

Public Health and Other Legislation (Further Extension of Expiring Provisions) Amendment Bill 2021

Amendments during consideration in detail to be moved by
The Honourable the Minister for Health and Ambulance Services

1 After clause 22

Page 11, after line 5—

insert—

Part 9A Amendment of Holidays Act 1983

22A Act amended

This part amends the *Holidays Act 1983*.

22B Insertion of new s 14

After section 13—

insert—

14 Particular public holiday in 2021

- (1) A public holiday is to be observed on 29 October 2021 in a participating district.
- (2) The Minister may, by notice published on the department's website, substitute another day for the public holiday under subsection (1) for a participating district if the Minister considers it is necessary or desirable to do so having regard to the COVID-19 emergency.
- (3) The notice is a statutory instrument.
- (4) The Minister must, within 14 sitting days after the day the notice is published, table a copy of the notice in the Legislative Assembly.
- (5) To remove any doubt, it is declared that a reference in an industrial instrument under

the *Industrial Relations Act 2016* to a public holiday is taken, in a participating district, to include—

- (a) 29 October 2021; or
 - (b) if the Minister substitutes another day for the public holiday under subsection (1) for the participating district—the substituted day.
- (6) In this section—

COVID-19 emergency see the *COVID-19 Emergency Response Act 2020*, schedule 1.

participating district means—

- (a) the area of Brisbane under the *City of Brisbane Act 2010*; or
- (b) the Moreton Bay local government area; or
- (c) the Scenic Rim local government area.

2 After clause 22

Page 11, after line 5—

insert—

Part 9B Amendment of Hospital and Health Boards Act 2011

22C Act amended

This part amends the *Hospital and Health Boards Act 2011*.

22D Amendment of pt 3, hdg (Functions of chief executive, chief health officer and deputy chief health officer)

Part 3, heading, ‘deputy chief health officer’—

omit, insert—

deputy chief health officers

22E Amendment of pt 3, div 3, hdg (Chief health officer and deputy chief health officer)

Part 3, division 3, heading, ‘deputy chief health officer’—

omit, insert—

deputy chief health officers

22F Amendment of s 53AA (Deputy chief health officer)

- (1) Section 53AA, heading, ‘officer’—

omit, insert—

officers

- (2) Section 53AA(1), ‘a deputy chief health officer’—

omit, insert—

1 or more deputy chief health officers

- (3) Section 53AA(2) and (3), ‘The’—

omit, insert—

A

22G Amendment of s 53AB (Functions of deputy chief health officer)

- (1) Section 53AB, heading, ‘officer’—

omit, insert—

officers

(2) Section 53AB, ‘functions of the’—

omit, insert—

functions of a

22H Amendment of s 53AC (Delegation by chief health officer)

Section 53AC, ‘the deputy’—

omit, insert—

a deputy

22I Amendment of s 139A (Meaning of *designated person*)

Section 139A(1)(ca), ‘the’—

omit, insert—

a

22J Amendment of s 266 (Appointments and authority)

Section 266(ba) and (g)(iia), ‘the’—

omit, insert—

a

22K Amendment of s 267 (Signatures)

Section 267(ca), ‘the’—

omit, insert—

a

22L Amendment of sch 2 (Dictionary)

Schedule 2, definition *deputy chief health officer*,

‘the’—

omit, insert—

a

3 After clause 22

Page 11, after line 5—

insert—

**Part 9C Amendment of
Industrial Relations Act
2016**

22M Act amended

This part amends the *Industrial Relations Act 2016*.

22N Amendment of sch 5 (Dictionary)

Schedule 5, definition *public holiday*, paragraph (a), last dot point, ‘13’—

omit, insert—

14

4 After part 12, division 2, heading

Page 13, after line 7—

insert—

30A Replacement of s 362A (Purpose of part)

Section 362A—

omit, insert—

362A Purposes of part

The purposes of this part are—

- (a) to confer additional powers for the COVID-19 emergency on—
 - (i) the chief health officer; and
 - (ii) emergency officers; and
- (b) to protect the confidentiality of particular personal information collected in relation to the COVID-19 emergency.

5 After part 12, division 2, heading

Page 13, after line 7—

insert—

30B Amendment of s 362FA (Delegation)

Section 362FA(1)(a), ‘the’—

omit, insert—

a

6 After clause 31

Page 13, after line 27—

insert—

31A Insertion of new ch 8, pt 7A, div 6

Chapter 8, part 7A—

insert—

**Division 6 Protection of personal
information**

362MAA Application of division

This division applies if personal information is collected—

- (a) by using a COVID-19 application in accordance with a requirement under this Act; or
- (b) other than by using a COVID-19 application, if—
 - (i) under this Act, a person is required to collect, or make all reasonable efforts to collect, the personal information by using the COVID-19 application; and
 - (ii) it is not possible for the person to collect the personal information by using the COVID-19 application.

Example of a requirement under this Act—

a requirement under a public health direction or a direction given under division 3

362MAB Definitions for division

In this division—

consent means consent that is informed and in writing.

contact tracing means the process under this Act for preventing or minimising the transmission of COVID-19 by identifying, communicating with, assessing, managing or giving directions to—

- (a) persons who have, or may have, contracted COVID-19; or
- (b) persons who have, or may have, been exposed to COVID-19 by persons mentioned in paragraph (a); or
- (c) a provider, within the meaning of section 108A, in relation to a person mentioned in paragraph (a) or (b).

COVID-19 application see section 362MAC.

disclose includes give access to.

information holder means a person who collects personal information in circumstances mentioned in section 362MAA(b).

parent, of a child, includes a person having or exercising parental responsibility for the child.

personal information means information from which an individual's identity is apparent or can reasonably be ascertained, and includes information about the individual's health.

Examples of personal information—

an individual's name or contact details or information about an individual's presence at a place

relevant information means personal information in relation to which this division applies.

relevant person means—

- (a) any of the following persons who perform, or have performed, functions under or relating to the administration of this Act—
 - (i) an authorised person;
 - (ii) a contact tracing officer;
 - (iii) an emergency officer;
 - (iv) a health service employee;
 - (v) a public service employee; or
- (b) a person who is or has been involved in the administration, management or

monitoring of a COVID-19
application; or

(c) an information holder.

relevant provision means each of the
following provisions—

- (a) chapter 3, part 3;
- (b) section 346;
- (c) this part;
- (d) sections 363 and 364.

362MAC Meaning of *COVID-19 application*

- (1) The application used for the purpose of contact tracing, known as the Check In Qld app, is a ***COVID-19 application***.
- (2) Also, a regulation may prescribe another application to be a ***COVID-19 application*** if the application is developed or used for—
 - (a) the purpose of contact tracing; or
 - (b) another purpose relating to the COVID-19 emergency that is prescribed by regulation for the application.
- (3) In this section—

application means an application or other program used on a device to display or store information electronically.

362MAD Relationship of division with other provisions

- (1) This division applies despite chapter 3, part 3, division 3.
- (2) Also, if a provision of this division is inconsistent with another provision of this

Act or another law, the provision of this division prevails to the extent of the inconsistency.

362MAE Extraterritorial application of division

It is the intention of the Parliament that this division have effect outside Queensland and in relation to persons outside Queensland.

362MAF Confidentiality of relevant information

- (1) This section applies to a relevant person who, in that capacity, has acquired or has access to relevant information.
- (2) The relevant person must not disclose the relevant information to anyone else, or use the relevant information, other than under this division.

Maximum penalty—100 penalty units.

- (3) Subsection (4) applies if the relevant person is an information holder.
- (4) The relevant person must take all reasonable steps to ensure a person who works at a business, activity or undertaking owned, controlled or operated by the relevant person does not disclose the relevant information to anyone else, or use the relevant information, unless the relevant information is disclosed—
 - (a) at the request of the relevant person; and
 - (b) for a purpose for which the relevant person may disclose the relevant information under section 362MAH(2)(a) or (b).

Maximum penalty—100 penalty units.

**362MAC Disclosure or use by relevant
persons other than information holders**

- (1) This section applies to a relevant person, other than an information holder, who has acquired or has access to relevant information in that capacity.
- (2) The relevant person may disclose or use the relevant information—
 - (a) to the extent the disclosure or use is for—
 - (i) contact tracing or a purpose related to contact tracing, including, for example, ensuring the integrity or security of the relevant information; or
 - (ii) if the relevant information is collected by using a COVID-19 application prescribed under section 362MAC(2) and a purpose is prescribed for the application under section 362MAC(2)(b)—the prescribed purpose; or
 - (iii) ensuring a person's compliance with obligations under a relevant provision; or
 - (iv) investigating or prosecuting an offence against a relevant provision; or
 - (v) deriving statistical or summary information; or
 - (b) with the consent of—
 - (i) the individual to whom the relevant information relates; or

- (ii) if the individual is unable to consent—a parent or legal guardian of the individual.
- (3) In this section—

statistical or summary information means statistical or summary information from which an individual's identity is not apparent or can not reasonably be ascertained.

362MAH Disclosure by information holders

- (1) This section applies to a relevant person who—
 - (a) is an information holder; and
 - (b) in that capacity, has acquired or has access to relevant information.
- (2) The relevant person may disclose the relevant information—
 - (a) to a relevant person mentioned in section 362MAB, definition *relevant person*, paragraph (a), to the extent the disclosure is for—
 - (i) contact tracing or a purpose related to contact tracing, including, for example, ensuring the integrity or security of the relevant information; or
 - (ii) ensuring a person's compliance with obligations under a relevant provision; or
 - (iii) investigating or prosecuting an offence against a relevant provision; or
 - (b) with the consent of—

- (i) the individual to whom the relevant information relates; or
- (ii) if the individual is unable to consent—a parent or legal guardian of the individual.

362MAI Limits on use of relevant information and derived evidence

- (1) Relevant information or derived evidence—
 - (a) can not be accessed under any order, whether of a judicial or administrative nature, other than an order for the purpose of a relevant provision; and
 - (b) is not admissible in any proceeding, other than a proceeding under a relevant provision.
- (2) A person can not be compelled to produce relevant information or derived evidence, or give evidence relating to relevant information or derived evidence—
 - (a) in any proceeding, other than a proceeding under a relevant provision; or
 - (b) in compliance with a requirement under an Act or legal process, other than a requirement relating to a proceeding under a relevant provision.
- (3) Subsections (1) and (2) do not apply if the information or evidence is accessed, admitted, produced or given with the consent of—
 - (a) the individual to whom the relevant information relates; or

(b) if the individual is unable to consent—a parent or legal guardian of the individual.

(4) In this section—

derived evidence means any information, or document or other thing, obtained as a direct or indirect result of relevant information.

order includes—

(a) a direction; and

(b) a decision on an application under an Act for access to information or a document; and

Example of an application for paragraph (b)—

an application under the *Information Privacy Act 2009* or the *Right to Information Act 2009*

(c) another process.

7 After clause 33

Page 14, after line 8—

insert—

33A Amendment of s 456 (Protecting prescribed persons from liability)

Section 456(3)(b), note, after ‘, chief health officer,’—

insert—

a

8 Clause 34 (Insertion of new ch 12, pt 8)

Page 14, line 19, ‘Provision’—

omit, insert—

Provisions

9 Clause 34 (Insertion of new ch 12, pt 8)

Page 15, after line 17—

insert—

507A Application of ch 8, pt 7A, div 6

Chapter 8, part 7A, division 6 applies in relation to relevant information whether the information is collected before or after the commencement.

Division 1A Provisions applying on omission of chapter 8, part 7A

507B Application of division

- (1) This division applies on the omission of chapter 8, part 7A.
- (2) This division does not limit the *Acts Interpretation Act 1954*, section 20.

507C Interpretation

- (1) In this division—
former, for a provision of this Act, means the provision as in force from time to time before the omission.
- (2) A reference in a provision of this division to the omission generally is a reference to the omission of chapter 8, part 7A.
- (3) Words defined under former chapter 8, part 7A and used in this division have the same meaning as they had under the former part.

507D Continuation of confidentiality requirements

- (1) This section applies in relation to a relevant

person who, in that capacity, has acquired or has access to relevant information collected before the omission, whether the relevant person acquires or has access to the relevant information before or after the omission.

- (2) Despite the omission, former chapter 8, part 7A, division 6 continues to apply in relation to the relevant person.
- (3) To remove any doubt, it is declared that a proceeding for an offence against former section 362MAF may, after the omission, be started or continued under that section as if the section had not been omitted.

507E Continuation of limits on use of relevant information and derived evidence

Despite the omission, former section 362MAI continues to apply in relation to—

- (a) relevant information collected before the omission; and
- (b) derived evidence, if the evidence was obtained as a direct or indirect result of relevant information mentioned in paragraph (a); and
- (c) evidence relating to relevant information mentioned in paragraph (a) or derived evidence mentioned in paragraph (b).

10 After clause 54

Page 35, after line 1—

insert—

Part 15

Amendment of Right to Information Act 2009

55 Act amended

This part amends the *Right to Information Act 2009*.

56 Amendment of sch 3 (Exempt information)

Schedule 3, section 12(1)—

insert—

- *Public Health Act 2005*, chapter 8, part 7A, division 6 and chapter 12, part 8, division 1A

11 After clause 54

Page 35, after line 1—

insert—

**Part 16 Amendment of
Transport Operations
(Passenger Transport)
Act 1994**

57 Act amended

This part amends the *Transport Operations (Passenger Transport) Act 1994*.

58 Amendment of sch 3 (Dictionary)

Schedule 3, definition *relevant offence*, paragraph (b)(ii), from ‘the commencement’—

omit, insert—

9 March 2020.

12 After clause 54

Page 35, after line 1—

insert—

Part 17 Repeal

59 Repeal

The Personalised Transport Ombudsman Act 2019, No. 24 is repealed.

13 Long title

Long title, after ‘*Health Legislation (COVID-19 Emergency Response) Regulation 2020*,’—

insert—

the Holidays Act 1983, the Hospital and Health Boards Act 2011, the Industrial Relations Act 2016,

14 Long title

Long title, ‘and the *Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020*’—

omit, insert—

, the Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020, the Right to Information Act 2009 and the Transport Operations (Passenger Transport) Act 1994

15 Long title

Long title, after ‘purposes’—

insert—

, and to repeal the Personalised Transport

Ombudsman Act 2019

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