

*I hereby certify that this PUBLIC BILL has finally passed the
Legislative Assembly of Queensland.*

*Legislative Assembly Chamber,
Brisbane,*

The Clerk of the Parliament.

19 December 2025

In the name and on behalf of the King, I assent to this Bill.

Government House,

Brisbane, 19 December

2025.



Queensland

No. 29 of 2025

A BILL for

An Act to amend the Assisted Reproductive Technology Act 2024, the Health and Wellbeing Queensland Act 2019, the Health Legislation Amendment Act 2025, the Hospital and Health Boards Act 2011, the Hospital Foundations Act 2018, the Pharmacy Business Ownership Act 2024, the Private Health Facilities Act 1999, the Public Health Act 2005 and the Transplantation and Anatomy Act 1979 for particular purposes



Queensland

Health Legislation Amendment Bill (No. 3) 2025

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2025

A Bill

for

An Act to amend the *Assisted Reproductive Technology Act 2024*, the *Health and Wellbeing Queensland Act 2019*, the *Health Legislation Amendment Act 2025*, the *Hospital and Health Boards Act 2011*, the *Hospital Foundations Act 2018*, the *Pharmacy Business Ownership Act 2024*, the *Private Health Facilities Act 1999*, the *Public Health Act 2005* and the *Transplantation and Anatomy Act 1979* for particular purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Health Legislation Amendment Act (No. 3) 2025*.

2 Commencement

- (1) The following sections commence immediately after the commencement of the *Assisted Reproductive Technology Act 2024*, section 12—
 - (a) sections 4 to 14;
 - (b) sections 21 to 25;
 - (c) sections 28 to 32;
 - (d) sections 34 to 45;
 - (e) section 46(1) and (2).
- (2) Sections 15(2) and 16 to 20 commence immediately after the commencement of the *Assisted Reproductive Technology Act 2024*, section 42.
- (3) Sections 77 and 78 commence on a day to be fixed by proclamation.

Part 2 **Amendment of Assisted Reproductive Technology Act 2024**

3 Act amended

This part amends the *Assisted Reproductive Technology Act 2024*.

4 Amendment of s 15 (Counselling services for persons provided with ART services)

- (1) Section 15(2)(a), ‘and to any spouse of that person’—
omit.
- (2) Section 15(2), after paragraph (a)—
insert—
 - (aa) to a spouse of the person, other than a spouse from whom the person is separated and is living separately and apart; and
- (3) Section 15(2)(aa) and (b)—
renumber as section 15(2)(b) and (c).
- (4) Section 15(3)—
omit, insert—
 - (3) An ART provider must make counselling services available under this section to—
 - (a) a person who proposes to undergo an ART procedure that does not use donated gametes or a donated embryo; and
 - (b) a spouse of the person, other than a spouse from whom the person is separated and is living separately and apart.

Maximum penalty—25 penalty units.

[s 5]

5 Insertion of new s 16A

After section 16—

insert—

16A Consent required for obtaining, or attempting to obtain, gamete

- (1) The consent of a gamete provider is required for obtaining, or attempting to obtain, a gamete from the gamete provider for use in an ART procedure or for storage for use in an ART procedure.
- (2) The consent of a gamete provider is not required for anything authorised under division 5.
- (3) The consent of a child includes the consent of a parent of the child or a person with parental responsibility for the child.
- (4) A reference in this section to a gamete provider includes, in relation to an attempt to obtain a gamete, a reference to the individual who would have been the gamete provider had the attempt been successful.

6 Amendment of s 18 (Consent of gamete provider in case of donated gametes or donated embryos)

- (1) Section 18(2)(b), from ‘for which’—

omit, insert—

during which the donated gametes or donated embryos may be used in an ART procedure; and

- (2) Section 18—

insert—

- (3A) Subsection (1) does not apply to the extent a donated gamete or donated embryo is used in an ART procedure under an approval of the chief executive given, for the purpose of section 25(2) or 27(1), under section 39B.

- (3) Section 18(3A) and (4)—
renumber as section 18(4) and (5).

7 Amendment of s 25 (Limit on number of donor-related Australian families)

- (1) Section 25—
insert—
- (1A) Subsection (1) does not apply if the ART provider has the approval of the chief executive given, for the purpose of this subsection, under section 39B to use the donated gamete or donated embryo in the ART procedure.
- (2) Section 25(1A) to (6)—
renumber as section 25(2) to (7).

8 Amendment of s 27 (Time limit on use of donated gametes or embryos and their disposal)

- (1) Section 27(1), ‘written approval of the chief executive’—
omit, insert—
- approval of the chief executive given, for the purpose of this subsection, under section 39B
- (2) Section 27(2) and (3)—
omit, insert—
- (2) The ART provider must dispose of the donated gamete or donated embryo, within the period mentioned in subsection (3), if—
- (a) the chief executive has decided under section 39B(2) to refuse to approve the use of the donated gamete or donated embryo in the ART procedure (the *refusal decision*); and
- (b) either—

[s 9]

- (i) the period for applying for internal review of the refusal decision under section 122 has ended and no application for internal review has been made; or
- (ii) an application for internal review of the refusal decision has been made under section 122 and the chief executive has decided under section 123 to confirm the refusal decision.

Maximum penalty—100 penalty units.

- (3) For subsection (2), the period within which the ART provider must dispose of the donated gamete or donated embryo is as soon as practicable after the end of the period of 90 days starting on—
 - (a) if subsection (2)(b)(i) applies—the day the ART provider is given an information notice for the refusal decision under section 39B(3); or
 - (b) if subsection (2)(b)(ii) applies—the day the ART provider is given a notice under section 123(1)(c)(i) of the chief executive’s decision on the internal review of the refusal decision.

9 Amendment of s 33 (Information to be collected about gamete providers)

- (1) Section 33(1)(a)(ii), from ‘residential’ to ‘email address’—
omit, insert—
contact information
- (2) Section 33(3)—
omit.
- (3) Section 33(5), from ‘unless’ to ‘under’—
omit, insert—

for an ART procedure unless the provider has collected the information mentioned in

(4) Section 33—

insert—

- (6) Subsection (4) does not apply if the ART provider has the approval of the chief executive given under section 39C to use the gamete or embryo for the ART procedure.
- (7) This section is not limited by, and does not limit, section 34.

Note—

See section 149 for the application of this section in relation to gametes obtained before 19 September 2024.

(5) Section 33(4) to (7)—

renumber as section 33(3) to (6).

10 **Amendment of s 34 (Transfer between ART providers of information about gametes or embryos)**

(1) Section 34(2)(a) and (b), ‘consents and other information’—

omit, insert—

information mentioned in subsection (3)

(2) Section 34—

insert—

- (3) For subsection (2)(a) and (b), the information is—
 - (a) the information mentioned in section 33(1) in relation to the gametes or gametes used to create the embryos; and
 - (b) any other consents or information in relation to the gametes or embryos.

[s 11]

11 Amendment of s 35 (Information to be collected about persons who undergo ART procedures)

- (1) Section 35(1)(b), from ‘residential address’ to ‘email address’—

omit, insert—

contact information

- (2) Section 35(1)(d), from ‘any’—

omit, insert—

a spouse of the person at the time of the procedure, other than a spouse from whom, at that time, the person is separated and is living separately and apart.

12 Amendment of s 36 (Keeping of records)

- (1) Section 36—

insert—

- (2A) An ART provider must keep a record of—

- (a) each consent of a person under section 16A for attempting to obtain a gamete from the person; and
- (b) a notice given to the ART provider by a gamete provider under section 20(2) modifying or withdrawing a consent of the gamete provider under division 3.

- (2) Section 36(3)—

insert—

- (c) each consent of a person under division 3 undergoing the ART procedures mentioned in that division.

- (3) Section 36(4)(b), from ‘name’ to ‘email address’—

omit, insert—

name and contact information

(4) Section 36—

insert—

(7) A reference in this section to an ART provider includes a reference to a person who was an ART provider.

(5) Section 36(2A) to (7)—

renumber as section 36(3) to (8).

13 Amendment of s 37 (Destruction of records prohibited)

(1) Section 37(2), from ‘that’ to ‘authorises’—

omit, insert—

for which the chief executive gives approval

(2) Section 37(3), ‘authorise’—

omit, insert—

give approval for

(3) Section 37—

insert—

(4) If the chief executive decides to refuse to approve an application for approval to destroy a record under subsection (3), the chief executive must, as soon as practicable after the decision is made, give the applicant an information notice for the decision.

(5) A reference in this section to an ART provider includes a reference to a person who was an ART provider.

14 Insertion of new pt 2, div 8

Part 2—

[s 14]

insert—

Division 8 Chief executive's approval to use particular gametes or embryos

39A Purpose of division

The purpose of this division is to enable the chief executive to give an ART provider approval to use a gamete or embryo in an ART procedure even though—

- (a) for a donated gamete or donated embryo—
 - (i) the use of the donated gamete or donated embryo would result in more than 10 donor-related Australian families; or
 - (ii) the donated gamete, or a gamete used to create the donated embryo, was obtained from the gamete provider more than 15 years before the ART procedure; or
- (b) for any gamete or embryo—the ART provider has not collected the information mentioned in section 33(1) in relation to the gamete or a gamete used to create the embryo.

39B Chief executive may approve use of particular donated gamete or donated embryo—ss 25 and 27

- (1) This section applies for the purposes of section 25(2) or 27(1).
- (2) The chief executive may, on application by an ART provider, approve the use of a donated gamete or donated embryo in an ART procedure

if the chief executive is satisfied—

(a) either—

- (i) the gamete provider, or the gamete provider from whom a gamete used to create the embryo was obtained, has consented to the making of the application by the ART provider; or
- (ii) the ART provider has been unable to contact the gamete provider mentioned in subparagraph (i) despite taking reasonable steps to do so; and

(b) there are reasonable grounds for using the donated gamete or donated embryo in the ART procedure, having regard to—

- (i) the terms of the consent given by the gamete provider for the use of the gamete, to the extent the consent relates to the provision mentioned in subsection (1) that is the subject of the application; and
- (ii) whether, in the circumstances, the consequences of giving, or refusing to give, the approval would be unfairly harsh for any person.

(3) If the chief executive decides to refuse to approve an application under subsection (2), the chief executive must, as soon as practicable after the decision is made, give the applicant an information notice for the decision.

39C Chief executive may approve use of other particular gamete or embryo—s 33

- (1) This section applies for the purposes of section 33(5).
- (2) The chief executive may, on application by an

[s 15]

ART provider, approve the use of a gamete or embryo in an ART procedure if the chief executive is satisfied—

- (a) the ART provider has taken reasonable steps to collect the information mentioned in section 33(1) in relation to the gamete or a gamete used to create the embryo; and
- (b) there are reasonable grounds for using the gamete or embryo, having regard to—
 - (i) the information the ART provider has collected; and
 - (ii) whether, in the circumstances, the consequences of giving, or refusing to give, the approval would be unfairly harsh for any person.
- (3) If the chief executive decides to approve an application under subsection (2), the applicant and any other ART provider to whom the gamete or embryo is supplied—
 - (a) may use the gamete or embryo despite section 33(4); and
 - (b) is taken to have complied with section 33(1) in relation to the gamete, or a gamete used to create the embryo.
- (4) If the chief executive decides to refuse to approve an application under subsection (2), the chief executive must, as soon as practicable after the decision is made, give the applicant an information notice for the decision.

15 Amendment of s 40 (Definitions for part)

- (1) Section 40, definition *contact information*—
omit.
- (2) Section 40, definition *relevant information*, from ‘, relating’—

omit, insert—

see section 44(1).

16 Amendment of s 41 (Information relating to donor-conceived persons to which part applies)

(1) Section 41, heading, ‘relating to donor-conceived persons’—
omit.

(2) Section 41, from ‘relating’—
omit, insert—

in relation to a donor-conceived person.

17 Amendment of s 44 (Relevant information to be included in register)

(1) Section 44(1)—
omit, insert—

(1) The information mentioned in subsection (2) (the ***relevant information***), in relation to a donor-conceived person, that is provided to the registrar is the information that is to be included in the register.

(2) Section 44(2)(i)—
omit, insert—

(i) the full name and date of birth of—

(i) the person who gave birth to the donor-conceived person as a result of the procedure; and

(ii) a spouse of the person at the time of the procedure, other than a spouse from whom, at that time, the person was separated and was living separately and apart;

[s 18]

18 Amendment of s 45 (Mandatory provision of information by ART providers)

Section 45(1), ‘relating to the birth of a donor-conceived person’—

omit, insert—

in relation to a donor-conceived person born

19 Amendment of s 46 (Mandatory provision of historical information)

Section 46(1)(a), ‘relates to the birth of a donor-conceived person’—

omit, insert—

is information in relation to a donor-conceived person born

20 Amendment of s 47 (Voluntary provision of information by parties to private donor conception procedures)

Section 47(1), ‘relating to the birth of a donor-conceived person’—

omit, insert—

in relation to a donor-conceived person born

21 Insertion of new s 56A

Before section 57—

insert—

56A Meaning of *accreditation standard*

(1) The *accreditation standard* is a document that—

- (a) provides for matters in relation to prescribed accreditation; and
- (b) is approved by regulation for this paragraph, with or without modifications.

- (2) The Minister may recommend to the Governor in Council the making of a regulation under subsection (1) only if the Minister is satisfied the document, including any modifications, provides for the following matters—
 - (a) persons who are personnel for sections 57(2)(b)(iv), 61(1) and 65(2)(d);
 - (b) events that are serious adverse events for section 61.

22 Amendment of s 57 (Application for licence)

- (1) Section 57(1)(a), ‘RTAC accreditation’—

omit, insert—

prescribed accreditation

- (2) Section 57(2)(b)(iv), from ‘any’ to ‘regulation’—

omit, insert—

the name of each of the personnel, within the meaning of the accreditation standard,

23 Amendment of s 61 (Chief executive to be notified of certain events)

- (1) Section 61(1), table, items 2 and 3, column 1, ‘RTAC accreditation’—

omit, insert—

prescribed accreditation

- (2) Section 61(1), table, item 8, column 1, from ‘any’ to ‘regulation’—

omit, insert—

any of the personnel, within the meaning of the accreditation standard,

[s 24]

- (3) Section 61(3), definition *serious adverse event*, ‘prescribed by regulation’—

omit, insert—

identified in the accreditation standard

24 Amendment of s 64 (Cancellation or suspension of licence)

Section 64(1)(a), ‘RTAC accreditation’—

omit, insert—

prescribed accreditation

25 Amendment of s 65 (Public register of licensed providers)

- (1) Section 65(2)(d), from ‘names’ to ‘regulation’—

omit, insert—

name of each of the personnel, within the meaning of the accreditation standard,

- (2) Section 65(2)(e)—

omit, insert—

(e) the date of expiry of the prescribed accreditation of the licensed provider;

26 Amendment of s 111 (Power to require information)

- (1) Section 111—

insert—

(1A) This section also applies if an inspector reasonably believes—

- (a) a person may be able to give information (*compliance information*) about a licensed provider's compliance with this Act; and

- (b) the compliance information is necessary for the inspector to perform the inspector's function mentioned in section 69(a).
- (2) Section 111(2)(a)—
omit, insert—
 - (a) either—
 - (i) information related to the offence mentioned in subsection (1); or
 - (ii) the compliance information mentioned in subsection (2)(a); or
- (3) Section 111(2)(b), 'paragraph (a)'—
omit, insert—
paragraph (a)(i) or (ii)
- (4) Section 111(1A) to (3)—
renumber as section 111(2) to (4).

27 Amendment of s 112 (Offence to contravene information requirement)

Section 112(1), 'section 111(2)'—
omit, insert—
section 111(3)

28 Amendment of s 119 (Definitions for part)

- (1) Section 119—
insert—
part 2 decision means—
 - (a) a decision to refuse to approve an application for approval to use a gamete or embryo under section 39B(2) or 39C(2); or

[s 29]

- (b) a decision to refuse to approve an application for approval to destroy a record under section 37(3).
- (2) Section 119, definition *reviewable decision*, before paragraph (a)—
insert—
 - (aa) a part 2 decision;
- (3) Section 119, definition *reviewable decision*, paragraphs (aa) to (e)—
renumber as paragraphs (a) to (f).

29 Replacement of s 120 (Review process must start with internal review)

Section 120—

omit, insert—

120 Review process for reviewable decisions

- (1) For a reviewable decision that is a part 2 decision, review under this part is internal review under division 2 only.
- (2) For any other reviewable decision, review under this part is—
 - (a) internal review under division 2; and
 - (b) if a decision on an application for internal review of the reviewable decision has been made, or is taken to have been made, under division 2—external review by QCAT under division 4.

30 Amendment of s 123 (Internal review)

- (1) Section 123(1)(a) to (c)—

omit, insert—

- (a) review the reviewable decision; and
 - (b) decide to—
 - (i) confirm the reviewable decision; or
 - (ii) amend the reviewable decision; or
 - (iii) substitute another decision for the reviewable decision; and
 - (c) give the affected person for the reviewable decision—
 - (i) if the reviewable decision is a part 2 decision—notice of the chief executive’s decision under paragraph (b); or
 - (ii) otherwise—a QCAT information notice for the chief executive’s decision under paragraph (b).
- (2) Section 123(3), (4) and (5), ‘original’—
omit.

31 Amendment of s 124 (QCAT may stay operation of reviewable decision)

- (1) Section 124(1)—
omit, insert—
- (1) This section applies in relation to a reviewable decision, other than a part 2 decision.
 - (1A) An affected person for the reviewable decision may apply to QCAT, as provided under the QCAT Act, for a stay of the operation of the decision.
- (2) Section 124(1A) to (5)—
renumber as section 124(2) to (6).

[s 32]

32 Replacement of s 125 (Applying for QCAT external review)

Section 125—

omit, insert—

125 Applying for QCAT external review

- (1) This section applies if an affected person for a reviewable decision is required to be given a QCAT information notice under section 123(1)(c)(ii) for an internal review decision.
- (2) The affected person may apply to QCAT, as provided under the QCAT Act, for a review of the internal review decision.

Note—

Section 56 also provides for a QCAT external review of certain decisions of the registrar under part 3.

33 Amendment of s 138 (Executive officer may be taken to have committed offence against deemed executive liability provision)

Section 138(4), definition *deemed executive liability provision*, paragraph (c), ‘section 139(2)’—

omit, insert—

section 139(1)

34 Insertion of new pt 9, div 1, hdg

Before section 144—

insert—

Division 1	Transitional provisions commencing on 19 September 2024
-------------------	--

35 Insertion of new pt 9, div 2, hdg

After section 144—

insert—

**Division 2 Other transitional
provisions for Act No. 46 of
2024**

36 Insertion of new pt 9, div 2, sdiv 1

Before section 145—

insert—

Subdivision 1 Preliminary

144B Definitions for division

In this division—

future ART procedure, for a person mentioned in new section 146(1)(a)(i) or 147(1)(a), means an ART procedure carried out after the commencement of this section for any of the following persons—

- (a) the person;
- (b) a person who, at the relevant time, was the person's spouse;
- (c) a surrogate of the person;
- (d) a surrogate of a person who, at the relevant time, was the person's spouse.

new, in relation to a provision of this Act, means the provision as in force from the commencement.

relevant time see section 144C(3).

[s 37]

144C Particular references to spouses

- (1) This section applies in relation to a person mentioned in new section 146(1)(a)(i) or 147(1)(a) if, at the relevant time, the person and the person's spouse were separated and were living separately and apart.
- (2) For this division, the spouse is taken not to have been a spouse of the person at the relevant time.
- (3) For subsection (1), the *relevant time* is—
 - (a) for a person mentioned in new section 146(1)(a)(i)—the time when an ART provider allocated donated gametes for use by the person in ART procedures as mentioned in that section; or
 - (b) for a person mentioned in new section 147(1)(a)—the time when an ART provider allocated a donated embryo for use by the person in ART procedures as mentioned in that section.

37 Insertion of new pt 9, div 2, sdiv 2, hdg

After section 144C, as inserted by this Act—
insert—

Subdivision 2 Licensing

38 Amendment of s 145 (Licensing of existing ART providers)

Section 145(2)—
omit, insert—

- (2) Subsection (3) applies to an ART provider if—
 - (a) the ART provider provided ART services immediately before the commencement of section 12; and

- (b) the ART provider has prescribed accreditation during the initial licensing assessment period.
- (3) During the initial licensing assessment period, the ART provider is taken to be a licensed provider for sections 12, 61, 77 and 145A.

39 Insertion of new s 145A

After section 145—

insert—

145A Licensed providers' notification of particular events that happened before commencement—new s 61

- (1) This section applies in relation to a licensed provider if—
 - (a) an event happened before the commencement of new section 61; and
 - (b) the event would have been a serious adverse event for the licensed provider had new section 61 been in force when the event happened; and
 - (c) the licensed provider becomes aware of the event after the commencement of new section 61.
- (2) New section 61 applies as if the event were a serious adverse event within the meaning of that section.

40 Insertion of new pt 9, div 2, sdiv 3

After section 145A, as inserted by this Act—

insert—

Subdivision 3 Provisions for general operation of part 2

[s 40]

145B Donor-related Australian families—new s 25

For working out the number of donor-related Australian families for new section 25, it does not matter whether a person or a child mentioned in that section was born before or after the commencement of this section.

145C Time limits on use of existing donated gametes and embryos—new s 27

- (1) Subject to new sections 146 to 148, new section 27 applies in relation to the use of a donated gamete or donated embryo in an ART procedure carried out after the commencement of this section.
- (2) Subsection (1) applies—
 - (a) whether or not the donated gamete was obtained, or the donated embryo was created, before the commencement of this section; and
 - (b) even if the period mentioned in new section 27(1) during which the donated gamete or donated embryo may be used in an ART procedure ended before the commencement of this section.

145D Record-keeping—s 36

- (1) Subsection (2) applies if, before 19 September 2024, an ART provider collected information of a type mentioned in a provision of part 2, division 6.
- (2) A reference in section 36 to information an ART provider is required to collect under part 2, division 6 includes, and is taken to have always included, a reference to the information mentioned in subsection (1).

145E Disclosure of health information—s 38

- (1) This section applies to a reference in section 38 to—
 - (a) a donor-conceived person born as a result of an ART procedure; or
 - (b) a donor-conceived sibling of a person mentioned in paragraph (a).
- (2) The reference includes, and is taken to have always included, a reference to a donor-conceived person, or donor-conceived sibling, born as a result of an ART procedure that was carried out before the commencement of section 38.

41 Insertion of new pt 9, div 2, sdiv 4, hdg

After section 145E, as inserted by this Act—

insert—

Subdivision 4 Provisions about use of particular gametes and embryos obtained before 19 September 2024

42 Replacement of ss 146–149

Sections 146 to 149—

omit, insert—

146 Donated gametes previously allocated to person for ART procedures

- (1) This section applies if—
 - (a) before 19 September 2024—
 - (i) an ART provider allocated donated gametes for use by a person in ART procedures; and

[s 42]

- (ii) the person, or a surrogate of the person, became pregnant as a result of the use of some of those donated gametes in an ART procedure; and
 - (b) after the commencement of this section, an ART provider proposes to use the remaining donated gametes in future ART procedures for the person.
- (2) The ART provider may use the remaining donated gametes in future ART procedures for the person despite the donor's consent to the use of the remaining gametes in an ART procedure—
 - (a) not complying with a requirement for consent mentioned in new section 18(2); or
 - (b) not being in writing.
- (3) However, subsection (2) does not apply in relation to the use of a gamete if—
 - (a) the donor had previously consented to the use of the gamete in an ART procedure; and
 - (b) since giving the consent, the donor has—
 - (i) withdrawn the consent under section 20; or
 - (ii) otherwise clearly communicated the withdrawal of the consent to the ART provider, whether or not in writing.
- (4) The following limitations under part 2 do not apply to the use of the remaining donated gametes in future ART procedures for the person—
 - (a) any limit on the period within which the gametes may be used;
 - (b) any limit on the number of donor-related Australian families who may use the gametes.
- (5) Also, new section 33(4) does not apply in relation

to the use of the remaining donated gametes in future ART procedures for the person.

147 Donated embryo previously allocated to a person for ART procedures

- (1) This section applies if—
 - (a) before 19 September 2024, an ART provider allocated a donated embryo for use by a person in an ART procedure; and
 - (b) after the commencement of this section, an ART provider proposes to use the donated embryo in a future ART procedure for the person.
- (2) The ART provider may use the donated embryo in the future ART procedure for the person despite the donor's consent to the use of the embryo in an ART procedure—
 - (a) not complying with a requirement for consent mentioned in new section 18(2); or
 - (b) not being in writing.
- (3) However, subsection (2) does not apply in relation to the use of the donated embryo if—
 - (a) the donor had previously consented to the use of the embryo in an ART procedure; and
 - (b) since giving the consent, the donor has—
 - (i) withdrawn the consent under section 20; or
 - (ii) otherwise clearly communicated the withdrawal of the consent to the ART provider, whether or not in writing.
- (4) The following limitations under part 2 do not apply to the use of the donated embryo in the future ART procedure for the person—

[s 42]

- (a) any limit on the period within which the embryo may be used;
 - (b) any limit on the number of donor-related Australian families who may use the embryo.
- (5) Also, new section 33(4) does not apply in relation to the use of the donated embryo in the future ART procedure for the person.

148 Embryo created with donated gamete not yet used for ART procedure

- (1) This section applies if—
- (a) before 19 September 2024, an embryo was created with a donated gamete; and
 - (b) after the commencement of this section, an ART provider proposes to use the embryo in an ART procedure for a person.
- (2) The chief executive may, on application by the ART provider, approve the use of the embryo in the ART procedure for the person if satisfied there are reasonable grounds for using the embryo, having regard to the following matters—
- (a) when the embryo was created;
 - (b) whether, when the embryo was created, there was a reasonable expectation that it would be used in an ART procedure for a person;
 - (c) any other relevant matter.
- (3) If an approval is given under subsection (2) to the ART provider, the ART provider may use the embryo in the ART procedure despite—
- (a) new section 25, 27 or 33; or
 - (b) the consent of the donor to the use of the embryo in an ART procedure—

- (i) not complying with a requirement for consent mentioned in new section 18(2); or
 - (ii) not being in writing.
- (4) However, subsection (3)(b) does not apply in relation to the use of an embryo if—
 - (a) the donor had previously consented to the use of the embryo in an ART procedure; and
 - (b) since giving the consent, the donor has—
 - (i) withdrawn the consent under section 20; or
 - (ii) otherwise clearly communicated the withdrawal of the consent to the ART provider, whether or not in writing.
- (5) If the chief executive decides to refuse to give an approval under subsection (2), the chief executive must, as soon as practicable after the decision is made, give the applicant an information notice for the decision.
- (6) A decision of the chief executive mentioned in subsection (5) is taken to be a part 2 decision within the meaning of section 119.
- (7) New part 2, division 8 does not apply in relation to the use of the embryo in the ART procedure for the person.

149 Use of particular gametes obtained before 19 September 2024—collection of information

- (1) This section applies if—
 - (a) an ART provider obtained a gamete before 19 September 2024 for use in an ART procedure or for storage for use in an ART procedure; and

[s 43]

- (b) immediately before the commencement of this section, the gamete had not been used in an ART procedure; and
 - (c) new sections 146 and 147 do not apply in relation to the use of the gamete in an ART procedure.
- (2) New section 33(4) does not prevent the use of the gamete, or an embryo created using the gamete, in an ART procedure if—
 - (a) the ART provider collected the information mentioned in new section 33(1) in relation to the gamete before the gamete was obtained; or
 - (b) the ART provider collects the information mentioned in new section 33(1) in relation to the gamete before the gamete or embryo is used in the ART procedure; or
 - (c) the chief executive approves the use of the gamete or embryo in the ART procedure under new section 39C.

43 Renumbering and relocation of s 150 (Time within which information about pregnancies and births to be collected by ART providers)

Section 150—

renumber as section 144A and *relocate* to part 9, division 1, as numbered by this Act.

44 Insertion of new pt 9, div 2, sdiv 5, hdg

Before section 151—

insert—

Subdivision 5 Miscellaneous

45 Insertion of new ss 152 and 153

After section 151—

insert—

152 Relationship of division with s 144

To the extent of any inconsistency between a provision of this division and section 144(1)(a), (c) or (d), the provision of this division prevails.

153 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision about a matter for which this Act does not provide or sufficiently provide.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day this section commences.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire on the day that is 2 years after the day this section commences.

46 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definition *RTAC accreditation*—

omit.

- (2) Schedule 1—

insert—

accreditation standard, for part 4, see section 56A.

donor-related Australian families see section 25(3).

part 2 decision, for part 6, see section 119.

49 Amendment of s 24 (Acting board member)

Section 24(5), ‘section 25(1)(b)(iv)’—

omit, insert—

section 25(1)(b)

50 Amendment of s 37 (Vacancy in office)

(1) Section 37(1)(c), ‘becomes’—

omit, insert—

is

(2) Section 37(1)(d)—

omit, insert—

(d) is removed from office under subsection (3).

(3) Section 37—

insert—

(3) The Governor in Council may, at any time, remove the chief executive officer from office for any reason or none.

51 Amendment of s 38 (Acting chief executive officer)

Section 38(5), ‘section 25(1)(b)(iv) or (v)’—

omit, insert—

section 25(1)(b)

52 Insertion of new pt 7

After part 6—

insert—

[s 53]

Part 7 Transitional provisions for Health Legislation Amendment Act (No. 3) 2025

52 Vacancy in office of board member

Section 23(2) applies to a board member whether the member is appointed before or after the commencement.

53 Vacancy in office of chief executive officer

Section 37(3) applies to the chief executive officer whether the officer is appointed before or after the commencement.

Part 4 Amendment of Health Legislation Amendment Act 2025

53 Act amended

This part amends the *Health Legislation Amendment Act 2025*.

54 Replacement of s 7 (Amendment of s 28 (Removal from office of board members))

Section 7—

omit, insert—

7 Amendment of s 25A (Disqualification as board member)

Section 25A—

insert—

- (d) was appointed because the person was a HHS clinician and has stopped being a HHS clinician.

Editor's note—

Legislation ultimately amended—

- *Hospital and Health Boards Act 2011*

Part 5 Amendment of Hospital and Health Boards Act 2011

55 Act amended

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

56 Insertion of new s 25A

After section 25—

insert—

25A Disqualification as board member

A person is disqualified from becoming, or continuing as, a board member if the person—

- (a) is an insolvent under administration; or
- (b) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or
- (c) has a conviction for an indictable offence or an offence against this Act.

57 Amendment of s 27 (Vacation of office of board member)

- (1) Section 27(b)—

omit, insert—

[s 58]

- (b) completes a term of office and is not reappointed; or
- (c) is disqualified from continuing as a member under section 25A; or
- (d) is removed from office under subsection (2).

(2) Section 27—

insert—

- (2) The Governor in Council may, at any time, remove a board member from office for any reason or none.

58 Amendment of s 27A (Suspension from office of Hospital and Health Board members)

(1) Section 27A(1)(b)—

omit.

(2) Section 27A(1)(c)—

renumber as section 27A(1)(b).

59 Omission of s 28 (Removal from office of board members)

Section 28—

omit.

60 Insertion of new pt 13, div 9

Part 13—

insert—

Division 9

**Transitional provision for
Health Legislation
Amendment Act (No. 3)
2025**

332 Vacancy in office of board member

Section 27(2) applies to a board member whether the member is appointed before or after the commencement.

61 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

conviction means a finding of guilt or acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

Part 6 Amendment of Hospital Foundations Act 2018

62 Act amended

This part amends the *Hospital Foundations Act 2018*.

63 Amendment of s 33 (Disqualification from becoming member)

- (1) Section 33, heading, ‘from becoming member’—

omit, insert—

as member

- (2) Section 33, ‘becoming a member’—

omit, insert—

becoming, or continuing as, a member

- (3) Section 33—

insert—

- (f) consents to the borrowing of an amount that the foundation is not lawfully authorised to

[s 64]

borrow under the *Statutory Bodies Financial Arrangements Act 1982*.

64 Omission of s 34 (Removal from office)

Section 34—

omit.

65 Amendment of s 35 (Vacancy in office)

(1) Section 35(b)—

omit, insert—

(b) is disqualified from continuing as a member under section 33; or

(c) is removed from office under subsection (2).

(2) Section 35—

insert—

(2) The Governor in Council may, at any time, remove a board member from office for any reason or none.

66 Insertion of new s 35A

After section 35—

insert—

35A Acting board member

(1) This section applies if the office of a member is vacant.

(2) The Minister may appoint a person to act in the office for a period of not longer than 6 months.

(3) However, the Minister may extend the appointment for a further period of not longer than 6 months.

- (4) A person can not be appointed to act in the office unless the Minister could recommend the person for appointment as a member under section 30.
- (5) This section does not limit the Governor in Council's power under the *Acts Interpretation Act 1954*, section 25(1)(b).

67 Amendment of s 36 (Criminal history report)

Section 36(1), from 'person'—

omit, insert—

person is disqualified from becoming or continuing as a member under section 33.

68 Insertion of new pt 9, div 3

Part 9—

insert—

Division 3	Transitional provision for Health Legislation Amendment Act (No. 3) 2025
-------------------	---

93 Vacancy in office of board member

Section 35(2) applies to a board member whether the member is appointed before or after the commencement.

[s 69]

Part 7

Amendment of Pharmacy Business Ownership Act 2024

69 Act amended

This part amends the *Pharmacy Business Ownership Act 2024*.

70 Replacement of s 156 (Vacancy in office)

Section 156—

omit, insert—

156 Vacancy in office

- (1) The office of a council member becomes vacant if the member—
 - (a) completes the member's term of office and is not reappointed; or
 - (b) is disqualified from continuing as a member under section 151; or
 - (c) resigns office as a council member under section 155; or
 - (d) is absent, other than as approved under section 157, from 3 consecutive council meetings of which at least 21 days notice has been given; or
 - (e) is removed from office under subsection (2).
- (2) The Governor in Council may, at any time, remove a council member from office for any reason or none.

156A Acting council member

- (1) This section applies if the office of a council member is vacant.

- (2) The Minister may appoint a person to act in the office for a period of not longer than 6 months.
- (3) However, the Minister may extend the appointment for a further period of not longer than 6 months.
- (4) A person can not be appointed to act in the office unless the Minister could recommend the person for appointment as a council member under section 150(3).
- (5) This section does not limit the Governor in Council's power under the *Acts Interpretation Act 1954*, section 25(1)(b).

71 Amendment of s 171 (Vacancy in office)

- (1) Section 171(1)—

insert—

- (d) is removed from office under subsection (2).

- (2) Section 171—

insert—

- (2) The Governor in Council may, at any time, remove the chief executive officer from office for any reason or none.

72 Amendment of s 172 (Acting chief executive officer)

Section 172(5), 'section 25(1)(b)(iv) or (v)'—

omit, insert—

section 25(1)(b)

73 Replacement of pt 14, hdg (Transitional provisions)

Part 14, heading—

omit, insert—

[s 74]

Part 14 Repeal and transitional provisions for Act No. 9 of 2024

74 Relocation and renumbering of pt 15, div 1 (Repeal)

Part 15, division 1—

relocate to part 14 and *renumber* as part 14, division 5.

75 Replacement of pt 15 (Repeal and amendments of legislation)

Part 15—

omit, insert—

Part 15 Transitional provisions for Health Legislation Amendment Act (No. 3) 2025

235 Vacancy in office of council member

Section 156(2) applies to a council member whether the member is appointed before or after the commencement.

236 Vacancy in office of chief executive officer

Section 171(2) applies to the chief executive officer whether the officer is appointed before or after the commencement.

Part 8 Amendment of Private Health Facilities Act 1999

76 Act amended

This part amends the *Private Health Facilities Act 1999*.

77 Amendment of s 48 (Conditions of licence)

Section 48(1)(b) and (c)—

omit, insert—

- (b) the licensee must comply with a standard of accreditation prescribed for a type of health service, or all health services, provided at the facility;
- (c) the licensee must comply with the standards made under part 3 relevant to the facility;

78 Amendment of s 50 (Term of licences)

Section 50(2)—

omit, insert—

- (2) The stated term must not exceed—
 - (a) if the licence is being renewed under division 5—3 years; or
 - (b) otherwise—1 year.

79 Amendment of s 144 (Submission of reports)

Section 144(2)(b)—

omit, insert—

- (b) to enable the State to give information to a government entity in the circumstances mentioned in section 147(4)(c);

[s 80]

80 Amendment of s 147 (Confidentiality of information)

(1) Section 147(4)(c)(i)—

omit, insert—

- (i) the chief executive gives the information to a government entity under an agreement with the entity;

(2) Section 147(7), ‘The Commonwealth, other State or entity’—

omit, insert—

A government entity

(3) Section 147(11)—

insert—

agreement includes arrangement.

government entity means—

- (a) the Commonwealth or another State; or
- (b) an entity of the Commonwealth or another State; or
- (c) an entity of the State.

Part 9 Amendment of Transplantation and Anatomy Act 1979

81 Act amended

This part amends the *Transplantation and Anatomy Act 1979*.

Note—

See also the amendments in schedule 1.

82 Amendment of s 4 (Interpretation)

Section 4—

insert—

ante-mortem intervention, for part 3A, see section 25A.

tissue donation viability means the viability of tissue for transplanting from a person after death to the body of another living person.

83 Replacement of pt 2, div 4, hdg (Blood transfusions)

Part 2, division 4, heading—

omit, insert—

Division 4 Removal of blood for particular purposes

84 Amendment of s 17 (Consents by adults to removal of blood)

Section 17, before ‘or for any’—

insert—

- (c) for the purpose of determining tissue donation viability;

85 Amendment of s 18 (Consents to removal of blood from children)

- (1) Section 18, heading, after ‘children’—

insert—

for particular purposes

- (2) Section 18, ‘section 17’—

omit, insert—

section 17, other than for the purpose of determining tissue donation viability,

[s 86]

86 Insertion of new s 18A

After section 18—

insert—

18A Consents to removal of blood from children or adults with impaired capacity for determining tissue donation viability

- (1) This section applies in relation to a person who is—
 - (a) a child; or
 - (b) an adult who does not have capacity to consent to the removal of blood from the person's body.
- (2) The senior available next of kin of the person may consent in writing to the removal of blood from the body of the person for the purpose of determining tissue donation viability.

87 Replacement of s 19 (Consent to be sufficient authority for removal of blood)

Section 19—

omit, insert—

19 Consent to be sufficient authority for removal of blood

A consent given by or for a person under this division is sufficient authority for the removal of blood from the body of the person.

88 Insertion of new pt 3A

After section 25—

insert—

**Part 3A Ante-mortem
interventions**

25A What is an *ante-mortem intervention*

- (1) An *ante-mortem intervention* is a medical procedure that is carried out on a living person to determine, maintain or improve the viability of tissue for transplanting, after the person's death, to the body of another living person.
- (2) However, removing blood from the body of a living person for the purpose of determining tissue donation viability is not an *ante-mortem intervention*.

Note—

See section 18A in relation to removing blood for determining tissue donation viability.

25B Authority for ante-mortem intervention—adult with capacity

- (1) A person who is an adult may consent to the carrying out of an ante-mortem intervention on the person.
- (2) A consent under subsection (1) is sufficient authority to carry out the ante-mortem intervention on the person.

25C Authority for ante-mortem intervention—child or adult with impaired capacity

- (1) This section applies if—
 - (a) a person is in a hospital; and
 - (b) the person is—
 - (i) a child; or
 - (ii) an adult who does not have capacity to consent to the carrying out of an ante-mortem intervention on the person; and

[s 88]

- (c) a decision or direction has been lawfully made to withhold or withdraw life-sustaining measures for the person; and

Note—

See the *Guardianship and Administration Act 2000* and the *Powers of Attorney Act 1998* in relation to withholding or withdrawing life-sustaining measures for an adult who has impaired capacity.

- (d) before the withholding or withdrawal of life-sustaining measures, a decision or direction mentioned in paragraph (c) has not been revoked.
- (2) A designated officer may, in writing, authorise the carrying out of an ante-mortem intervention on the person if—
 - (a) the senior available next of kin of the person gives written consent for the carrying out of the ante-mortem intervention; and
 - (b) the consent is not revoked before the ante-mortem intervention is carried out.
 - (3) However, if it is not practicable for the consent to be given in writing, it may be given orally.
 - (4) If the consent is given orally under subsection (3), the designated officer must ensure that, as soon as practicable—
 - (a) the fact of the giving of the consent and the details of the consent are reduced to writing and placed on the person's hospital records; and
 - (b) reasonable attempts are made to have the consent confirmed in writing by the senior available next of kin.
 - (5) The designated officer must ensure that a written consent obtained under subsection (2)(a) or (4)(b) is placed on the person's hospital records as soon

as practicable.

- (6) An authority under subsection (2) is sufficient authority to carry out the ante-mortem intervention on the person.

Part 10 Other amendments

89 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

section 89

Public Health Act 2005

1 Section 279AA, definition *Commonwealth chief medical officer*—

omit.

2 Section 279AA—

insert—

relevant Commonwealth officer means the person to whom notifications must be made under the Commonwealth Act, section 14(1).

3 Section 279AB, heading, ‘Commonwealth chief medical’—

omit, insert—

relevant Commonwealth

4 Section 279AB(2), ‘Commonwealth chief medical’—

omit, insert—

relevant Commonwealth

5 Section 279AC(1)(a)(i), ‘Commonwealth chief medical’—

omit, insert—

relevant Commonwealth

6 Schedule 2, definition *Commonwealth chief medical officer*—

omit.

7 Schedule 2—

insert—

relevant Commonwealth officer, for chapter 6, part 3A, division 1, see section 279AA.

Transplantation and Anatomy Act 1979

1 Section 9, heading, ‘Blood transfusions’—

omit, insert—

Particular blood removal

2 Section 12A, heading, from ‘Blood’ to ‘research’—

omit, insert—

Particular blood removal and donations

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