
- reduce inequity through addressing the social determinants of health, and responding to differences in health status in the community by recognising the needs of those groups whose health is poorest, and who are most likely to have limited opportunities to be healthy.

Functions

The Bill provides the functions of HWQ are to:

- facilitate and commission activities to prevent illness or promote health and wellbeing;
- develop partnerships and collaborate across government and with entities such as businesses, industry organisations, community organisations, academia, local governments and individuals, to further its objective or carry out its functions;
- give grants for activities to further its objective or carry out its functions;
- monitor and evaluate activities to prevent illness or promote health and wellbeing;
- develop policy, and advise the Minister and government entities, about illness prevention or promotion of health and wellbeing; and
- coordinate the exchange of information about activities to prevent illness or promote health and wellbeing.

HWQ's performance of these functions will contribute to the social change needed for Queenslanders to reduce their risk factors for chronic disease, reduce health inequity, and improve their overall health and wellbeing.

When exercising these functions, HWQ will seek to use an evidence and place-based approach to target investments and effort in locations according to local need, and adjust activities and programs to ensure maximum impact for locations based on differing need.

Board composition and governance matters

The Bill provides HWQ comprises a board of up to ten members, a chief executive officer and staff. The board is responsible to the Minister for the management and performance of HWQ. A maximum of four members of the board will be chief executives of government departments. The other members will be persons with knowledge, skills or experience in business or financial management, law, public health, academia, community service organisations, the not-for-profit sector or another area the Minister considers relevant or necessary to support the board in performing its functions. This will ensure that there is flexibility to enable the board to be made up of members who will bring a range of experience and background to the board, such as experience as a consumer representative or

advocate. The Bill requires that at least one person on the board must be an Aboriginal person or Torres Strait Islander. Board members will be appointed by the Governor in Council for periods not exceeding four years and may be reappointed.

The board's functions are:

- ensuring the proper, efficient and effective performance of HWQ's functions;
- deciding the objectives, strategies and policies to be followed by HWQ;
- ensuring that HWQ complies with its obligations under the Act or other law; and
- other functions given to it under this Act or another Act.

The Bill provides for the chief executive officer's appointment to be made by the Governor in Council, on the recommendation of the board. The chief executive officer may be appointed for a term not exceeding four years and may be reappointed. The chief executive officer is responsible for the day-to-day administration of HWQ, including the employment of staff, and is subject to the directions of the board.

The Bill provides a range of governance measures for the board and chief executive officer, including provisions for appointment and remuneration terms and conditions, responsibilities, powers, and removal from office.

To ensure that HWQ will be held to a high standard of accountability, the Bill provides that HWQ is:

- subject to the directions of the Minister;
- a public service office under Schedule 1 of the *Public Service Act 2008*;
- a statutory body under the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982*; and
- a unit of public administration under the *Crime and Corruption Act 2001*.

The Bill requires that HWQ's annual report, which is prepared under the *Financial Accountability Act 2009*, must contain details of each direction given to HWQ by the Minister during the financial year and any action taken by HWQ because of the direction. The annual report must also include details of functions performed by HWQ during the year and how efficiently and effectively these were performed. These reporting requirements will allow for appropriate oversight of HWQ's planned activities to ensure HWQ's work program is complementary to other work occurring across the public sector and to minimise duplication.

The Bill includes provisions that ensure the smooth and effective operation of HWQ including the delegation of the functions of HWQ, the board and the chief executive officer. By amending the *Public Service Act 2008* to provide that HWQ is a public service office, the Public Service Act and other legislation such as the *Public Sector Ethics Act 1994* will automatically apply to HWQ as if it were a government department.

Ministerial direction – special report

From time to time, it is envisaged that the Minister may seek information from HWQ about matters such as HWQ's projects or activities, the health and wellbeing of Queenslanders as a

whole or of those in a particular geographical area or population group, reducing risk factors for chronic disease and programs aimed at reducing health inequity.

For this reason, the Bill provides that the Minister may give a direction to HWQ to prepare a special report on a matter the Minister considers relevant to HWQ's functions or powers. HWQ must comply with the Ministerial direction. However, the Minister cannot direct HWQ about the content of the special report.

Once the special report is provided by HWQ, the Minister may publish the report in a way the Minister considers appropriate. This may include publishing the special report to inform the public about strategies to reduce a specific risk factor for chronic disease, or sharing the report with other Ministers or government agencies to inform the development of government policy.

Alternative ways of achieving policy objectives

Legislation is required to establish HWQ as a statutory body with appropriate powers to appoint the board members and a chief executive officer. Alternative delivery options for the role and functions of HWQ, such as an office within a government department, would not achieve the same structure and flexibility as a statutory body. For example, the statutory body model enables:

- stronger accountability and transparency as a separate legal entity;
- an ability for HWQ to develop activities in partnership with organisations from outside the government sector;
- HWQ to control its own funds and have greater flexibility for resourcing;
- authority and leadership to engage a variety of stakeholders across government and the community with a common focus;
- a greater focus on HWQ's objectives, functions and long-term organisational goals rather than as part of a broader department's strategic or operational plans;
- a greater level of collaboration across government portfolios; and
- direct reporting to a Minister rather than through a department.

Estimated cost for government implementation

It is proposed that HWQ will have an initial operating budget of \$32.955 million in 2019-20. Existing prevention activities currently delivered by Queensland Health, which are aimed at reducing chronic disease and improving nutrition and physical activity, are to transition to HWQ to deliver.

Consistency with fundamental legislative principles

The Bill has been drafted with regard to the fundamental legislative principles in the *Legislative Standards Act 1992*. Potential breaches of fundamental legislative principles are addressed below.

Whether the legislation has sufficient regard to the rights and liberties of individuals (*Legislative Standards Act 1992, s 4(2)(a)*)

- *Delegation of administrative powers*

Section 4(3)(c) of the *Legislative Standards Act 1992* states that whether legislation has sufficient regard to the rights and liberties of individuals depends on whether the legislation allows for the delegation of administrative power only in appropriate cases and to appropriate persons.

Clause 50 specifies that functions and powers may be delegated and subdelegated under the Act as follows:

- HWQ may delegate its functions under the Act, excluding the decision to give a grant, to a board member or the chief executive officer;
- the board may delegate its functions to a board member or the chief executive officer;
- the chief executive officer may delegate any of their responsibilities to an appropriately qualified staff member of HWQ;
- a board member may subdelegate a function delegated to them by HWQ or the board to the chief executive officer or an appropriately qualified staff member of HWQ; and
- the chief executive officer may subdelegate a function delegated to them by HWQ, the board or a board member to an appropriately qualified staff member of HWQ.

Clause 18 provides the board of HWQ comprises of up to four members who are chief executives of government departments and up to six other members who have qualifications or experience in law, business or financial management, public health, academia, community service organisations, the not-for-profit sector or another area the Minister considers relevant or necessary to support the board in performing its functions. The board members will be appointed by the Governor in Council.

Clause 32 provides the chief executive officer is appointed by the Governor in Council on the recommendation of the Minister. The Minister may only nominate a person who has been approved by the board. The chief executive officer is accountable to the board and must comply with the written policies and directions of the board. The chief executive officer will be responsible for employing other staff under the *Public Service Act 2008*.

A function or power can only be delegated to an appropriately qualified board member or appropriately qualified officer employed by HWQ. It is appropriate for the day-to-day activities of HWQ to be able to be delegated to an appropriately qualified officer within HWQ. Therefore, it is considered that the delegation and subdelegation of administrative power, as outlined in clause 50, is appropriate.

- ***Criminal history information of a board member or chief executive officer***

Clause 44 of the Bill provides for the Minister to request a criminal history report from the Commissioner of the Police Service relating to a person being assessed as eligible, or disqualified, to be a board member or chief executive officer. Any potential breach of fundamental legislative principles is mitigated by the requirement for the request to only be made with the person's consent. Allowing the Minister to undertake criminal history checks of board members is important to ensure the integrity and appropriateness of appointments to the board or as chief executive officer.

- ***Penalty for offence – Unlawful disclosure of criminal history information***

The Bill contains offences, which gives rise to the consideration of whether the penalty is proportionate to the offence. Clause 46 makes it an offence for a person, who becomes aware of criminal history information by virtue of their position or otherwise, to use or disclose the information unless the use or disclosure is permitted in the limited circumstances in subsection (3). Clause 46 applies to a person who possesses criminal history information by being the Minister, a member of the Minister's staff, an employee or contractor of the department, or a board member, chief executive officer, staff member or contractor of HWQ. It also applies to the criminal history information in a report given to the Minister under clause 44 or in a notice given to the Minister under clause 45. The offence for using or disclosing, whether directly or indirectly, criminal history information to another person, carries a maximum penalty of 100 penalty units.

Similar offences are included across the Queensland statute book, including section 38 of the *Hospital Foundations Act 2018* and section 78C of the *Ombudsman Act 2001*, which provide similar protections to prevent criminal history information from unauthorised use or disclosure. It is expected that the Minister or a member of the Minister's staff may receive criminal history information as part of their role in determining the eligibility of a person to be appointed to the board or as the chief executive officer. The provision goes further to ensure that any criminal history information obtained by the board, the chief executive officer or an officer of HWQ in carrying out their roles or responsibilities is not unlawfully used or disclosed. Having regard to similar offences, and the need to protect the rights of an individual, particularly to have their criminal history information appropriately protected from unlawful use or disclosure, the penalty is considered justified.

- ***Penalty for offence – Unlawful disclosure of confidential information***

Clause 47 of the Bill provides for an offence if confidential information is unlawfully disclosed by a person who is, or has been, a member of the board, the chief executive officer, another member of HWQ's staff, or a contractor of HWQ. The offence carries a maximum penalty of 100 penalty units, which may give rise to a breach of fundamental legislative principles with regards to whether the penalty is proportionate to the offence.

Similar offences are included across the Queensland statute book, such as section 88M of the *Public Service Act 2008* and section 142 of the *Hospital and Health Boards Act 2011*, which provide similar protections to prevent confidential information, such as personal or commercial-in-confidence information, from unauthorised disclosure. There is a potential for financial gain or loss that could be made from the kind of information to which HWQ will have access. For example, HWQ could have access to commercial-in-confidence information

in evaluating sponsorship or partnership arrangements, or to Cabinet-in-confidence material in evaluating strategies and providing advice to the Government. Having regard to similar offences, and given the impacts on the privacy of individuals or organisations, or the potential for financial gain or loss that could be made from the kind of information HWQ may have access to, the penalty is considered justified.

- ***Failing to disclose being charged with, or convicted of, an indictable offence***

Section 4(3)(b) of the *Legislative Standards Act 1992* states that whether legislation has sufficient regard to the rights and liberties of individuals depends on whether the legislation is consistent with the principles of natural justice.

Clause 45 of the Bill states that if a board member or the chief executive officer is charged with, or convicted of, an indictable offence, the person must immediately notify the Minister of the offence, unless the person has a reasonable excuse. The requirement to notify the Minister is not viewed as breaching fundamental legislative principles as it only requires a person to notify of a specific event, namely being charged with, or convicted of, an indictable offence.

The Bill states that the person must notify the Minister of the existence of the charge or conviction, details adequate to identify the alleged offence for which the person was charged or convicted, when the alleged offence was committed, and for a conviction, the sentence that was imposed. The matters required in the notice do not implicate the person or make any finding, or any inference, of fact or guilt in relation to the charge. Therefore, the requirement to notify the Minister is not considered to infringe a person's rights of natural justice or procedural fairness in responding to the matter. This provision is justified because it reinforces the expectation that board members and the chief executive officer are to observe ethical and legal behaviour in carrying out their functions. The rights and liberties of the person are protected because the provision allows for the person to have a reasonable excuse for non-compliance. The information in the notice is also required to be kept confidential by a person who may have access to the information, including the Minister or a member of the Minister's staff, an employee or contractor of the department, or a board member, chief executive officer, staff member or contractor of HWQ. The maximum penalty where a person fails to notify the Minister of being charged with, or convicted of, an indictable offence is 100 penalty units.

Similar offences are included across the Queensland statute book, such as the *Hospital Foundations Act 2018*, *Jobs Queensland Act 2015* and *Cross River Rail Delivery Authority Act 2016*, which all impose penalties where a person fails to disclose a conviction relating to an indictable offence. The offence and its penalty is justified because the penalty reinforces the expectation that board members and the chief executive officer are to uphold ethical and legal standards in carrying out their functions. The offence is considered to have a penalty which is proportionate to the offence.

- ***Protection from liability***

Section 4(3)(h) of the *Legislative Standards Act 1992* states that whether legislation has sufficient regard to the rights and liberties of individuals depends on whether the legislation does not confer immunity from proceeding or prosecution without adequate justification.

Clause 49 of the Bill protects the Minister and a board member who is not a chief executive of a department from personal liability for acts done, or omissions made, honestly and without negligence under the Act. Board members who are also chief executives of a government department are already provided protection from liability under the *Public Service Act 2008*.

The conferral of immunity in this instance is justified as:

- immunity from prosecution is appropriate if it is conferred on persons carrying out statutory functions, as is the case in this instance;
 - the immunity is appropriately limited in scope, as it does not attach to acts done or omissions made which are reckless, unreasonable or excessive, but attaches only to acts done or omissions made honestly and without negligence; and
 - liability for the consequences of actions done, or omissions made, is not extinguished by the Bill, but the liability attaches to the State instead. Therefore, where persons consider themselves to have been injured by the actions or omissions of the Minister or a board member of HWQ, legal redress remains open to them.
- ***Removal from office***

Section 4(3)(b) of the *Legislative Standards Act 1992* states that whether legislation has sufficient regard to the rights and liberties of individuals depends on whether the legislation is consistent with the principles of natural justice.

Clauses 23 and 37 of the Bill provide that the office of a board member or chief executive officer becomes vacant if the person completes a term of office and is not reappointed, resigns or becomes disqualified under clauses 20 or 34 of the Bill respectively, because the person:

- has a conviction, other than a spent conviction, for an indictable offence;
- is an insolvent under administration;
- is disqualified from managing corporations because of the *Corporations Act 2001 (Cwlth)*, part 2D.6;
- for a board member - is the chief executive officer of HWQ or a staff member of HWQ;
- for the chief executive officer - is a board member;
- is a contractor of HWQ; or
- contravenes clause 31(3) or 39.

These grounds for removal raise the issue of whether the Bill has sufficient regard for the rights of individuals through their consistency with natural justice principles. It is considered that, having regard to the significance of the role of board members and the chief executive officer and the responsibilities each role entails, natural justice principles are not breached in this case. Including as grounds for removal the failure to disclose a material personal interest by a board member, or failure to disclose a conflict of interest for the chief executive officer, will assist in minimising the risk of such conflicts interfering with the functions of the board and HWQ. As the Bill explicitly states the roles and responsibilities of board members and the chief executive officer in upholding the significant public trust invested in HWQ, these offices should be held to high standards of integrity and propriety, and the automatic

disqualification of a person from office where they meet one of these criteria is considered appropriate.

Consultation

As part of the Inquiry by the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee in 2015 and 2016, community consultation was undertaken on the potential role, scope and strategic directions of a Queensland health promotion commission. The Committee received 43 submissions from members of the public, universities, primary healthcare networks, medical and nursing professional colleges, community and not-for-profit organisations, Hospital and Health Services, and key medical and nursing professional associations, including the Australian Medical Association Queensland and the Queensland Nurses and Midwives' Union.

There was general agreement about:

- the need for a government response to address the growing incidence of chronic illness and unfair burden of disease for some population groups;
- the need for a multi-sector approach to identify and address key levers for system and policy change that lie outside the health sector; and
- the value of reducing fragmentation through work across government departments, coordination, collaborative research, and partnerships with many different sectors.

The Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee examined the Healthy Futures Commission Queensland Bill 2017 after its introduction in May 2017. The Committee received 37 submissions from a broad range of stakeholders. Stakeholders were generally supportive of the Bill but had different views about its focus and objectives.

The submissions and the Committee's reports were used to develop the model for HWQ.

In June 2018, key experts and opinion leaders were invited by the Health Minister to further explore how best to improve the health and wellbeing of Queenslanders, and to identify opportunities to lever efforts across the different sectors to achieve healthier lifestyles for individuals across Queensland and the role that could be played by a health promotion agency to facilitate health prevention and promotion across the State.

Ongoing consultation with key stakeholders is planned during the establishment of HWQ to ensure a broad range of expertise and experience is used to build a solid foundation for HWQ to operate effectively across different sectors and the community.

Consistency with legislation of other jurisdictions

Victoria, South Australia and Western Australia are the only other jurisdictions who have established statutory bodies for health promotion. The models, budgets and functions for these bodies differ between jurisdictions.

The Victorian Health Promotion Foundation (known as VicHealth) was established in 1987 under the *Tobacco Act 1987* (Vic). The primary focus of VicHealth is promoting good health and preventing chronic disease by creating and funding world-class interventions, conducting

vital research to advance population health, producing and supporting public campaigns, and providing transformational expertise and insights to government. VicHealth works with all levels of government, communities, and a range of sectors across health, sports, research, education, the arts and media. VicHealth's work is overseen by a board and supported by an advisory framework consisting of expert panels, taskforces and assessment panels.

The Western Australian Health Promotion Foundation, known as Healthway, was originally established as an independent statutory body in 1991 under the *Tobacco Control Act 1990* (WA), but now operates under the *Western Australian Health Promotion Foundation Act 2016*.

The statutory basis for Healthway is largely based on the VicHealth model, and the primary role of Healthway is to promote and facilitate good health and activities that encourage healthy lifestyles. Healthway funds sport, arts, community activities, health promotion projects and research to inspire Western Australians, especially young people, to live healthier lives. Healthway also funds and works with organisations to create healthy activities and events and promote messages about good health at community events.

The South Australian Public Health Council (the Council) was established in 2011 under the *South Australian Public Health Act 2011* (SA), as the successor body to the Public and Environmental Health Council established under the repealed *Public and Environmental Health Act 1987*.

The Council is tasked with the protection and promotion of public health, the development of public health plans, the promotion of public health research, and strategies to ensure a sufficiently trained and skilled workforce are in place. Although the Council is a statutory body, it is not independent from government and it does not administer funds. The Chief Public Health Officer, established under the *South Australian Public Health Act 2011* (SA), is the presiding member of the Council.

Notes on provisions

Part 1 Preliminary

Short Title

Clause 1 provides that the short title of the Act is the *Health and Wellbeing Queensland Act 2019*.

Commencement

Clause 2 provides for the Act to commence on proclamation.

Main purpose of Act

Clause 3 provides that the main purpose of the Act is to establish Health and Wellbeing Queensland to improve the health and wellbeing of the Queensland population.

Act binds all persons

Clause 4 provides that the Act will bind all persons including the State of Queensland. However, the State can not be prosecuted for an offence against the Act.

Definitions

Clause 5 provides that definitions are in the dictionary in schedule 1.

Part 2 Health and Wellbeing Queensland

Division 1 Establishment

Establishment

Clause 6 establishes Health and Wellbeing Queensland.

Legal status

Clause 7 provides that Health and Wellbeing Queensland is a body corporate and may sue and be sued in its corporate name.

Health and Wellbeing Queensland represents the State

Clause 8 provides that Health and Wellbeing Queensland represents the State and has the status, privileges and immunities of the State.

Application of other Acts

Clause 9 provides that Health and Wellbeing Queensland is a unit of public administration under the *Crime and Corruption Act 2001*, and a statutory body under the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982*. Part 2B

of the *Statutory Bodies Financial Arrangements Act 1982* sets out the way that Act affects Health and Wellbeing Queensland's powers.

Division 2 Objective, functions and powers

Objective

Clause 10 provides that the objective of Health and Wellbeing Queensland is to improve the health and wellbeing of the Queensland population. Health and Wellbeing Queensland's objective has been drafted in broad terms to ensure it is able to take a leading role in addressing current and emerging health issues. This broad approach ensures that Health and Wellbeing Queensland will not be constrained in its efforts to improve the health and wellbeing of individuals and local communities, through place-based activities, or efforts to undertake broader illness prevention or health promotion activities targeted at reaching the entire Queensland population. *Clause 10* includes examples of particular focus for Health and Wellbeing Queensland, including reducing the burden of chronic diseases through targeting risk factors for those diseases and reducing health inequity.

Undertaking activities to reduce health inequity is another way in which Health and Wellbeing Queensland will assist to improve the health and wellbeing of the Queensland population. These activities may include addressing the social and environmental determinants that impact on the capacity of individuals and communities to make healthy choices, such as educational attainment, socioeconomic status or geographic location.

Functions

Clause 11 provides that the main functions of Health and Wellbeing Queensland are to:

- facilitate and commission activities to prevent illness and promote health and wellbeing;
- develop partnerships and collaborate with other entities to further its objective or carry out its functions;
- give grants for activities to further its objective or carry out its functions under the Act;
- monitor and evaluate activities to prevent illness and promote health and wellbeing;
- develop policy, and advise the Minister and government entities, about preventing illness and health and wellbeing promotion;
- coordinate the exchange of information about activities to prevent illness and promote health and wellbeing.

Powers

Clause 12 provides that Health and Wellbeing Queensland has all the powers of an individual. This enables Health and Wellbeing Queensland to, for example, enter into leasing arrangements or contracts, appoint contractors and consultants, manage its revenue and funds and do anything else necessary to carry out its day-to-day operations and perform its functions. Health and Wellbeing Queensland also has powers given to it under the Act or another Act.

Ministerial directions generally

Clause 13 provides that the Minister may give a written direction to Health and Wellbeing Queensland about the performance of its functions or the exercise of its powers. Health and Wellbeing Queensland must comply with the direction. However, the Minister's direction must not be about employment matters relating to a particular person. For example, the Minister cannot issue a direction about the employment, discipline or remuneration of a staff member employed by Health and Wellbeing Queensland under the *Public Service Act 2008*.

Ministerial directions to prepare special report

Clause 14 provides that the Minister may direct Health and Wellbeing Queensland to prepare a special report on a matter the Minister considers relevant to Health and Wellbeing Queensland's functions. For example, the Minister may ask Health and Wellbeing Queensland to prepare a report on its activities and existing activities across government to improve a risk factor for chronic disease and how these could be aligned to a common objective. However, the Minister may not give a Ministerial direction about the content of a special report.

The special report may contain recommendations about the matter to which it relates, and must be given to the Minister. The Minister may publish the special report in a way the Minister considers appropriate, such as providing it to other government entities, or making it publicly available.

Part 3 Board

Division 1 Establishment, functions and powers

Establishment

Clause 15 establishes the board as the governing body of Health and Wellbeing Queensland.

Functions

Clause 16 provides that the functions of the board are:

- to ensure the proper, efficient and effective performance of Health and Wellbeing Queensland's functions;
- to decide the objectives, strategies and policies to be followed by Health and Wellbeing Queensland;
- to ensure Health and Wellbeing Queensland complies with its obligations under this Act or another law; and
- any other function given to it under the Act or another Act.

Powers

Clause 17 provides that the board has the power to do anything necessary or convenient to perform its functions. This may include making policies to guide the operation of Health and Wellbeing Queensland, such as a policy to manage the sponsorships or partnerships that

Health and Wellbeing Queensland may enter into, including whether the arrangement positively aligns with Health and Wellbeing Queensland's objectives.

The board's power includes giving a written direction to the chief executive officer about the performance of the chief executive officer's responsibilities. Anything done in the name of, or for, Health and Wellbeing Queensland by the board, or with the authority of the board is taken to have been done by Health and Wellbeing Queensland.

Division 2 Membership

Board members

Clause 18 provides that the board consists of up to ten members appointed by the Governor in Council. The board will consist of at least one but no more than four members who are chief executives of government departments. Also, at least one but not more than six other board members will be appointed and must have qualifications or experience in at least one of the following areas:

- law;
- business or financial management;
- public health;
- academia;
- community service organisations;
- the not-for-profit sector; or
- another area the Minister considers relevant or necessary to support the board in performing its functions.

This will ensure that there is flexibility to enable the board to be made up of members who will bring a range of experience and background to the board, such as experience as a consumer representative or advocate.

Clause 18 also requires that least one of the board members must be an Aboriginal person or Torres Strait Islander. This person may be either one of the chief executives or one of the other board members.

Chairperson and deputy chairperson

Clause 19 provides that the Governor in Council may appoint members of the board to be the chairperson and deputy chairperson of the board. These appointments may take place at the same time as the chairperson or deputy chairperson is appointed as a member of the board. A person holds office as chairperson or deputy chairperson for the term, ending not later than the person's term of appointment as a board member, stated in the person's appointment as chairperson or deputy chairperson. The deputy chairperson must act as chairperson during a vacancy in the office of the chairperson, and when the chairperson is absent from duty or cannot perform the duties of the office.

Disqualification as board member

Clause 20 provides the grounds on which a person is disqualified from becoming, or continuing as, a member of the board. These grounds of disqualification apply if the person:

- has a conviction, other than a spent conviction, for an indictable offence;
- is an insolvent under administration;
- is disqualified from managing corporations because of part 2D.6 of the *Corporations Act 2001 (Cwlth)*;
- is the chief executive officer, or another staff member of Health and Wellbeing Queensland;
- is a contractor of Health and Wellbeing Queensland; or
- contravenes clause 31(3).

Term of appointment

Clause 21 provides that a member of the board holds office for the term, not longer than four years, stated in the member's instrument of appointment. A board member may be reappointed.

Conditions of appointment

Clause 22 specifies that a board member is to be paid the remuneration and allowances decided by the Governor in Council. The board member holds office on the terms and conditions decided by the Governor in Council, other than as provided for by the Act.

Vacancy in office

Clause 23 provides that the office of a board member becomes vacant if the member completes their term of office and is not reappointed, resigns from office by giving a signed notice to the Minister, is disqualified from continuing as a board member under clause 20 or is removed from office.

To remove a board member, the Governor in Council will rely on section 25(1)(b) (Powers of appointment imply certain incidental powers) of the *Acts Interpretation Act 1954*, which states that where the Governor in Council is able to appoint a person to an office, they are also empowered to remove or suspend the appointment at any time, or reinstate or reappoint a person who has been removed or suspended.

Acting board member

Clause 24 provides that the Minister may appoint a person to act as a board member if the office of a board member is vacant. The power to appoint acting members to fill a vacancy is given to the Minister to ensure that an appropriate number of board members is appointed to form a quorum and make decisions, while permanent appointments to the board are considered by the Governor in Council. To allow for a recruitment process to take place, the Minister may appoint a person as an acting board member for a period not longer than six months. However, the Minister may extend the appointment for a further six months. A person may only be appointed to act in a vacancy if the person is a chief executive of a department or is a person with a qualification or experience listed in clause 18.

Division 3 Board Meetings

Conduct of business

Clause 25 states that, subject to division 3 of part 3, the board may conduct its business, including its board meetings, in the way it considers appropriate. This may include, for example, setting up committees to advise the board on matters referred to it by the board, or establishing working groups, that include representatives from government agencies, business, community groups or industry organisations.

Board meetings

Clause 26 provides that the chairperson may convene a board meeting. The chairperson must convene a board meeting:

- at least six times each year, and
- if asked in writing by either:
 - the Minister, or
 - at least half of the board members appointed at the time.

Presiding at board meetings

Clause 27 provides that the chairperson must preside at all board meetings at which the chairperson is present. If the chairperson is absent from a board meeting, the deputy chairperson is to preside under clause 19(4). If neither the chairperson nor deputy chairperson are present, the members of the board are to choose a member to preside at the board meeting.

Quorum at board meetings

Clause 28 provides that a quorum for a board meeting is a majority of the board members for the time being. However, if a member present at a board meeting is required under clause 31 not to be present during board deliberations for a particular matter, or not to take part in any board decision for a particular matter, the remaining board members present at the board meeting constitute a quorum for the meeting.

Clause 28(3) provides that the board will not be able to form a quorum if the majority of the members present at a meeting are chief executives. This requirement means that where the chief executive board members outnumber the non-chief executive board members, the board will not be able to make a decision. This ensures that the chief executives on the board are not able to control activities or outcomes of the board without decision-making input from the other board members. Further, where several other board members declare a conflict of interest and elect not to participate, the other members will still be required to outnumber the chief executive board members to enable a decision to be made.

Voting at board meetings

Clause 29 provides that a question at a board meeting is decided by a majority of the votes of the members present at the board meeting who are able to vote on the question. If the votes are equal, the presiding member at the board meeting also has a casting vote.

Minutes

Clause 30 requires the board to keep minutes of its board meetings.

Division 4 Disclosure of interests

Disclosure of interests at board meetings

Clause 31 prescribes requirements for the disclosure of interests at board meetings. These requirements apply if a board member has a material personal interest in a matter being considered, or about to be considered, at a board meeting, and the material personal interest could conflict with the proper performance of the board member's duties in relation to the consideration of the matter.

A board member has a *material personal interest* in the matter being considered, or about to be considered, at a board meeting if any of the following stands to gain a benefit or suffer a loss, either directly or indirectly, because of the outcome of the consideration of the matter:

- the board member;
- the board member's spouse;
- a parent, child or sibling of the board member;
- an employer, other than a government entity, of the board member; or
- an entity, other than a government entity, of which the board member is an office holder.

As soon as practicable after the member becomes aware of the relevant facts, the member must disclose the nature of the material personal interest to the other board members at the meeting. A disclosure made under this provision must be recorded in the minutes of the board meeting. Any failure to disclose the nature of the material personal interest to the other members at the meeting does not, of itself, make the decision of the board invalid. However, clause 20(f) provides that a member is disqualified from continuing as a board member, if the member has contravened clause 31(3).

A board member who discloses an interest may continue to participate in the board meeting only if a majority of the other members at the meeting vote in favour of the member's continued participation. However, the member cannot vote on the matter at the meeting.

Part 4 Staff of Health and Wellbeing Queensland

Division 1 Chief executive officer

Appointment

Clause 32 provides that HWQ must have a chief executive officer. The chief executive officer is appointed by the Governor in Council. The Minister may only recommend a person for appointment with the approval of the board. This will allow the board to select and approve a nominee to be put forward to the Governor in Council while maintaining a level of government oversight of the appointment, including the remuneration and conditions upon which the chief executive officer is appointed.

The chief executive officer is an employee of Health and Wellbeing Queensland. The chief executive officer is appointed under the Act and not the *Public Service Act 2008*.

Chief executive officer's responsibilities

Clause 33 provides that the chief executive officer is responsible for the day-to-day administration of Health and Wellbeing Queensland, including employing staff and engaging contractors. The chief executive officer is accountable to the board and must comply with the written policies and directions of the board when carrying out the chief executive officer's responsibilities.

Disqualification as chief executive officer

Clause 34 provides that a person is disqualified from becoming, or continuing as, the chief executive officer if the person:

- has a conviction, other than a spent conviction, for an indictable offence;
- is an insolvent under administration;
- is disqualified from managing corporations because of part 2D.6 of the *Corporations Act 2001 (Cwlth)*;
- is a board member;
- is a contractor of Health and Wellbeing Queensland; or
- contravenes clause 39.

The chief executive officer could also be removed from office by the Governor in Council under section 25 of the *Acts Interpretation Act 1954*, which provides that as the Act authorises the Governor in Council to appoint the chief executive officer, the power to appoint also includes the power to remove or suspend the chief executive officer at any time. If the chief executive officer is removed under the *Acts Interpretation Act 1954*, the office of the chief executive officer becomes vacant.

Term of appointment

Clause 35 provides that the chief executive officer holds office for the term, not longer than four years, stated in the officer's instrument of appointment. A person appointed as the chief executive officer may be reappointed.

Conditions of appointment

Clause 36 specifies the chief executive officer is to be paid the remuneration and allowances decided by the Governor in Council. The chief executive officer holds office on the terms and conditions, other than for matters provided for under the Act or stated in their instrument of appointment, decided by the Governor in Council.

Vacancy in office

Clause 37 provides that the office of the chief executive officer becomes vacant if the chief executive officer completes a term of office and is not reappointed, resigns from office by giving a signed notice to the board, is removed from office or becomes disqualified under clause 34. The Governor in Council may remove a board member from office as the *Acts Interpretation Act 1954*, section 25, provides that the power to appoint a person to an office

includes the power to remove the person from the office. Clause 37(2) states that if the chief executive officer resigns by signed notice to the board, the board must immediately notify the Minister of the resignation.

Acting chief executive officer

Clause 38 provides that the Minister may appoint a person to act as the chief executive officer if the office is vacant, or the chief executive officer is absent or otherwise unable to perform their functions. The power to fill a vacancy with an acting appointment is given to the Minister to ensure that there is a chief executive officer to commence or continue the day-to-day operations of Health and Wellbeing Queensland, while a permanent appointment as the chief executive officer is considered by the Governor in Council. The Minister may appoint a person for a period not longer than six months. The Minister may extend the appointment for a further period not longer than six months. The Minister must obtain approval from the board of the person to be appointed as the acting chief executive officer.

Conflicts of interest

Clause 39 states that, if the chief executive officer has an interest that conflicts or may conflict with the discharge of their responsibilities, the chief executive officer must disclose the nature of the interest and conflict to the board as soon as practicable after becoming aware of the relevant facts. The chief executive officer must not take action, or further action, on a matter that is, or may be, affected by the conflict unless authorised to do so by the board. Failure to comply with this requirement will disqualify the chief executive officer from continuing as the chief executive officer (see clause 34).

Division 2 Other staff

Health and Wellbeing Queensland staff

Clause 40 provides that Health and Wellbeing Queensland may employ other staff that it considers appropriate to perform its functions. The other staff employed by Health and Wellbeing Queensland will be appointed under the *Public Service Act 2008*.

Division 3 Preservation of rights

Preservation of rights of particular employees

Clause 41 provides for the preservation of employment rights of:

- a person appointed as the chief executive officer who was a public service employee or health service employee immediately before taking up the appointment, and
- a person appointed as another employee of Health and Wellbeing Queensland who was a health service employee immediately before taking up the appointment.

The person is entitled to retain all accrued and accruing rights as if service as an employee of Health and Wellbeing Queensland were a continuation of the person's service as a public service employee or health service employee. The person also keeps all the person's rights relating to superannuation, including eligibility for membership in a particular superannuation category, if the person was a member of the State Public Sector Superannuation Scheme, under section 32P of the *Superannuation (State Public Sector) Act 1990*.

Preservation of rights of employees appointed as public service employee or health service employee

Clause 42 provides for preservation of employment rights of a person who, immediately before being appointed as a public service employee, was the chief executive officer of Health and Wellbeing Queensland. It also preserves the employment rights of a person appointed as a health service employee who was a Health and Wellbeing Queensland employee immediately before taking up the appointment. The clause provides that the person's service as a Health and Wellbeing Queensland employee must be regarded as service as a public service employee or health service employee.

Part 5 Annual report

Annual report to include particular matters

Clause 43 provides that Health and Wellbeing Queensland's annual report, required under the *Financial Accountability Act 2009*, must also include details of functions performed by Health and Wellbeing Queensland during the financial year, and how efficiently and effectively these were performed. The annual report must also include details of each direction given by the Minister during the financial year and any action taken by Health and Wellbeing Queensland in response.

Providing this additional information in the annual report will provide greater transparency in relation to the activities of Health and Wellbeing Queensland in ensuring that its activities align with and complement those being delivered by other government entities.

Part 6 Administration

Division 1 Criminal history information

Criminal history report

Clause 44 enables the Minister to ask the Commissioner of the Queensland Police Service (the Police Commissioner) for a written criminal history report that includes a brief description of the circumstances of a conviction mentioned in the criminal history. The Minister may request the criminal history information to assist the Minister or the board to decide whether a person is disqualified from becoming or continuing as a board member under clause 20 or the chief executive officer under clause 34.

The Minister may only make the request if the person has given the Minister written consent for the request. The power to request a criminal history check is given to the Minister, and not the chief executive of the administering department, as there is a possibility that the same chief executive may also be a member of the board.

The Police Commissioner must comply with the request. However, the duty to comply only applies to information in the Police Commissioner's possession or to which the Police Commissioner has access.

Changes in criminal history must be disclosed

Clause 45 provides that if a board member or the chief executive officer is charged with, or convicted of, an indictable offence during the term of their appointment, the person must immediately give notice of the charge or conviction to the Minister, unless the person has a reasonable excuse. The notice must include information about the existence of the charge or conviction, details adequate to identify the alleged or proven offence, when the offence was allegedly committed, and the sentence imposed on the person. The maximum penalty for contravening this provision is 100 penalty units.

Confidentiality of criminal history information

Clause 46 applies to a person who possesses criminal history information because the person is or was the Minister, a member of the Minister's staff, an officer, employee or contractor of the department or Health and Wellbeing Queensland, or a member of the board.

A person must not, whether directly or indirectly, use or disclose the criminal history information to another person unless the use or disclosure is expressly permitted. Use or disclosure is expressly permitted:

- to the extent necessary to perform the person's functions under the Act;
- if the use or disclosure is authorised under an Act or otherwise required or permitted by law;
- if the person to whom the information relates consents to the use or disclosure;
- if the use or disclosure is in a form that does not identify the person to whom the information relates; or
- if the information is, or has been, lawfully accessible to the public.

A maximum penalty of 100 penalty units applies for using or disclosing criminal history information in contravention of this provision.

The provision also places a requirement on the Minister to ensure that the report given to the Minister under clause 44 is destroyed as soon as practicable after it is no longer needed for the purpose for which it was given. As such, once the Minister has received and considered whether a person is suitable to continue as a board member, the Minister must destroy the report as soon as possible.

For the purposes of this clause, the term *criminal history information* is defined to mean a report given to the Minister under clause 44 or a notice given to the Minister under clause 45. This ensures that the requirement to keep criminal history information confidential and not use or disclose it unless expressly permitted applies to both a criminal history report and a notice about changes in criminal history given by a board member or the chief executive officer to the Minister.

Division 2 Other matters

Use of confidential information

Clause 47 applies to a person who is, or has been, a board member, the chief executive officer, or a Health and Wellbeing Queensland staff member or contractor and has obtained confidential information in administering, or performing a function, under the Act.

The person must not directly or indirectly disclose the confidential information unless the disclosure is:

- in the performance of a function under the Act;
- with the consent of the person to whom the information relates; or
- authorised under an Act or otherwise required or permitted by law.

Confidential information is defined in the dictionary in schedule 1 to mean any information that:

- could identify an individual or is about their personal affairs;
- is about a person's reputation, current financial position or financial background; or
- would be likely to damage the commercial activities of a person to whom the information relates.

It does not include, however, publicly available information or statistical or other information that could not reasonably be expected to result in the identification of the individual to whom it relates. A maximum penalty of 100 penalty units applies for a contravention of this provision.

Offences against this Act

Clause 48 provides that a proceeding for an offence against the Act is to be heard and decided summarily. A proceeding for the offence must start within whichever is longer of the following:

- one year after the commission of the offence, or
- six months after the complainant becomes aware of the offence, but within two years after the commission of the offence.

Protecting prescribed persons from liability

Clause 49 provides for protection against civil liability for the Minister and a board member (a *prescribed person*). A prescribed person is not civilly liable for an act done, or omission made, honestly and without negligence under the Act. If this provision prevents civil liability attaching to a prescribed person, the liability attaches to the State.

Protection from civil liability does not apply under this clause to a prescribed person if the person is a *State employee* under section 26B(4) of the *Public Service Act 2008*. This is because a State employee acting in their official capacity is protected from civil liability under part 3, division 3 of chapter 1 of the Public Service Act. The chief executive officer and Health and Wellbeing Queensland staff will be protected from civil liability under the Public Service Act when acting in their official capacity. As appointments of chief executives

to the board will relate to the office of the chief executive and not the individual, board members who are chief executives will be also be protected from civil liability under the Public Service Act.

Delegations

Clause 50 outlines the delegations that may be made under the Act.

Health and Wellbeing Queensland may delegate its functions under the Act to a board member or the chief executive officer, other than its function of deciding to give a grant mentioned in clause 11.

The board may also delegate its functions under the Act to a board member or the chief executive officer.

The chief executive officer may delegate any of their responsibilities to an appropriately qualified member of Health and Wellbeing Queensland's staff.

If a function is delegated to a board member by Health and Wellbeing Queensland or the board, the member may subdelegate that function to the chief executive officer or an appropriately qualified member of Health and Wellbeing Queensland's staff.

If a function is delegated to the chief executive officer by Health and Wellbeing Queensland or the board, the chief executive officer may subdelegate the function to an appropriately qualified member of Health and Wellbeing Queensland's staff.

Regulation-making power

Clause 51 provides a general head of power for making regulations under the Act.

Part 7 Amendment of Acts

Division 1 Amendment of this Act

Act amended

Clause 52 provides that division 1 of part 7 amends the Act.

Amendment of long title

Clause 53 amends the long title of the Act to omit a reference to amendment of the *Public Service Act 2008* by the Act. This will ensure the Act as in force from time to time only deals with the establishment, constitution and powers of Health and Wellbeing Queensland, and does not include the consequential amendments made to the *Hospital Foundations Act 2018* and the *Public Service Act 2008*.

Division 2 Amendment of Hospital Foundations Act 2018

Act amended

Clause 54 provides that division 2 of part 7 amends the *Hospital Foundations Act 2018*.

Clause 55 amends section 7 (Objects for which foundation may hold and manage property) by inserting a new subsection (f) that provides that a foundation may hold and manage property to support or promote the objectives of preventing illness and improving the health and wellbeing of the Queensland population.

Clause 56 amends section 9 (Requirements for application) to insert Health and Wellbeing Queensland as an entity with which a proposed foundation may be associated, when a person is making an application to the Minister for approval to establish a foundation.

Clause 57 amends section 19 (Alternative staffing arrangements) to replace the term *health service chief executive* with *chief executive officer*. This will permit a foundation that is associated with Health and Wellbeing Queensland to arrange with the chief executive officer of Health and Wellbeing Queensland for services of Health and Wellbeing Queensland employees to be made available to the foundation. A definition of chief executive officer is inserted in the dictionary in Schedule 1 that includes the health service chief executive of a Hospital and Health Board, or the chief executive officer of Health and Wellbeing Queensland (see clause 60). This is a consequential amendment to ensure that the amendment to section 19 will not affect existing staffing arrangements or powers to make future staffing arrangements.

Clause 58 amends section 20 (Use of Hospital and Health Service premises) to replace the term *health service chief executive* with *chief executive officer*. This will permit a foundation that is associated with Health and Wellbeing Queensland to arrange with the chief executive officer of Health and Wellbeing Queensland to use premises and equipment of Health and Wellbeing Queensland. Foundations associated with a Hospital and Health Service will continue to be able to make these arrangements with their associated Hospital and Health Service.

Clause 59 amends section 30 (Membership) so that the term *relevant board* includes the board of Health and Wellbeing Queensland as well as the Hospital and Health Board of a Hospital and Health Service.

Clause 60 amends the definition of *associated Hospital and Health Service* in the dictionary in Schedule 1 to include Health and Wellbeing Queensland as an associated Hospital and Health Service for a foundation that is to perform its function in association with Health and Wellbeing Queensland. Clause 60 also amends the dictionary in Schedule 1 to insert a definition of *chief executive officer* of a foundation's associated Hospital and Health Service to mean the chief executive officer of Health and Wellbeing Queensland, or the health service chief executive of a Hospital and Health Service. A definition of *Health and Wellbeing Queensland* as meaning Health and Wellbeing Queensland under the Health and Wellbeing Queensland Act 2019 is also inserted.

Division 3 Amendment of Public Service Act 2008

Act amended

Clause 61 provides that division 3 of part 7 amends the *Public Service Act 2008*.

Amendment of sch 1 (Public service offices and their heads)

Clause 62 amends schedule 1 of the *Public Service Act 2008* to prescribe Health and Wellbeing Queensland as a public service office, and the chief executive officer as its head. This has the effect of applying the *Public Service Act 2008*, and other Acts such as the *Public Sector Ethics Act 1994*, to Health and Wellbeing Queensland as if it were a department and the chief executive officer was the chief executive.

Schedule 1 Dictionary

Schedule 1 contains definitions for terms used in the Bill.