QUEENSLAND PARLIAMENT
COMMITTEES

Health Legislation Amendment Bill (No. 3) 2025

Health, Environment and Innovation Committee

Report No. 19

58th Parliament, November 2025

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Health, Environment and Innovation Committee

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All references and webpages are current at the time of publishing.

Acknowledgements

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Chair's Foreword

On 14 October 2025, the Honourable Timothy Nicholls MP, Minister for Health and Ambulance Services, introduced the Health Legislation Amendment Bill (No. 3) 2025 (the Bill) into the Queensland Legislative Assembly. The Bill was referred to the Health, Environment and Innovation Committee (the committee) for detailed consideration.

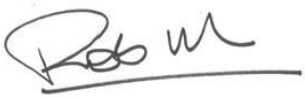
The Bill proposes amendments to eight pieces of health portfolio legislation to strengthen governance, improve regulatory frameworks and ensure legislation operates effectively across Queensland's health system. Key reforms include amendments to the Assisted Reproductive Technology Act 2024 to address issues identified during implementation, amendments to the Private Health Facilities Act 1999 to improve patient safety in cosmetic surgery, and amendments to the Transplantation and Anatomy Act 1979 to establish a consent framework for ante-mortem interventions in cases of circulatory death. The Bill also introduces governance changes to allow the removal of certain office holders without cause, reflecting the importance of public confidence in health leadership.

The committee received 17 submissions from stakeholders and held a public briefing with Queensland Health, followed by a public hearing with a range of organisations and individuals.

The committee carefully examined the Bill's compliance with fundamental legislative principles and its compatibility with human rights. The committee made one recommendation, that the Bill be passed.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill, and who appeared before the committee at the public hearing. I also thank my committee colleagues, our secretariat, and Queensland Health who assisted the committee during this inquiry.

I commend this report to the House.



Rob Molhoek MP

Chair

Executive Summary

On 14 October 2025, the Honourable Timothy Nicholls MP, Minister for Health and Ambulance Services, introduced the *Health Legislation Amendment Bill (No. 3) 2025* (the Bill) into the Legislative Assembly. The Bill was referred to the Health, Environment and Innovation Committee (the committee) for detailed consideration.

The Bill aims to strengthen governance, improve regulatory frameworks, and ensure legislation operates effectively across Queensland's health system.

The key objectives of the Bill include:

- amendments to the *Assisted Reproductive Technology Act 2024* to address issues identified during implementation, including:
    - clarifying counselling requirements for separated spouses
    - introducing flexible information collection and record-keeping obligations
    - expanding case-by-case approval powers to prevent undue hardship
    - providing new regulation-making powers and transitional arrangements
    - strengthening oversight through expanded inspector powers and reporting requirements
- amendments to the *Hospital and Health Boards Act 2011*, *Health and Wellbeing Queensland Act 2019*, *Pharmacy Business Ownership Act 2024*, and *Hospital Foundations Act 2018* to allow 'without cause' removal of certain office holders to maintain public confidence
- amendments to the *Private Health Facilities Act 1999* to require private health facilities who provide cosmetic surgery to comply with the National Safety and Quality Cosmetic Surgery Standards and enable information-sharing agreements; and
- amendments to the *Transplantation and Anatomy Act 1979* to establish a consent framework for ante-mortem interventions in cases of circulatory death, enhancing opportunities for organ donation.

The committee received a written briefing from Queensland Health and held a public briefing on 29 October 2025. The committee accepted 17 submissions and held a further public hearing with a range of stakeholders on 19 November 2025. Following that hearing, the committee wrote to Queensland Health to seek further clarification on several matters raised by stakeholders to assist in its consideration of the Bill. Queensland Health provided a response to the committee on 21 November 2025.

Key themes in submissions that were considered by the committee included:

- the practical impacts of overly prescriptive requirements contained in the ART Act, and the landscape of fertility legislation across Australia

- the need for amendments to counselling requirements for couples who are separated
- the risks of unregulated cosmetic surgery practices and the need for standardisation of care to protect patient safety
- the duplication of regulatory regimes associated with cosmetic surgery for facilities, and the potential impacts this may have on smaller facilities
- the potential for divergent decision making in end-of-life care, and how conflicts might be resolved where two people disagree with a proposed course of action in advance of organ donation; and
- the potential governance risks of 'no cause' removals for certain office holders, balanced against the public interest of maintaining trust in the leadership of health entities.

The committee considered issues raised with fundamental legislative principles and human rights which are engaged by the operation of the Bill and concluded that the Bill complies with the *Legislative Standards Act 1992* and the *Human Rights Act 2019*.

The committee made 1 recommendation, found at page vii of this report, that the Bill be passed.

Recommendations

The committee recommends that the Bill be passed.

Glossary

AIA	*Acts Interpretation Act 1954*
ALRC	Australian Law Reform Commission
AMAQ	Australian Medical Association (Queensland)
ART	Assisted reproductive technology
ART Act	*Assisted Reproductive Technology Act 2024*
ARTFam Australia	ARTFam Australia / Australian Solo Mothers by Choice
Bill	Health Legislation Amendment Bill (No. 3) 2025
Commission	Australian Commission on Safety and Quality in Health Care
Committee	Health, Environment and Innovation Committee
Cosmetic Surgery Standards	National Safety and Quality Cosmetic Surgery Standards
DCFA	Donor Conceived Families Australia
FLP	Fundamental Legislative Principles
FSANZ	Fertility Society of Australia and New Zealand
GA Act	*Guardianship and Administration Act 2000*
HMM	Australian Health Minister's Meeting
HRA	*Human Rights Act 2019*
LSA	*Legislative Standards Act 1992*
PHF Act	*Private Health Facilities Act 1999*
PSA	*Public Sector Act 2022*
QCAT	Queensland Civil and Administrative Tribunal
QLS	Queensland Law Society
QNMU	Queensland Nurses and Midwives Union
RANZCOG	Royal Australian and New Zealand College of Obstetricians and Gynaecologists
RFA	Rainbow Families Australia
RTAC	Reproductive Technology Accreditation Committee
TA Act	*Transplantation and Anatomy Act 1979*

1. Overview of the Bill

The Health Legislation Amendment Bill (No. 3) 2025 (the Bill) was introduced by the Honourable Timothy Nicholls MP, Minister for Health and Ambulance Services and was referred to the Health, Environment and Innovation Committee (the committee) by the Legislative Assembly on 14 October 2025.

1.1. Aims of the Bill

The Bill amends 8 pieces of Health portfolio legislation to improve the governance of the health system and ensure relevant legislation operates effectively. The Bill proposes various amendments to the following pieces of legislation to achieve certain objectives:

- *Assisted Reproductive Technology Act 2024* (ART Act) – the Bill proposes amendments to the ART Act to support the implementation of the regulatory framework for assisted reproductive technology (ART) services in Queensland. The ART Act introduced a regulatory framework for ART and introduced a donor conception information register. The amendments are intended to clarify provisions, promote equitable outcomes, and, where appropriate, provide a pathway for case-by-case decision making by the Queensland Health Chief Executive to ensure that the administration of the Act does not result in undue hardship.
- *Hospital and Health Boards Act 2011, Health and Wellbeing Queensland Act 2019, Pharmacy Business Ownership Act 2024,* and *Hospital Foundation Act 2018* – the Bill proposes amendments to these various Acts to allow for the removal of board members, the CEO for Health and Wellbeing Queensland, and the Queensland Pharmacy Business Ownership Council, by the Governor-in-Council, with or without grounds. The proposed amendments are intended to facilitate without cause removal and reflect the public importance of these roles. They are considered necessary to ensure office holders may be removed where the Minister or Government has lost confidence in office holders.
- *Private Health Facilities Act 1999* (PHF Act) – the proposed amendments are intended to ensure that private health facilities that provide cosmetic surgery are required to comply with national standards of accreditation (National Safety and Quality Cosmetic Surgery Standards) and support the safe delivery of cosmetic surgery in Queensland.
- *Transplant and Anatomy Act 1979* (TA Act) – the proposed amendments are intended to maximise opportunities for organ donation in cases of circulatory death by providing a framework for consent to allow certain procedures and investigations to be conducted to determine suitability for donation.
- *Public Health Act 2005* – minor and consequential amendments to require notifications of occupational respiratory diseases in accordance with changes to Commonwealth legislation.

1.2. Context of the Bill

The following key issues were raised during the committee's examination of the Bill,[1] which are discussed in Section 2 of this Report:

- The need for amendments to the ART Act in response to problems identified during the implementation of the Act. This includes introducing additional areas where case-by-case approvals by the Director-General can operate to lessen the impact of strict legislative requirements to overcome undue hardship. Submitters also spoke to the need for ART regulations to address issues within the ART sector, which is addressed by the proposed amendments.
- Concerns that the proposed 'without cause' removals for certain office holders could violate rules of natural justice and procedural fairness, and the need for this to be weighed against the need for public trust and accountability for those in such positions.
- The need to introduce clear and enforceable standards in the PHF Act for those who provide cosmetic surgery in response to growing public concerns about the industry. Weighed against this was the concern that the proposed Cosmetic Surgery Standards unnecessarily duplicate requirements under existing surgery standards, which may increase regulatory burden and have unintended consequences for private health facilities and patients.
- The need for amendments to the TA Act to ensure consent can be obtained for ante-mortem procedures in cases of circulatory death, and the potential need for a conflict resolution clause to resolve disputes between decision-makers.

1.3. Inquiry process

During its examination of the Bill, the committee accepted 17 submissions. It conducted a public briefing with Queensland Health on 29 October 2025 and a public hearing with various stakeholders on 19 November 2025. Following the public hearing, the committee wrote to Queensland Health requesting additional information on certain matters. The information provided in that response has been considered in this report and is published on the committee's webpage.

1.4. Legislative compliance

The committee's deliberations included assessing whether the Bill complies with the requirements for legislation as contained in the *Parliament of Queensland Act 2001*, the *Legislative Standards Act 1992* (LSA),[2] and the *Human Rights Act 2019* (HRA).[3]

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1 Section 2 does not discuss all consequential, minor, or technical amendments. It does not examine amendments which were not raised by submissions or stakeholders.
2 *Legislative Standards Act 1992* (LSA).
3 *Human Rights Act 2019* (HRA).

1.4.1. Legislative Standards Act 1992

Assessment of the Bill's compliance with the LSA identified issues listed below which are analysed in Section 2 of this Report:

- natural justice
- appropriate use of administrative power
- appropriate delegation power to subordinate legislation
- the use of a Henry VIII clause; and
- retrospective application of amendments.

Part 4 of the LSA requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly and sets out the information an explanatory note should contain.

Committee comment

Explanatory notes were tabled with the introduction of this Bill. Notwithstanding the committee's assessment of issues of fundamental legislative principle in Section 2, the committee is satisfied the explanatory notes contain the information required by part 4 of the LSA, with sufficient background information and commentary to facilitate understanding of the Bill's aims and origins.

1.4.2. Human Rights Act 2019

Assessment of the Bill's compatibility with the HRA identified issues with the following, which are analysed further in Section 2:

- the right to privacy, including protection from arbitrary interferences;
- protection of families and children; and
- the prohibition on torture and cruel, inhuman or degrading treatment.

Committee comment

Notwithstanding the committee's assessment of issues of human rights contained in Section 2 of this Report, the committee found that the Bill is compatible with human rights. While some of the proposed amendments may limit human rights, the committee is satisfied that any limitations are justified in the circumstances.

Further, a statement of compatibility was tabled with the introduction of the Bill as required by section 38 of the HRA. The statement contained a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

1.5. Should the Bill be passed?

The committee is required to determine whether or not to recommend that the Bill be passed.

Recommendation 1

The committee recommends that the Bill be passed.

2. Examination of the Bill

This section discusses key themes which were raised during the committee's examination of the Bill.

2.1. Overview of the *Assisted Reproductive Technology Act 2024*

The ART Act established a state-based regulatory framework for ART providers. This responded to concerns about the self-regulation of ART providers by the Reproductive Technology Accreditation Committee (RTAC). The ART Act partially commenced in 2024, with remaining provisions to commence by proclamation on 1 March 2026.

The new regulatory framework includes requirements for information collection, record keeping, and certain prohibitions and offences.[4] The ART Act also introduced a new donor conception information register which will commence in stages during 2026.[5]

During implementation of the new framework, consultation with stakeholders identified the need for certain amendments to ensure the ART Act operates as intended.[6] The Bill responds to these issues. The significant amendments to the ART Act contained in the Bill are discussed in sections 2.2 to 2.6 of this report.

2.2. ART Act amendments – counselling services where spouses have separated

The Bill proposes amendments to section 15 to ensure that counselling services, which must be provided to a spouse of a person underdoing an ART procedure, are not required where the person is separated from the spouse.[7]

2.2.1. Stakeholder submissions and department advice

i. Stakeholder Submissions

There was general support for the proposed amendments.

Stephen Page, a family and fertility law specialist, noted that the ART Act currently requires families to be counselled together when seeking ART treatment, including where the patient has separated from the spouse. He said this requirement could be unsafe or unlawful depending on the surrounding circumstances.[8] The proposed amendments address this issue.

4 Explanatory notes, p 2. See also Queensland Health, *Written Briefing* (29 October 2025) p 1.
5 Queensland Health, *Written Briefing* (29 October 2025) p 1.
6 Explanatory notes, p 2.
7 Bill, cl 4. Explanatory notes, p 51.
8 *Public Hearing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (19 November 2025) p 4.

ii. Department advice

Queensland Health noted that the changes to the definition of spouse are intended to ensure that the ART Act will not stand as a barrier for individuals who are separated but not yet divorced from seeking treatment in Queensland.[9]

2.3. ART Act amendments – information collection and record keeping requirements

The ART Act has prescriptive requirements for the collection of contact information and requires that providers collect the name, phone number and email address of the donor.[10] The information collection requirements were intended to apply to all gametes used after the commencement of the ART Act, not just gametes collected after the commencement of the Act.[11] In practice, most genetic material currently in storage in Queensland was collected before the ART Act commenced. The ART Act requires that information collected is retained for a period of 99 years and is prohibited from being destroyed, unless approved by the Director-General.[12]

These strict requirements are said to be causing harsh and unintended consequences for patients, who have been prevented from using donated gametes or donated embryos where a provider has been unable to collect a single piece of contact information, like an email address.[13] This outcome was out of step with the policy intention and objectives of the ART Act.[14]

The Bill replaces the prescriptive requirement regarding information collection with more generalised requirement to collect 'contact information'.[15] 'Contact information' is defined as 'a person's residential address, phone number or email address or any other way the person may be contacted'.[16] This definition of contact information was previously used in Part 3 of ART Act to support operation of the register.[17] The Bill also makes consequential amendments to reference 'contact information' in other provisions.[18] Additional clarifying amendments resolve ambiguity and ensure ART providers understand the requirement to obtain certain information where gametes, and associated information, were obtained before 19 September 2024 or are transferred from another ART provider.[19]

The proposed amendments will provide greater flexibility while ensuring relevant contact information is collected for all donated gametes.[20] ART providers will still be required to

9 Queensland Health, *Response to submissions* (7 November 2025) p 2.
10 ART Act, s 33.
11 Explanatory notes, p 3.
12 ART Act, s 36 and 37.
13 Queensland Health, *Written Briefing* (29 October 2025) p 1.
14 Explanatory notes, p 4.
15 Bill, cl 9 (amends s 33 of the ART Act).
16 Bill, cl 46 (new definition in schedule 1)
17 Explanatory notes, p 54.
18 See for example Bill, cl 11 (amending section 35) and cl 12 (amending s 36).
19 Explanatory notes, pp 54-56. See also clause 10 (amended section 34).
20 Explanatory notes, p 56.

collect other important information, including full name, date and place of birth, and medical history.[21] The Bill also amends certain sections to ensure that the information retention requirements align with the types of information to be collected.[22]

Record keeping requirements are also amended by the Bill to expand the categories of consents that ART providers must keep records of, and provide that the record keeping obligations apply to any person who is, or was, an ART provider.[23] These amendments will ensure that the various consents ART providers are required to obtain will form part of the clinical record to be kept for 99 years, consistent with other records, and that even where an ART provider ceases operating, the obligation to retain records will continue, allowing those records to be accessed by persons born from ART across their lifetime.[24]

The intent of these amendments, and of the wider regulation of the ART industry, is to 'support the welfare and interests of those born as a result of ART and, in particular, donor-conceived people.'[25]

2.3.1. Stakeholder submissions and department advice

i. Stakeholder Submissions

There was general support for these amendments as a sensible, practical measure that will provide flexibility while maintaining appropriate safeguards.[26]

In its written submission, Rainbow Families Australia (RFA) noted:

> *The retrospective application of the law caused incredible distress to many families, particularly LGBTQ+ parents and solo parents by choice who often rely on imported donor gametes from international clinics.*
>
> *Some families faced the prospect of being unable to use their existing embryos — embryos that, in many cases, represented their only remaining opportunity to have a genetically-related child…*
>
> *In practice, ART providers were finding that they were unable to continue treatment for patients, when it was identified that just one piece of contact information was unable to be collected e.g. a middle name, or email address. This has been an issue because donor sperm and eggs may have been obtained years before the Act commenced.*[27]

In contrast, Jane Sliwka, a social worker with professional experience in post-adoption support, expressed concerns that changes to the contact information requirements could have negative implications for donor-conceived people who want to trace or contact their donor later in life. She submitted that where donors are of overseas origin, an email address may be the only viable means of establishing contact. While Ms Sliwka noted that

[21] ART Act, s 33.
[22] Bill, cls 12-13
[23] Bill, cl 12 (amends s 36 of the ART Act) and 13 (amends s 37 of the ART Act).
[24] Queensland Health, *Written Briefing* (29 October 2025) p 2. Explanatory notes, pp 56-57.
[25] Explanatory notes, p 3.
[26] Submission 14, p 3-4.
[27] Submission 11, p 2.

the proposed amendments were intended to address practical challenges, she stressed that the rights of donor conceived people should be the paramount consideration.[28]

ii. Department Advice

Queensland Health acknowledged the importance of information collection requirements, particularly for donor conceived people. Queensland Health advised the committee that the proposed approach would provide flexibility while still ensuring a minimum standard of information is collected. Queensland Health said it would set clear expectations about the minimum information required and would monitor compliance.[29]

Queensland Health also noted that in addition to the ART Act requiring the collection of contact information for all gamete providers, additional information must be collected before donated genetic material may be used in an ART procedure, which will ensure critical information is accessible to donor conceived people.[30]

Committee comment

The committee is satisfied that the proposed amendments to the information collection requirements in the ART Act will provide the necessary flexibility to avoid harsh or unintended consequences, while still ensuring a minimum standard of information is collected.

2.4. ART Act amendments – case-by-case approval powers

The ART Act requires consent from a gamete provider prior to use of their donated material in an ART procedure.[31] The gamete donor's consent must include the maximum number of families that can be created using the donor's material, as well as the maximum time for the material to be stored, within the legislated limits.[32]

The ART Act already allows the Director-General of Queensland Health to grant case-by-case approvals in relation to exceeding the time limit on use of donated material (maximum of 15 years) and regarding the destruction of records.[33] These powers ensure both flexibility and oversight.

The Bill proposes to expand the Director-General's powers to grant case-by-case approvals, which override strict legislative requirements, to cover situations where an ART provider is unable to collect certain information, or where use of the donated gamete or embryo would mean the 10-family limit was exceeded.[34]

[28] Submission 8.
[29] Queensland Health, *Written Briefing* (29 October 2025) p 2. See also, Explanatory notes, p 3.
[30] Queensland Health, *Response to submissions* (7 November 2025) p 2.
[31] ART Act, ss 16, 17, 18, 20.
[32] ART Act, s 18(2).
[33] Queensland Health, *Written Briefing* (29 October 2025) p 2. ART Act, ss 27(2) and 37(2).
[34] Bill, cls 7, 9 and 14. See also explanatory notes, pp 58-60.

In addition to adding these new categories, the Bill also aligns the terminology, decision-making criteria and processes across new and existing categories of case-by-case approvals to strengthen transparency and procedural fairness. The Bill introduces access to internal review where an application is refused,[35] and makes further clarifying amendments to Part 6 of the ART Act which provides for review of decisions and appeals.[36]

The proposed amendments will allow for additional flexibility in cases where legislative limits might have an unduly harsh impact on a family with donor-conceived children, or another related party.[37]

Under the Bill's proposed approach, to obtain case-by-case approval to exceed the time limit or maximum family limit, the ART provider makes an application to the Director-General who must be satisfied:

- the gamete provider consented to the making of the application, or contact was unable to be made despite taking reasonable steps; and
- there are reasonable grounds for using the donated gamete or donated embryo having regard to the terms of the consent given by the gamete provider and whether giving or refusing to give the approval would be unfairly harsh for any person (which would include existing donor-conceived children and donor-related families).[38]

A similar process, with similar considerations, applies for case-by-case approval where certain information required under section 33 has not be obtained.[39]

Where case-by-case approval is given to exceed to the 10-family limit, or the time limit on use, the Director-General's approval under new section 39B will override the consent requirements in section 18.[40] Further consequential amendments to section 18 supports the policy intent of the case-by-case approval mechanism.[41]

The Bill also progresses additional amendments to section 27 to provide for disposal of a donated gamete or donated embryo within 90 days of the Director-General's decision to refuse a 'case-by-case' application to use the donated gamete or donated embryo beyond the maximum time limit.[42] These amendments clarify the application of the disposal

[35] Queensland Health, *Written Briefing* (29 October 2025) p 2. Bill, clauses 8, 13, 14.
[36] Bill, clauses 28-32. Explanatory notes, pp 63-65.
[37] Explanatory notes, p 4.
[38] Bill, cl 14 (inserts new section 39B). See further explanatory notes, p 59.
[39] Bill, cl 14 (inserts new section 39C).
[40] Bill, cl 6.
[41] Bill, cl 6. See also Explanatory notes, pp 52-53.
[42] Bill, cl 8 (inserts new section 27(2)(3)); Explanatory notes, pp 53-54.

requirement in section 27, linking the requirement to dispose to the refusal to grant a case by case approval, rather than to the period for which the material is stored.[43]

2.4.1. Stakeholder submissions and department advice

i. Stakeholder Submissions

There was broad support for the proposed amendments.

Stephen Page told the committee:

> *A number of clients of mine who have had donor sperm or embryos created from their eggs and donor sperm became concerned when they were told that the new regime under the ART Act (which was due to take effect in September 2025, and now deferred to March 2026) meant that the sperm was acquired too long ago to allow it to be used. …*
>
> *Similarly, a patient who had a child pre-2024 from use of her egg and donor sperm but who had split up from her partner was told that she could not use the remaining embryo or sperm in storage. This was because she and her former partner would now be considered to be new families under the Act- and therefore over the family limit.*[44]

At the public briefing, Mr Page noted that when this issue was brought to the attention of Queensland Health, the department provided guidance for ART providers which explained how they could navigate treatments impacted by the commencement of the ART Act.[45] However, he noted that the provision of treatment was, *prima facie*, unlawful in the absence of prescribed requirements being met without an approval power.[46]

RFA and Donor-Conceived Families Australia (DCFA) said that the improved flexibility provided by case-by-case approvals will empower Queensland Health to weigh the impact of the decisions on existing and future donor-conceived individuals, including their families and donors.[47] However, RFA and DCFA expressed concerns that decisions would not be subject to external review and considered that this may limit a person's right to access justice where they are aggrieved by a decision of the Director-General.[48]

ARTFam Australia supported the amendments but were concerned that new section 39B, which requires the gamete provider to consent to an application (or reasonable steps to have been taken to obtain consent), adds back a new, wholly unnecessary, procedural consent. ARTFam said a donor could refuse to consent to the making of an application which would mean the application could not progress, and further stated that the proposed

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43 Explanatory notes, p 54.
44 Submission 2, p 1-2.
45 *Public Hearing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (19 November 2025) p 5. See Queensland Health, *Guidance for ART providers: provisions commencing on assent – Assisted Reproductive Technology Act 2024* (Report, 10 September 2024) pp 14-15. <https://www.health.qld.gov.au/__data/assets/pdf_file/0023/1360832/assisted-reproductive-technology-guidance.pdf>.
46 *Public Hearing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (19 November 2025) p 4.
47 Submission 11, p 4; Submission 14, p 3.
48 Submission 11, p 8; Submission 14, p 5.

amendments to section 18 would not cover this situation.[49] ARTFam proposed amending new section 39B(2)(a) to remove the requirement for consent, and substitute this with a requirement that the donor is are aware of the application. This would ensure the donor's views were a relevant, but not a determinative, consideration.[50]

The Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) expressed general support for the amendments. However, RANZCOG were concerned about the proposed time limit for disposals:

> *The current proposal to enforce a 90-day time limit for the disposal of unused donated gametes or embryos, does not adequately reflect the practical realities faced by ART providers and patients. Clinics must undertake a time-intensive process to contact patients and obtain informed consent for disposal, often involving repeated outreach via email, phone, and written correspondence. This process can be time-consuming, particularly when patients are difficult to reach due to changes in contact details, personal circumstances, or emotional readiness to make decisions about their reproductive material.*
>
> *… A rigid 90-day timeframe risks prematurely discarding viable embryos or gametes, potentially causing distress and undermining reproductive autonomy.*
>
> *RANZCOG therefore recommends that the time limit be extended to at least 180 days…*[51]

At the public hearing, some submitters noted the lack of regulation of private sperm donation, the need for a national register, and the potential need for harmonisation of family limits across jurisdictions.[52]

ii. Department Advice

In addressing concerns about the lack of external review, Queensland Health told the committee that this was appropriate due to the complexity of the clinical, ethical and regulatory matters to be considered, and to prevent an excessive burden being placed on QCAT.[53] Queensland Health stated that, where required, expert advice will be sought to ensure the decision-maker is informed of the considerations and perspectives relevant to the individual circumstances of the application. Such experts could include medical practitioners, counsellors, persons with lived experience, and legal representatives.[54]

Queensland Health noted the concerns of some submitters about the requirement for donor consent to an application but said this was necessary to ensure that active steps are taken to determine the donor's perspective on the use of their genetic material beyond the legislated family limit and time limit. This is necessary under the ART Act because donor consent cannot extend beyond these legislated limits.[55] Queensland Health said

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49 Submission 10, p 2-3.
50 Submission 10, p 3.
51 Submission 12, p 1-2.
52 *Public Hearing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (19 November 2025) pp 4-5, 15.
53 Queensland Health, *Response to submissions* (7 November 2025) p 2.
54 Queensland Health, *Response to submissions* (7 November 2025) p 3.
55 Queensland Health, *Response to submissions* (7 November 2025) p 2.

the requirement for express consent would be a relevant consideration in any case-by-case decision-making and would be balanced against the interests and perspectives of the various affected stakeholders, as well as the overarching objects of the Act.[56]

Committee comment

The committee notes the advice of Queensland Health in response to issues raised by ARTFam Australia that applications under new section 39B could not be considered where consent to the application was refused by a donor. The advice of Queensland Health suggests that consent would not be a condition precedent to being able to consider the application and make a case-by-case approval. However, a strict reading of the section suggests that where a donor has refused to provide consent, the chief executive could not approve the application.

The committee encourages Queensland Health to consider whether the current drafting of the provision reflects its intended effect, that is, that the donor providing consent (or refusing to do so) will be one of many factors considered in the balancing exercise.

Regarding concerns about the proposed amendments to require disposal within 90 days following the refusal of an application, Queensland Health noted the requirement to dispose of material is only enlivened where a patient wants to use the donated material and where an application has been made and refused. This means the ART provider and patient would have been in recent contact and would have likely discussed potential outcomes. As a result, Queensland Health said 90 days was sufficient.[57] In responding to this concern, Queensland Health also noted:

- the importance of ART providers clearly communicating with patients
- it will consider whether further guidance is required to assist ART providers; and
- the intent of the amendment to section 27 is to make it clear that the time limit applies to the use of donated genetic material and is not a time limit on storage.[58]

Further, as part of the process for obtaining a patient's initial consent, ART providers will also be required to notify patients about the age of the donated genetic material to ensure patients are making informed choices based on clear and transparent information.[59]

[56] Queensland Health, *Response to submissions* (7 November 2025) p 3.
[57] Queensland Health, *Response to submissions* (7 November 2025) pp 3-4.
[58] Explanatory notes, pp 5-6.
[59] Queensland Health, *Response to submissions* (7 November 2025) p 3.

At the public briefing, Queensland Health was asked about how the family limits applied in other jurisdictions:

> ***Ms BOLTON:*** *Does it mean that you can go to another state? If the legislation is different there it could be 100? Is that occurring?*
>
> *…*
>
> ***Ms Stones:*** *The health ministers referred to the Australian Law Reform Commission a review of all of the landscape nationally for the different pieces of legislation with a view, I assume, at some point in a few years, once the ALRC produces its report, to harmonisation of some of those requirements. We do know, for example, New South Wales has a five-donor family limit. We have 10, Victoria has 10. Ours is 10 Australia-wide so we do expect that should be tracked across Australia. Down the track there will be a view to how we move to more harmonisation and consistency between the jurisdictions but really for now the most important thing is that we get accreditation right to support our regulatory functions. Obviously, the hard water's edge for us is we do not step into the clinical assessment of the providers. That is for accreditation …*[60]

Following the public hearing, the committee wrote to Queensland Health and asked for further details about family limits which apply in other Australian jurisdictions. A comparative table was provided and can be found at appendix D. Under the ART Act, the maximum is 10 'donor-related Australian families'; that is, the total number of Australian families is assessed. However, there is no uniform approach across Australian states and territories.

Committee comment

The committee notes that on 12 September 2025, the Australian Health Ministers Meeting (HMM) agreed to refer a review of ART legislation to the ALRC. The committee is satisfied with the response from Queensland Health,[61] that this work will be important to identify opportunities for modernisation and harmonisation of ART legislation across Australia, and will hopefully address some of the additional concerns, like private sperm donation, raised by submitters during this inquiry.

2.4.2. FLP Issue – administrative power and natural justice

Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.[62] Additionally, legislation should be consistent with the principles of natural justice.[63] The

[60] *Public Briefing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (29 October 2025) pp 7-8.
[61] Queensland Health, *Correspondence* (21 November 2025) pp 2-3.
[62] LSA, s 4(3)(a).
[63] LSA, s 4(3)(b).

proposed amendments require consideration of compliance with these fundamental legislative principles.

The explanatory notes justify the chief executive's proposed administrative powers, which would allow for the making of decisions contrary to existing legislative requirements, to ameliorate unintended consequences and harsh outcomes. [64] For example, in relation to the new chief executive approval powers associated with information collection, the explanatory notes state:

> *For certain individuals, a strict application of the section 33 requirements could lead to outcomes that would be out of step with the policy intent of the [ART] Act to protect the welfare and interests of people who use ART and people who are born as a result of ART.*[65]

The Bill provides safeguards to ensure the decision-maker is satisfied that there are reasonable grounds for making the decision. This is intended to achieve a balance between protecting the welfare and interests of donor-conceived people and avoiding unduly harsh outcomes for ART patients in individual cases.[66]

In terms of the chief executive's case-by-case approval power, the Bill clearly defines the administrative powers by providing for criteria to be considered before approval is granted. Where the application is refused, the Bill provides for an information notice to be given to the applicant.[67]

The Bill also provides for an internal review process that may result in the original decision to refuse the application being confirmed, amended or substituted.[68] However, external review would not be available.[69] The explanatory notes state that these decisions are not appropriate for external review because of the specialised and clinical nature of decision-making. [70]

Committee comment

The committee is satisfied that given the specialised, clinical nature of the decisions being made, the need for flexibility to assess matters in light of individual circumstances, and with a view to avoid undue hardship on impacted families, the proposed amendments are sufficiently justified and comply with fundamental legislative principles.

64 Explanatory notes, p 5.
65 Explanatory notes, p 4.
66 Explanatory notes, p 5.
67 Bill, cl 14 (ART Act, inserts s 39B(3)).
68 ART Act, s 123 (as amended by Bill, cl 30).
69 Bill, cl 29 (ART Act, replaces s 120).
70 Explanatory notes, p 33.

2.4.3. HRA Issue – Privacy and protection of family and children

The right to privacy protects individuals against unlawful or arbitrary interferences with their privacy, family, home or correspondence.[71] The notion of an arbitrary interference extends to interferences which may be lawful but are unreasonable, unnecessary or disproportionate, or random or capricious.[72] The right also protects a person's autonomy to make decisions about their body and family.[73] The right to privacy also provides that families are the fundamental group unit of society, and are entitled to be protected by society and the State.[74] Further, every child has the right, without discrimination, to the protection that is needed by the child, and is in the child's best interests.[75]

The Bill clarifies the interaction between existing donor consent requirements and new approval powers, and provides the approval may operate despite the donor consent requirements.[76] This limits the above rights as it interferes with a person's autonomy to make decisions about their body and family.[77] The new approval powers would also allow use of gametes where the information collection requirements are not met. This may limit the availability of information to the donor-conceived person.[78] The process may also permit expansion of a donor conceived person's family without their knowledge or consent.[79]

The purpose of the amendments is to prevent undue hardship.[80] There is a rational connection between the limitations and their purpose. The statement of compatibility observes that, without the chief executive approval in relation to the information collection requirements:

> *… the absence of a single piece of information, such as the donor's place of birth, would prevent a family from using that donor's material, even where all other required information has been collected …*
>
> *… without the limitation, the right to protection of families could be significantly affected for people using ART services, for example where a patient already has a donor-conceived child using the same donor. It could also undermine the right to protection of every child, as the psychosocial impacts of having a sibling with different genetic origins, where a full genetic sibling could be born, can be significant.*[81]

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71 HRA, s 25.
72 Nicky Jones and Peter Billings, *An Annotated Guide to the Human Rights Act 2019 (Qld)*, p 264.
73 Statement of compatibility, p 3.
74 HRA, s 26(1).
75 HRA, s 26(2).
76 Statement of compatibility, p 3.
77 Statement of compatibility, p 3.
78 Statement of compatibility, p 3-4.
79 Statement of compatibility, p 4.
80 Statement of compatibility, p 4.
81 Statement of compatibility, p 4.

According to the statement of compatibility, there are no less restrictive and reasonably available ways that would strike a fair balance between ensuring the restrictions in the ART Act are not harshly applied, and achieving the overall intent of the Act.[82] The statement of compatibility notes proposed safeguards in the Bill to mitigate the impacts on privacy, and on families and children.[83]

Committee comment

The committee is satisfied that limits on the right to privacy and the protection of families and children are justified. The safeguards in the Bill appropriately balance the needs of impacted parties to ensure that rights are not unduly affected.

2.5. ART Act amendments – new regulation making powers and transitional arrangements

The Bill proposes amendments to the ART Act that provide for a range of matters to be dealt with in subordinate legislation, including to:

- provide for an accreditation standard to be prescribed by regulation, with or without modification. The accreditation standard will support the licensing framework and the interpretation of certain key terms within the ART Act including 'personnel' and 'serious adverse event' (which are addressed further below).[84]
- provide for a regulation-making power for transitional matters that are not adequately addressed within the ART Act.[85]
- remove reference to RTAC accreditation.[86] This is replaced by 'prescribed accreditation'.[87]

Regulations made in accordance with the proposed delegations would be subject to the usual tabling and disallowance procedures that apply in Queensland under the *Statutory Instruments Act 1992*.[88]

The Bill also inserts new provisions about the use of particular gametes and embryos obtained before 19 September 2024:

- to ensure consent requirements are complied with (with some flexibility) and to ensure nothing in the transitional provisions overrides a donor's explicit wishes where consent has been withdrawn; and

[82] Statement of compatibility, p 5.
[83] Statement of compatibility, pp 4-5.
[84] Bill, cl 21 (inserts new s 56A to ART Act,). See also explanatory notes p 61.
[85] Bill, cl 45 (inserts new s 153 to ART Act,). See later in this Report for further consideration of this proposed amendment.
[86] Bill, cl 46 (amends sch 1 of ART Act).
[87] Bill, cl 22; Explanatory notes, p 62.
[88] *Statutory Instruments Act 1992*, ss 49-51.

- to disapply certain part 2 requirements (regarding time and family limits, and information collection requirements) in certain circumstances. [89]

The Bill includes transitional provisions and regulatory powers to ensure that the ART Act can be amended in the event that further issues arise, with a view to avoiding adverse impacts on the provision of treatment.[90] The explanatory notes justify the Bill's proposed regulation making powers by asserting that they allow for a prompt and flexible response 'if changes are needed to the relevant frameworks in future, ensuring they can be managed appropriately'.[91]

Queensland Health explained the changes to the accreditation framework:

> *… all Australian health ministers have recently agreed to remove the industry aligned accrediting authority, the Reproductive Technology Accreditation Committee, also known as RTAC, and replace RTAC with the Australian Commission on Safety and Quality in Health Care. Together state and territory regulators, as well as the commission, will ensure that the ART sector is transparent, ethical and one in which the community can have confidence. The bill gives effect to this decision and futureproofs the ART Act by removing references to RTAC.*[92]

Queensland Health was asked further questions about the changes to RTAC at the public briefing on 29 October 2025:

> ***Ms BOLTON:*** *Can you also explain RTAC? Obviously, it has transitioned. I am just trying to get my head around how that influences each jurisdiction and whether there is work being undertaking towards a national regulation that is very similar across Australia.*
>
> ***Dr McDougall:*** *At the moment it is a complex space because it is a space where we ensure safety by a combination of both regulation and accreditation. RTAC has been the accreditation body for assisted reproductive technology, but at the moment that has not been effective to ensure appropriate quality and safe care nationally. The health ministers have determined that there is a requirement for a review and a transition now to the Australian Commission on Safety and Quality in Health Care for accreditation standards. That will be national. What we need to do within our bill is to ensure we have appropriate regulation to allow us to regulate against these new accreditation standards.* [93]

2.5.1. FLP Issue - Delegated regulation making power

Whether a Bill has sufficient regard to the institution of Parliament depends on whether, for example, the Bill allows the delegation of legislative power only in appropriate cases

[89] Bill, cls 41, 42; Explanatory notes pp 68-73.
[90] Bill, cl 45 (inserts new s 152 and 153 into the ART Act).
[91] Explanatory notes, p 43.
[92] *Public Briefing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (29 October 2025) p 2.
[93] *Public Briefing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (29 October 2025) pp 7-8.

and to appropriate persons.[94] Under the Bill, a range of matters would be dealt with in subordinate legislation.

Committee comment

While the delegation of legislative power may raise concerns about the level of Parliamentary scrutiny, the committee is satisfied by the justification that the relevant matters are technical and that subordinate legislation would offer the necessary flexibility to better respond to changing circumstances. The proposed regulation making powers would remain subject to a level of Parliamentary scrutiny.

2.5.2. FLP Issue - Henry VIII Clauses – amendment of an Act by Regulation

A Henry VIII clause is a clause which enables an Act to be expressly or impliedly amended by subordinate legislation.[95] The presence of such a clause in a Bill may mean that the Bill does not have sufficient regard to the institution of Parliament because it allows the executive to effectively amend an Act passed by the Queensland Parliament.[96]

The Bill proposes to delegate wide legislative power to the executive to make transitional regulations.[97] The Henry VIII clause in the Bill provides that a transitional regulation may make provision about a matter for which the ART Act does not provide or sufficiently provide.[98] Henry VIII clauses are commonly included in Bills, particularly in transitional provisions,[99] in case the powers are needed,[100] but there should be good justification provided for such clauses.

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94 LSA, s 4(4)(a): whether a Bill has sufficient regard to the institution of Parliament depends on whether, for example, the Bill sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly; LSA, s 4(4)(b): the Bill provides that a regulation may prescribe an external document for the purpose of defining or describing relevant terms in the ART Act, namely, that 'personnel' and 'serious adverse event' are to be interpreted based on their meaning within the accreditation standard prescribed by regulation, with or without modifications; Bill, cl 21 (inserts s 56A in the ART Act): the explanatory notes (pp 43-45) provide detailed commentary on the Bill's proposed delegation of legislative power and offer appropriate justifications for approving an external document which prescribes clinical and technical information.

95 Or executive action, see, Legislative Assembly of Queensland, Scrutiny of Legislation Committee, *The use of "Henry VIII clauses" in Queensland legislation*, 1997, p 23.

96 See LSA, s 4(4)(c).

97 Bill, cl 45 (inserts new s 153 to the ART Act). See, for example, Explanatory notes, p 37, which state that a similar transitional provision has been included in a range of other Acts, including repealed section 282 of the *Medicines and Poisons Act 2019*, repealed section 86 of the *Ambulance Service Act 1991*, and repealed section 202 of the *Transport Operations (Road Use Management) Act 1995.*

98 Bill, cl 45 (inserts new s 153(1)) to the ART Act).

99 For example, *Brisbane Olympic and Paralympic Games Arrangements and Other Legislation Amendment Act 2024*, s 26; *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, s 115; *Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Act 2024*, s 34; *Work Health and Safety Act 2011*, s 361; *Energy (Renewable Transformation and Jobs) Act 2024*, s 180.

100 Legislative Assembly of Queensland, Scrutiny of Legislation Committee, *The use of "Henry VIII clauses" in Queensland legislation* (1997) pp 11, 47.

The explanatory notes provide the following justification for the Henry VIII clause:

> *Although the ART Act has existing transitional provisions with further transitional matters addressed through the Bill, it is possible that unanticipated matters may arise given the complexity of transitioning to the ART Act's regulatory framework. The inclusion of this regulation-making power … ensures … any further transitional issues … can be addressed in a timely manner. It is common practice to include a transitional regulation-making power in complex legislative schemes.*[101]

It is best practice for transitional regulation-making powers to be subject to a sunset clause.[102] Under the Bill, the transitional regulation-making power and any transitional regulations expire 2 years after commencement.[103] While acknowledging that transitional regulation-making powers and transitional regulations often expire after one year, the explanatory notes assert that 2 years is necessary to accommodate the staged implementation of the ART Act's regulatory framework.[104]

2.5.3. FLP Issue - Retrospectivity

Legislation should not adversely affect rights and liberties, or impose obligations, retrospectively.[105] The Bill contains transitional regulations with retrospective operation to 'a day not earlier than the day of commencement the section itself'.[106] The explanatory notes cite similar justifications as those offered for the Henry VIII clause, namely that 'unanticipated matters may arise given the complexity of the ART Act and transitioning to the new regulatory regime from a previously self-regulated industry.'[107] Further, that:

> *The inclusion of such a power ensures that any transitional issues that have not been identified during the drafting of the provisions can be quickly addressed to ensure individuals' rights are not adversely affected.*[108]

According to the explanatory notes, the retrospective operation is appropriate as it 'can only be to a day that is not earlier than the day on which the section commences'.[109]

[101] Explanatory notes, p 45.
[102] Legislative Assembly of Queensland, Scrutiny of Legislation Committee, *The use of "Henry VIII clauses" in Queensland legislation*, 1997, p 50.
[103] Bill, cl 45 (inserts new s 153(4)) to the ART Act).
[104] Explanatory notes, p 45.
[105] LSA, s 4(3)(g).
[106] Bill, cl 45 (inserts new s 153(2) to the ART Act).
[107] Explanatory notes, p 37.
[108] Explanatory notes, p 37.
[109] Explanatory notes, p 37.

Committee comment

The committee is satisfied that the transitional regulation-making power is consistent with fundamental legislative principles. The technical and complex nature of transitioning to the new regulatory regime, from a previously self-regulated industry, necessitates additional provisions to support that transition. The regulations are limited in their retrospectivity and are subject to a sunset provision.

2.6. ART Act amendments – serious adverse events, personnel and new inspector powers

Section 61 requires the chief executive to be notified of certain events, including serious adverse events and changes to key personnel. The Bill amends section 61 to refer to the 'prescribed accreditation', reference 'personnel' instead of 'key personnel' and define 'serious adverse event' by reference to the accreditation standard.[110] New section 145A supports the application of section 61 and requires notification of serious adverse events that occurred prior to commencement of section 61.[111]

The Bill also amends section 111 to expand investigative powers for Queensland Health inspectors to proactively undertake investigations, monitoring and compliance activities on additional matters under the ART Act, including serious adverse events.[112] The expanded power would empower inspectors to proactively seek information where there is a suspected breach of the ART Act, rather than limiting their investigatory powers to post-breach evidence gathering. Information could be sought from a wide variety of people.[113]

The Bill also contains various amendments to ensure that regulatory guidance and advice is consistent with national standards.[114]

These changes support the establishment of a proactive regulatory scheme that seeks to protect the welfare and interests of ART users and those born from ART.[115]

[110] Bill, cl 23. Explanatory notes, p 62.
[111] Bill, cl 39. Explanatory notes, p 67.
[112] Bill, cl 26 (amends s 111 of the ART Act); Explanatory notes, p 63.
[113] Explanatory notes, pp 9-10.
[114] Explanatory notes, p 26-27.
[115] Explanatory notes, p 62.

2.6.1. Stakeholder submissions and department advice

i. Stakeholder Submissions

The Queensland Nurses and Midwives Union (QNMU) expressed support for the amendments to prevent undue hardship on patients and providers alike, but advocated for improved review powers and guidance:

> *Recent media coverage has emphasised the serious adverse events that can occur in the provision of ART treatment, highlighting the ongoing need for legislation to strengthen safeguards for consumers, donors, donor-conceived people and those working in this area of practice. As we raised in our previous submissions, the QNMU considers the following additional aspects where the ART legislative framework could be strengthened.*
>
> *While national guidelines provide guidance regarding the provision of evidence-based and ethical ART services (NHMRC, 2023), the ART Act must establish a mechanism for the Queensland Government to enforce consequences for providers that are non-compliant with providing acceptable and ethical services.*[116]

ii. Department Advice

Queensland Health noted that, in addition to the identified issues in implementing the ART Act, there were several high-profile incidents in 2025 within the ART industry, including embryo mix-ups in Queensland and other jurisdictions. These highlight the importance of Queensland Health implementing strong regulatory powers to support the effective operation of the ART Act.[117]

At the public briefing, the Member for Noosa asked if the proposed expanded powers existed in other jurisdictions. Queensland Health said such powers also exist in Victoria, South Australia, Western Australia and the Australian Capital Territory.[118]

Queensland Health also noted that, as outlined under the Regulator Performance Framework administered by the Office of Best Practice Regulation, there will be a requirement for Queensland Health to report on its regulatory performance in the Department of Health's Annual Report. The regulatory framework for ART will be subject to these reporting obligations, in addition to ongoing review to ensure the framework is operating effectively.[119]

2.6.2. HRA Issue – Privacy

The proposed amendments would limit privacy rights by expanding the type of information an inspector may require from a person. Notably, the expanded requirements are not limited to information associated with an offence that has already been committed.

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[116] Submission 6, p 3.
[117] Queensland Health, *Written Briefing* (29 October 2025) p 3.
[118] *Public Briefing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (29 October 2025) p 7.
[119] Queensland Health, *Response to submissions* (7 November 2025) p 4.

Among other things, privacy rights protect against a public entity's demands for personal information.[120] The Bill's proposed new power impacts the right to privacy as it would likely involve the disclosure of personal information, whether that be of the person providing the information or of a third party. Here, the power is broad and applies to 'a person' (including anyone outside the licensing scheme), and as a result, privacy impacts may be far-reaching.

The statement of compatibility notes that the purpose of the limitation on the right to privacy is to protect the welfare and interests of people using ART services and people born through the use of ART services.[121] The Bill would ensure inspectors 'have the appropriate powers to fulfil their functions to investigate, monitor and enforce compliance with the Act' and 'can appropriately perform their regulatory functions in a manner that is proactive, comprehensive, and in the best interests of' the aforementioned people.[122]

Presently, inspector powers are reactive, and they possess no power to investigate non-compliance with licensing obligations.[123] The statement of compatibility notes there is no less restrictive and reasonably available way to achieve the purpose,[124] and asserts:

> *… inspectors are provided with an extensive suite of operating procedures and guiding principles to ensure their power is appropriately utilised and the right to privacy is only limited to the extent necessary to fulfill functions under the ART Act in a proportionate and appropriate manner.*[125]

A range of proposed safeguards are identified in the statement of compatibility. For example, compliance information would be limited to information that the inspector reasonably believes is necessary to discharge the inspector's functions. Inspectors are also required to provide notice to the person before information may be required, 'supporting transparency and procedural fairness'.[126] Requests to provide information are also subject to the ART Act's existing protection against self-incrimination.[127]

Committee comment

The committee considers that the stated purpose of protecting the welfare and interests of people using ART services and people born as a result of ART services by expanding the powers of an inspector to require a broader range of information outweighs any potential impact on privacy rights.

[120] Nicky Jones and Peter Billings, *An Annotated Guide to the Human Rights Act 2019 (Qld)*, para 4.433 (p 253).
[121] Statement of compatibility, p 9.
[122] Statement of compatibility, p 9.
[123] Statement of compatibility, p 8. Note: compliance with licensing conditions, improvement notices and prohibition notices under the ART Act.
[124] Statement of compatibility, p 10.
[125] Statement of compatibility, p 10.
[126] Statement of compatibility, p 10.
[127] ART Act, s 112(2).

2.7. Various Health Act amendments - 'No reason' removal of certain office holders

The Bill proposes amendments to the *Hospital and Health Boards Act 2011*, the *Health and Wellbeing Queensland Act 2019*, the *Pharmacy Business Ownership Act 2024* and the *Hospital Foundations Act 2018* to empower the Governor in Council to remove office holders for any reason, or no reason.[128] This creates a 'without cause' removal power for board members of relevant boards, as well as the CEO of the Queensland Pharmacy Business Ownership Council, and CEO of Health and Wellbeing Queensland.[129] It will have some retrospective application, applying to office holders regardless of whether they were appointed before or after the new provisions commence.

These amendments are considered necessary on the basis that the office holders under the above Acts require full public confidence and that they must uphold high standards of performance, integrity and effectiveness.[130] The proposed amendments will ensure office holders may be removed where the Minister or Government has lost confidence in office holders.[131]

The Bill also introduces minor amendments to allow for the appointment of acting members under the above listed Acts in the event of a vacancy and clarifies the criteria for disqualification from becoming, or remaining, an office holder under the Acts.[132]

2.7.1. Statutory boards under other Queensland legislation

In Queensland members of the boards of statutory bodies and authorities are generally appointed by the Governor in Council or the Minister.[133] Statutory bodies and authorities in Australia typically adopt either a board or executive management model, or a hybrid of both. The governance structure is usually provided through the legislation which establishes the entity itself.[134]

Section 25 of the *Acts Interpretation Act 1954* (AIA) applies to the interpretation of all legislation in Queensland, including the Bill.[135] It empowers a person (or body) to appoint and terminate relevant persons to an office which is established by an Act.[136] There are other pieces of legislation which explicitly refer to the termination of executive

[128] Explanatory notes, p 15. See, for example, Bill, cl 48(3) (inserts new s 23(2) to the *Health and Wellbeing Queensland Act 2019*); cl 57(2) (inserts new s 27(2) to the *Hospital and Health Boards Act 2011*).
[129] Queensland Health, *Written Briefing* (29 October 2025) p 4.
[130] Explanatory notes, p 31.
[131] Explanatory notes, p 15, 34.
[132] Explanatory notes, p 28.
[133] Department of the Premier and Cabinet, *Queensland Executive Council Handbook* (November 2024) section 5.2.2.
[134] B Saunders, 'Ministers, Statutory Authorities and Government Corporations: The Agency Problem in Public Sector Governance' (2022) 45(2) *Melbourne University Law Review,* Vol 45(2).
[135] *Acts Interpretation Act 1954*, s 25 (AIA). See, for example, Bill, cl 66 (inserts new s 35A to the *Hospital Foundations Act 2018*) and cl 70 (inserts new s 156A to the *Pharmacy Business Ownership Act 2024*).
[136] AIA, s 25.

appointments without cause.[137] Those sections are not intended to limit the power of the person entitled to appoint or terminate under the AIA.[138]

For example, the *Public Sector Act 2022* (Qld) (PSA) sets out the framework for Queensland's public sector, including public service entities, such as declared departments and the entities listed in Schedule 1 of the PSA.[139] Statutory powers under the PSA allow termination of appointments of chief executives, special commissioners and community representatives by the Governor in Council. The relevant provisions do not indicate that any grounds for termination must be identified or that termination must be for cause.[140]

To help the committee understand whether similar 'without cause' removal provisions exist for other statutory boards in Queensland, a research brief was obtained from the Parliamentary Library. The research brief provided demonstrated that such provisions exist for a significant number of other statutory boards. A comparative table of removal provisions is contained in Appendix E.

2.7.2. Stakeholder submissions and department advice

i. Stakeholder submissions

QNMU noted that the proposed amendments risk compromising procedural fairness, and in turn, diminishing public confidence in the governance processes and decision making of publicly appointed entities.[141]

The Queensland Law Society (QLS) submitted:

> *The Explanatory Notes refer to board members holding important positions of public trust. However, public trust must also be predicated on appointment and termination processes that are transparent and fair. The Bill creates opaque processes which could dissuade good candidates from taking up these positions.*[142]

At the public hearing on 19 November 2025, the QLS said:

> *The amendments allow a board member or CEO to be removed from their position without grounds. This is inherently unfair and lacking in transparency, denying those impacted any meaningful natural justice and procedural fairness. This new process risks creating psychosocial hazards for the impacted individuals. In its briefing to this committee, the department indicated—*

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[137] Explanatory notes, p 34. See, for example, *Trade and Investment Queensland Act 2013*, s 23(2); *Queensland Rail Transit Authority Act 2013*, s 20(2); *Workers' Compensation and Rehabilitation Act 2003*, s 441(1); *Work Health and Safety Act 2011*, sch 2, s 11(3).

[138] AIA, s 25. Note: the person empowered to act under section 25 will be named in a relevant Act. For example, the *Queensland Institute of Medical Research Bill 2025*, s 16 empowers the Minister to remove a person from the Council of the QIMR.

[139] *Public Sector Act 2022* (Qld) s 3, 8 & 9 (PSA).

[140] PSA, s 175, 233(3) & 242(6).

[141] Submission 6, p 5.

[142] Submission 17, p 1.

> *The broadened removal powers in the Bill will enable the Governor in Council to act swiftly on the rare occasions where the Government or the public have lost confidence in an office holder.*
>
> *However, the bill as drafted does not refer to extraordinary or rare circumstances. The bill also does not reflect the explanatory notes, which suggest that natural justice would ordinarily be observed when exercising these powers, including giving an affected person notice of a proposed action and an opportunity to be heard.*[143]

In response to these concerns, the Chair of the committee noted that similar provisions existed for a range of other statutory bodies and asked whether the QLS had raised similar concerns in the past. QLS replied:

> *We understand from the explanatory notes that this proposed change is not unusual, and it does appear in other legislation. It may be that the library has identified some additional legislation to what is in the explanatory notes. We would suggest that simply because it has been written in the past does not mean that we should not reconsider it. Each time legislation is introduced is an opportunity to consider it, to scrutinise it again and to assess whether it is meeting the needs of these boards and the community. There are multiple boards affected by this legislation. … The fact that it has been written before does not mean that we should not perhaps call it out now and check whether that is really the best way forward.*[144]

QLS also submitted the amendments should only apply to appointments made after the commencement of the Act, and that the provisions relating to termination should be amended to preserve contractual and other employment entitlements where they are removed by the Governor in Council.[145]

ii. Department advice

Queensland Health noted that the Bill requires the decision to remove a person from office to be made by Governor in Council. It was said that this provides a safeguard to ensure that all decisions will be subject to a considered Government process, with consultation between Ministers and a formal process.

In response to concerns about procedural fairness and natural justice, Queensland Health noted that procedural fairness and natural justice processes are part of the common law and apply without needing an express provision in an Act. Procedural fairness and natural justice are expected to be followed if a person is to be removed from office under the amendments, which may include the giving of notice of the proposed removal from office and an opportunity to be heard.[146]

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[143] *Public Hearing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (19 November 2025) p 16.
[144] *Public Hearing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (19 November 2025) p 16.
[145] Submission 17, p 2.
[146] Queensland Health, *Response to submissions* (7 November 2025) p 4.

In response to the QLS's proposed amendments, Queensland Health noted it is not considered necessary to include an express provision stating that the removal of a CEO does not affect their rights to compensation under the person's appointment or contract, as this is the position that would apply under general law.[147] The power to remove a person from office does not, by extension, affect or limit the person's right to compensation or the terms of their contract.[148]

In response to concerns about the retrospective application of the amendments, Queensland Health suggested that it is necessary for removal powers to apply to all office holders. This ensures that the office holders are subject to the same powers of removal, regardless of when they were appointed.[149] Further, the department noted that section 25 of the AIA already applies to the appointments of relevant persons, so the Bill is not considered to unduly impact rights retrospectively.[150]

Committee comment

The committee refers to appendix E which demonstrates that the proposed approach to no cause removal is consistent with that taken for other statutory boards. However, there is inconsistency across current legislation.

The Major Sports Facilities and Other Legislation Amendment Bill 2025, which is currently before the house, takes a different approach and is removing no cause removal. The committee believes the Government should take a consistent approach across all legislation that aligns with the Government's stated position on accountability and transparency.

2.7.3. FLP Issue – Natural Justice and Procedural Fairness

Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.[151] Additionally, as noted earlier, legislation should be consistent with the principles of natural justice.[152]

Despite the Bill's empowerment of the Governor in Council to remove office holders with or without grounds, it is expected that these persons would be afforded natural justice, for example, by providing notice to the person of the proposed action to be taken against them, and an opportunity to be heard. The Bill does not prevent judicial review for decisions surrounding removal of office holders under the proposed sections.

[147] Queensland Health, *Response to submissions* (7 November 2025) p 4-5.
[148] Queensland Health, *Response to submissions* (7 November 2025) p 4-5.
[149] Queensland Health, *Response to submissions* (7 November 2025) p 4-5.
[150] Queensland Health, *Response to submissions* (7 November 2025) p 5.
[151] LSA, s 4(3)(a).
[152] LSA, s 4(3)(b).

Committee comment

The committee is satisfied that the potential limitation of natural justice and procedural fairness resulting from the proposed amendments is appropriately justified. The purpose of the amendments to ensure office holders of public health boards maintain the confidence of the public and government. This is important given the large budgets and positions of trust held by such office holders. The Bill does not limit or restrict any individual's rights at law to pursue contractual remedies, or other legal remedies, where they are otherwise entitled to do so.

2.7.4. FLP Issue - Retrospectivity

Legislation should not adversely affect rights and liberties, or impose obligations, retrospectively.[153] The proposed amendments have retrospective application to board members appointed before the commencement.[154]

Committee comment

The committee acknowledges that amendments should, in general, not place additional requirements on appointees retrospectively. However, the committee is satisfied that the retrospective application is justified for the reasons stated by Queensland Health.

2.7.5. HRA Issue – Privacy and Reputation

The Bill may limit the right to privacy and reputation of an office holder who is removed from their position.[155] The statement of compatibility notes:

> *The circumstances under which the power would be expected to be exercised by the Governor in Council would need to be sufficiently important that there would be a consensus decision made through Government consultation processes that the office holder should be removed. This ensures the office holder remains accountable for the leadership role they take in the public health system and requires them to maintain appropriate governance and performance measures for the statutory body they oversee.*[156]

[153] LSA, s 4(3)(g).
[154] See, for example, Bill, cl 52 (inserts new s 153(2) to the ART Act).
[155] Statement of compatibility, p 13.
[156] Statement of compatibility, p 13.

The statement of compatibility states there are no less restrictive, and reasonably available alternatives to achieve this outcome and states that using a prescriptive approach to governance would not assist in achieving the purpose of the Bill:

> *The approach of having prescriptive criteria as grounds for removal is not considered sufficiently responsive to ensure confidence is maintained in office holders in the broad range of circumstances that arise in overseeing the service delivery, governance and regulation of the public health system.*[157]

Committee comment

The committee notes the potential limitation of the right to privacy and reputation of the board members who may be impacted by removal but is satisfied that it is in the public interest to ensure that the persons in charge of such large expenditure and governance in the public health system are subject to performance standards. Where they do not meet those standards, the proposed amendments will ensure they can be removed from office.

2.8. Amendments to the *Private Health Facilities Act 1999*

The PHF Act provides a framework for protecting the health and wellbeing of patients receiving health services at private health facilities. This framework provides for the licensing of private hospitals and day hospitals across Queensland and provides for compliance, monitoring and enforcement of licensing requirements.[158]

The Bill proposes amendments to the PHF Act to:[159]

- Support the safe delivery of cosmetic surgery by requiring private health facilities that provide cosmetic surgery to comply with the National Safety and Quality Cosmetic Surgery Standards (Cosmetic Surgery Standards); and
- Enable a regulation to prescribe information sharing agreements with Queensland Government entities about information collected under the Act.

The Bill responds to a September 2022 agreement at the HMM to strengthen regulations surrounding cosmetic surgery in response to growing community concerns about safety in the industry. In September 2023, the HMM approved the Cosmetic Surgery Standards. States and Territories have committed to implementing jurisdictionally appropriate legislation and regulation to uphold the Cosmetic Surgery Standards.[160]

The Bill clarifies the head of power in the PHF Act to authorise a regulation to prescribe standards of accreditation for facilities that provide certain health services. This will allow a regulation to be made to require private health facilities that provide cosmetic surgery to comply with the new Cosmetic Surgery Standards.[161]

[157] Statement of compatibility, p 13.
[158] Queensland Health, *Written briefing* (29 October 2025) p 5.
[159] Bill, cls 76-80. Explanatory notes pp 1, 16-17, 79-80.
[160] Queensland Health, *Written briefing* (29 October 2025) p 5.
[161] Queensland Health, *Written briefing* (29 October 2025) p 5.

The Bill also expands the process of information sharing between private health facilities and Queensland Government entities. At present, such information may only be disclosed by a decision of the Director-General on the basis of a public interest.[162] An example of information shared under existing arrangements is data about firearm injuries to assist the Queensland Police Service conducting strategic intelligence assessments relating to illegal firearms.[163]

The proposed approach to information sharing aligns with existing disclosure processes for sharing information with the Commonwealth and other States under the PHF Act and with the approach in the *Hospital and Health Boards Act 2011* and *Public Health Act 2005*.[164]

2.8.1. Stakeholder submissions and department advice

i. Stakeholder submissions

The proposed amendments had strong support from stakeholders.

The Australian Medical Association (Queensland) (AMAQ) submitted:

> *AMA Queensland is generally supportive of the proposed reforms and notes previous efforts by the federal and state governments to improve patient outcomes and regulation in cosmetic surgery. There has been significant public concern about the sector, and those changes were welcomed by doctors, including plastic surgeons, who saw first-hand the harms that can eventuate from inadequate regulation.*[165]

At the public hearing, Dr Nick Yim, President of AMAQ, told the committee:

> *Patient safety is paramount and must apply no matter the setting in which treatments are given. There is no reason why all private facilities and people providing cosmetic surgery services should not have to adhere to these same essential requirements as required by doctors and dentists.*[166]

QNMU noted its support for robust accreditation standards and emphasised the need for qualified and skilled health practitioners to practice in their clearly defined scope of practice.[167] QNMU also submitted that any changes to information sharing should be underpinned by appropriate safeguards, with a view to balancing the need for individual privacy against preserving the integrity of the regulatory system and the need for public safety.[168]

In its written submission, the Australian Society of Plastic Surgeons (ASPS) were generally supportive of measures to improve the safe delivery of cosmetic surgery.

[162] Bill, cl 80 (inserts new s 147 of the PHF Act).
[163] *Public Briefing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (29 October 2025) p 6.
[164] Queensland Health, *Written briefing* (29 October 2025) p 5.
[165] Submission 9, p 1.
[166] *Public Hearing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (19 November 2025) p 1.
[167] Submission 6, p 4.
[168] Submission 6, p 5.

However, ASPS noted facilities are already required to comply with general surgery standards and said that specific cosmetic surgery standards may lead to undue administrative burden on smaller, private facilities, especially where the standards do not align with each other in timeline or process.[169]

At the public hearing on 19 November 2025, Dr Rebecca Won from ASPS told the committee about the four urgent actions agreed to by Australian Health Minister to respond to concerns about cosmetic surgery: protect the title of surgeon; area-of-practice endorsement (setting minimum training standards); advertising guidelines; and licensing standards for facilities. [170] The Bill's amendments respond to the fourth action item.

ASPS, while supportive of the intent of the proposed Bill, noted potential risks associated with the proposed approach, with Dr Won providing additional context during the public hearing:

> *…We do, however, have some serious concerns about the proposed way it will be implemented. We wish to put on the public record the risks and issues we foresee occurring if it moves forward unaltered.*
>
> *The review of licensing standards of facilities led the Australian Commission on Safety and Quality in Health Care, or the ACSQHC, to create a separate cosmetic surgery standard in addition to an existing standard that already applies to all other surgical operations. That existing standard is set out by the National Safety and Quality Health Service Standards, or the NSQHS Standards. In essence, the facility regulation for cosmetic surgery has been duplicated rather than included within the existing national regulation that applies to all other forms of surgery. If the bill today passes then the duplicated regulation will apply to all private facilities in Queensland.*
>
> *The administrative burden the new standard imposes on hospital administrators is really quite significant when you compare it to the low number of cosmetic procedures carried out in any year. It is a burden that is quite likely to lead to local facilities ceasing to provide cosmetic surgery in order to avoid the additional burden it imposes. This will particularly affect the smaller day hospital facilities in which many of these procedures occur and it will lead to access issues for patients. If they cannot have it done in a small community facility that is appropriately accredited then they will have to go to a larger hospital. That then puts pressure on waitlists and access to care.*
>
> *Commonly, the only difference between cosmetic surgery and reconstructive surgery is simply the reason for performing it. The surgery is actually the same, with the same risks of complications and the same recovery, so creating a parallel and duplicated system of accreditation further promotes the false concept that it is somehow unique. If the legislation passes as it is, we are going to have a situation where, if you were having an abdominoplasty—a tummy tuck—because your tummy muscles are 2.5 centimetres separated then that will be considered cosmetic and you will be under the cosmetic surgery facilities regulation, but if those same tummy muscles were three centimetres separated that would be considered reconstructive and you would*

[169] Submission 3, p 2-3.
[170] *Public Hearing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (19 November 2025) p 7.

> *then be under the existing facilities regulation… I can provide many other examples, but they highlight our firm belief that cosmetic surgery is a subset of surgery and therefore there is no need to have a separate cosmetic surgery standard.*
>
> *We want to ensure that Australians can access these procedures in settings close to their homes and support networks. We have high standards of health care and surgical care in Australia and we are the envy of many other developed nations. We do not want to see Australians being forced to seek cosmetic surgery overseas—where the standards can be significantly lower and the harms greater—as a result of access issues that have been created by excessive, duplicated regulation at home. It is us, after all, who look after these patients when the current system fails them and the Australian taxpayer who pays.*
>
> *We recommend that the government, in conjunction with the states and ACSQHC, revise their approach to this facilities regulation for cosmetic surgery and incorporate it into the NSQHS general standard. Use the regulation that already exists rather than duplicate it. Doing this will still achieve the original aim of addressing the system gaps identified back in 2021. It will avoid unintended disadvantageous access issues. The existing accreditation standards that ensure non-cosmetic surgery is safe will also ensure cosmetic surgery is safe.*[171]

Dr Won also raised concerns about doctor-patient confidentiality under the proposed amendments, and increased administrative burden on small facilities:

> *… The two main types of hospitals are inpatient hospitals, where you can stay overnight, and day hospitals, where you can have your surgery, recover and go home the same day. They do not necessarily have the capacity for you to stay overnight. The extra burden that comes in the extra regulation and things that are above and beyond the existing standards include things like the facility having to have processes to ensure their clinicians are assessing patients' suitability for surgery. As a professional, in my private consulting suites that is what I do. The fact is that the facility is now going to have to check that that is what I am going to do. We might be talking about a small day surgery that has one nurse who basically looks at all of this regulation and makes sure they are compliant. You might have five surgeons doing cosmetic surgery, and they now have to make sure those surgeons are assessing patients properly.*
>
> *…*
>
> *The facilities are going to have to collect psychological screening assessments of the patients undergoing cosmetic surgery. Again, that is something I do in my rooms with a patient. I assess their psychological suitability. If I have concerns I send them to a practitioner who is better able to assess that, but the facility is now going to have to make sure I am doing that for everyone having cosmetic surgery. We have concerns about the privacy and confidentiality of that. Does a hospital really need to know the intricate details of a patient's psychological health? We have concerns about how it would*

[171] *Public Hearing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (19 November 2025) p 8.

> *impact on the doctor-patient relationship if an administrative officer in a hospital is starting to talk to a patient about their psychological health.*[172]

The Office of the Health Ombudsman expressed support for the amendments noting:

> *The OHO is supportive of the amendments proposed to the PHF Act with a view to improving the licensing of cosmetic surgery facilities where currently the PHF Ac requires all private health facilities to comply with the NSQHS Standards, there remains no way to require explicit facilities providing cosmetic surgery to comply with the Cosmetic Surgery Standards, or other standards of accreditation.*[173]

ii. Department advice

Following the public hearing, the committee wrote to Queensland Health requesting additional information addressing the concerns raised by ASPS. Queensland Health advised the committee:

> *'Cosmetic surgery' is an elective procedure undertaken to achieve changes in physical appearance which the consumer considers are more aesthetically pleasing. The amendments in the Bill are relevant to the more complex types of cosmetic surgery that are performed in licensed health facilities. As cosmetic surgery is not undertaken for medical or health purposes it raises a number of issues and risks which are different from surgery undertaken to treat diseases or medical conditions.*
>
> *While there is a significant degree of overlap with other types of surgery, it has been recognised that there are risk-factors associated with cosmetic surgery that require particular attention, including informed decision-making, financial disclosure and consent, ensuring patients understand the risks of cosmetic surgery and that suitability for surgery is assessed, including assessing any potential underlying mental health condition that could be impacted.*
>
> *…*
>
> *The Commission developed the National Safety and Quality Cosmetic Surgery Standards (Cosmetic Surgery Standards) for implementation across Australia in facilities where cosmetic surgery is performed. The Cosmetic Surgery Standards were developed following consultation with consumers, clinicians, services, professional and peak bodies, regulators and other representatives of the sector. While States and Territories have input into the national standards, along with other stakeholders, the process for developing the standards was undertaken independently by the Commission, which determined that the most appropriate approach was to develop separate standards for cosmetic surgery.*
>
> *In Queensland, licensed private health facilities are already required to comply with the National Safety and Quality Health Service Standards (NSQHS Standards), which were designed to address clinical procedures undertaken for health or medical purposes. There is a significant overlap between the NSQHS Standards and the Cosmetic Surgery Standards. Of the 101 action items in the Cosmetic Surgery Standards, 81 actions match with actions in the*

[172] *Public Hearing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (19 November 2025) pp 8-9.
[173] Submission 15, p 3.

> *NSQHS Standards. To address this overlap, the Commission developed the Cosmetic Surgery Module, which addresses the 20 unique actions specific to cosmetic surgery that must be undertaken by facilities that are already accredited to the NSQHS Standards. This ensures facilities can easily identify those actions which are additional and specific to cosmetic surgery.*
>
> *…*
>
> *Queensland Health sent feedback provided by the Australian Society of Plastic Surgeons to the Commission. The Commission advised it also received the feedback through a recent targeted consultation process on the draft user guides developed to support implementation of the Cosmetic Surgery Standards and the Cosmetic Surgery Module. The Commission has advised the feedback is being used to inform the finalisation of these implementation resources to assist in helping facilities to comply with the Cosmetic Surgery Standards. The Commission has also committed to responding directly to the Australian Society of Plastic Surgeons about its feedback, including issues about confidentiality, administrative burden and alignment with the existing NSQHS Standards.*[174]

Regarding the proposed information sharing amendments, Queensland Health noted that information sharing agreements with other Queensland Government entities proposed to be prescribed by regulation will require compliance with the *Information Privacy Act 2009*, privacy principles, the legislation under which the data is shared and departmental governance processes.[175]

Committee comment

The committee heard consistent, clear evidence from stakeholders that the paramount objective of regulations must be patient safety and improved outcomes. The committee is satisfied that the approach envisaged by the proposed amendments will increase patient safety for those undergoing cosmetic surgery in private facilities. The committee is satisfied that Queensland Health is working closely with stakeholders, including ASPS, to ensure practitioners and facilities understand their obligations under the new standards.

[174] Queensland Health, *Correspondence* (21 November 2025) pp 4-5.
[175] Queensland Health, *Response to submissions* (7 November 2025) p 7.

2.8.2. Submissions outside of the scope of the Bill

A number of submissions, including from AMAQ, raised concerns about the regulation of the cosmetic injectables industry.[176] However, cosmetic injectables, unlike cosmetic surgery, are not covered by the PHF Act. To do so would require cosmetic injectables to be carried out in hospitals or other accredited day facilities. Queensland Health noted that further work is being undertaken at a Commonwealth level, and that future reforms may be considered if necessary.[177] This committee notes the further work being undertaken and considers the regulation of cosmetic injectables to be outside the scope of the Bill.

2.9. Amendments to the *Transplantation and Anatomy Act 1979*

The TA Act provides the legal framework for organ donation in Queensland. There are two legal definitions of death for the purposes of donation:

- Brain death: where there is an irreversible cessation of brain function of the person; and
- Circulatory death: where there is an irreversible cessation of blood circulation in the person's body (i.e. where the heart stops pumping blood).[178]

Organ donation following circulatory death, while less common than donation following brain death, has steadily grown as a pathway to donation across Australia (accounting for approximately 36 percent of donation in 2024), and is an important avenue to enhance opportunities for organ donation.[179]

In advance of organ donation, certain medical procedures (ante-mortem intervention) are required on a potential donor to improve the chances of success and confirm suitability for donation.[180] In cases of circulatory death, organ quality and viability deteriorate quickly once blood stops pumping.[181] The TA Act does not currently provide a consent framework for these procedures.

The Bill proposes amendment the TA Act to provide a clear legal framework for a person's next of kin to consent to the carrying out of ante-mortem interventions in identified cases of circulatory death.[182] The amendments will allow a person's senior available next of kin to consent to these actions being taken in advance of the withdrawal of life-sustaining measures.[183]

The Bill also amends certain TA Act provisions to facilitate consent by a person, or their next of kin, for removal of blood to determine tissue donation viability.[184]

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[176] See, for example, Submissions 3 and 9.
[177] Queensland Health, *Response to submissions* (7 November 2025) p 7.
[178] Explanatory notes, p 18.
[179] Bill, cls 81-88. Explanatory notes, pp 18, 29-30, 80-83.
[180] Explanatory notes, p 18.
[181] Explanatory notes, pp 18-19.
[182] Bill, cls 82 (new definition of ante-mortem intervention), 88 (new Part 3A, Ante-mortem intervention). Explanatory notes, pp 19, 81, 82.
[183] Queensland Health, *Written briefing* (29 October 2025) p 7.
[184] Bill, cls 83-86; Explanatory notes, pp 81, 82.

2.9.1. Stakeholder submissions and department advice

i. Stakeholder submissions

There was broad support for the proposed measures.

DonateLife Qld expressed strong support for these amendments and noted that the Bill provides a safe and ethical framework under which transplant outcomes may be improved in Queensland.[185] Their submission noted that the delineation between routine pre-donation testing (like, for example, the collection of blood samples) from other ante-mortem investigations is a pragmatic approach to prevent delay for donor families.[186]

Professor Shih-Ning Then noted that the drafting of the Bill may be unclear and result in two decision makers being involved in end-of-life care decisions and ante-mortem investigations, namely, the senior available next of kin under the TA Act and a decision-maker under the *Guardianship and Administration Act 2000* (GA Act) and the *Power of Attorney Act 1998.*[187] At the public hearing on 19 November 2025, Professor Then provided the committee with further information about the potential for conflict and suggested that this could be resolved by adopting a similar provision to that which exists in NSW.[188] Professor Then also raised the potential need for further consideration of how provisions apply to Gillick-competent children.[189]

Stephen Page told the committee that the amendments will have a positive impact on persons seeking posthumous sperm retrieval.[190]

The OHO noted that the Australian Law Reform Commission is currently undertaking an inquiry into human tissue laws which may result in further reform in the future. This is due to be completed in August 2026.[191]

ii. Department advice

Queensland Health explained that the provisions relating to consent to ante-mortem interventions are consistent with the other provisions in the TA Act associated with consent for children and it is not considered necessary to have specific provisions about Gillick competency.[192]

In response to Professor Then's concerns about potential conflict, Queensland Health noted that there are separate decision-makers under the GA Act and the senior available next of kin under the TA Act. As all decisions relating organ donation or ante-mortem

[185] Submission 7, p 1.
[186] Submission 7, p 1.
[187] Submission 16, p 1.
[188] *Public Hearing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (19 November 2025) pp 11-12.
[189] Submission 16, p 2.
[190] *Public Hearing – Inquiry into the Health Legislation Amendment Bill (No. 3) 2025* (19 November 2025) pp 5-6.
[191] Submission 15, p 3.
[192] Queensland Health, *Response to submissions* (7 November 2025) p 7.

interventions are made after and separate to any decisions made by the decision-maker under the guardianship framework, Queensland Health advised there should be no circumstances where a conflict arises.[193]

2.9.2. FLP issue – the rights and liberties of individuals

The proposed amendments may impact on the rights and liberties of individuals who are subject to ante-mortem interventions by providing for the next of kin to consent to such procedures.

There are existing safeguards in the TA Act which ensure next of kin consent to tissue donation is not in opposition to the person's own objection to tissue being donated.[194] There are also other accountability measures to ensure the process is overseen by an independent designated officer, and to ensure consent is documented in writing. Consent for ante-mortem interventions would only be sought after a lawful decision to withdraw life-sustaining measures has been made and where consent is given by the next of kin to organ donation.[195]

Committee comment

The committee is satisfied that any limits on the rights and liberties of individuals resulting from the amendments are justified and that there are appropriate safeguards within the TA Act.

2.9.3. HRA Issue - Right to protection from torture and cruel, inhuman or degrading treatment

The right to protection from torture and cruel, inhuman or degrading treatment relevantly includes that a person must not be subjected to medical or scientific experimentation or treatment without the person's full, free and informed consent.[196] The Bill limits this right.[197]

The purpose of the limitation is to address existing uncertainty about who can consent to ante-mortem interventions. The uncertainty is caused by the absence of an express process in the TA Act, which can potentially result in 'missed opportunities for life saving and life changing donations'.[198] The proposed amendments are intended to improve opportunities for organ donation by 'providing a statutory framework for obtaining consent from a person's next of kin so that ante-mortem interventions can be undertaken on a potential organ donor'.[199] This purpose is consistent with the values of a free and democratic society. There is a rational connection between the limitation and its purpose.

[193] Queensland Health, *Response to submissions* (7 November 2025) p 7. See further Queensland Health, *Correspondence* (21 November 2025) pp 1-2.
[194] Explanatory notes, p 41.
[195] Explanatory notes, p 41.
[196] HRA, s 17.
[197] Statement of compatibility, pp 18, 19.
[198] Statement of compatibility, p 18.
[199] Statement of compatibility, p 19.

There are no less restrictive and reasonably available ways to achieve the purpose.[200] The limitation is mitigated by providing for a person's next of kin to provide the appropriate consent.[201]

Committee comment

The committee is satisfied that any limit on the right to protection from torture and cruel, inhuman or degrading treatment, including medical treatment without consent, is proportionate and justified. The proposed consent framework is intended to create more opportunities for successful organ donation. Competing rights and considerations are appropriately balanced under the current drafting of the Bill.

[200] Statement of compatibility, p 20.
[201] Statement of compatibility, pp 19, 20.

Appendix A – Submitters

Sub No.	*Name / Organisation*
1	Name withheld
2	Stephen Page
3	Australian Society of Plastic Surgeons
4	The Pharmacy Guild of Australia
5	Confidential
6	Queensland Nurses and Midwives Union
7	DonateLife Qld
8	Jane Sliwka
9	AMA Queensland
10	ARTFam Australia / Australian Solo Mothers by Choice
11	Rainbow Families Australia
12	Royal Australian and New Zealand College of Obstetricians and Gynaecologists
13	The Australian College of Rural and Remote Medicine
14	Donor Conceived Families Australia
15	Office of the Health Ombudsman
16	Professor Shih-Ning Then
17	Queensland Law Society

Appendix B –Public Briefing, 29 October 2025

Queensland Health

Peta Bryant	Deputy Director-General, System Policy and Planning Division
Dr Catherine McDougall	A/Chief Health Officer A/Deputy Director-General, Population Health Division
Christine Stones	Director, Assisted Reproductive Technology Unit
Karson Mahler	Director, Legislative Policy Unit
Eve Gibson	Manager, Legislative Policy Unit

Appendix C – Witnesses at Public Hearing, 19 November 2025

Individuals

Professor Shih-Ning Then

Organisations

Australian Medical Association Queensland	
Dr Nick Yim	President
Australian Society of Plastic Surgeons	
Dr Rebecca Won	Hon Secretary
ARTFam Australia / Australian Solo Mothers by Choice	
Michelle Galea	Chair
Nandi Segbedzi	Secretary
Queensland Law Society	
Wendy Devine	Manager, Legal Policy
Kate Brodnik	Principal Policy Solicitor
Rohan Tate	Member, Industrial Law Committee
Fertility Society of Australia and New Zealand	
Stephen Page	Secretary

Appendix D - Jurisdictional comparison of family limits across Australia

Jurisdiction	Instrument	Number limit	Woman or Family	Scope
Australian Capital Territory (ACT)	Assisted Reproductive Technology Act 2024 (ACT)	5-family limit within the ACT, 10-Family limit across Australia.	Family	ACT and Australia-wide.
Victoria	Assisted Reproductive Treatment Act 2008 (VIC)	10	Woman	Does not specify.
South Australia	Assisted Reproductive Treatment Act 1988 (SA) Conditions of Registration	10	Family	Australia-wide. If gametes are imported from another country, the ART provider must ensure that no more than 10 families are created in South Australia and less than 10 if the ART provider is aware that the gametes have been used in another state or territory.
Western Australia (WA)	Human Reproductive Technology Act 1991 (WA) Human Reproductive Technology Directions 2021	5	Family	The Directions provide that a WA licensee must not use a donor's gametes to create more than five families, including families that may be outside Western Australia, unless the WA Reproductive Technology Council has given approval.
New South Wales (NSW)	Assisted Reproductive Technology Act 2007 (NSW)	5	Woman	Does not specify. However, the NSW Government has recently clarified that the limit is to be applied worldwide. To prevent treatments being paused as a result of this clarification, the NSW Government introduced an exemption to enable affected families to continue their ART treatment. In the absence of an exemption, the 5-women limit will apply worldwide.

Appendix E – other Queensland legislation providing 'no cause' removal of office holders

Relevant Act	Entity	Substantive provision
Major Sports Facilities Act 2001	Stadiums Queensland Board	Section 17: *The Governor in Council may, at any time, terminate the appointment of all directors, or any director, for any reason or none.* * The above section is set to be replaced pursuant to s 22 of the Major Sports Facilities and Other Legislation Amendment Bill 2025.
Trade and Investment Queensland Act 2013	Trade and Investment Queensland Board	Section 23(2): *The Governor in Council may, at any time, end the appointment for any reason or none.* Section 33(3) (regarding the CEO): *The board may, at any time, end the appointment for any reason or none.*
Queensland Rail Transit Authority Act 2013	Queensland Rail Transit Authority Board	Section 20(2): *The responsible Ministers may, at any time, end the appointment for any reason or none.* Section 30(3) (regarding the CEO): *The board may, at any time, end the appointment for any reason or none.*
South East Queensland Water (Restructuring) Act 2007	SEQ Water Board	Section 19(4): *The responsible Ministers may, at any time, end the appointment for any reason or none.* Section 28(3) (regarding the CEO): *The board may, at any time, end the appointment for any reason or none.*
Queensland Museum Act 1970	Queensland Museum Board	Section 10(3): *The Governor in Council may, at any time, end the appointment of all or any members for any reason or none.*
Queensland Art Gallery Act 1987	Queensland Art Gallery Board of Trustees	Section 10(3): *The Governor in Council may, at any time, end the appointment of all or any members for any reason or none.*
Queensland Performing Arts Trust Act 1977	Queensland Performing Arts Trust	Section 10(3): *The Governor in Council may, at any time, end* the *appointment of all or any members for any reason or none.*

Queensland Theatre Company Act 1970	Queensland Theatre Company	Section 10(3): *The Governor in Council may, at any time, end the appointment of all or any members for any reason or none.*
Libraries Act 1988	State Library of Queensland (Library Board of Queensland)	Section 11(3): *The Governor in Council may, at any time, end the appointment of all or any members for any reason or none.*
Workers' Compensation and Rehabilitation Act 2003	WorkCover Queensland Board	Section 44(1): *The Governor in Council may, at any time, terminate the appointment of all or any directors of the board for any reason or none.* Section 446(3) (regarding CEO): *The board may, at any time, terminate the appointment of the chief executive officer for any reason or none.*
Work Health and Safety Act 2011	Work Health and Safety Board	Section 11(3) of Schedule 2: *The Minister may, at any time, end the appointment of a member for any reason or none.*
Queensland Reconstruction Authority Act 2011	QRA Board	Section 33(2): *The Governor in Council may at any time remove a member from office for any reason or none.* Section 21(2) (regarding CEO): *The Governor in Council may at any time remove the chief executive officer from office for any reason or none.*
Tourism and Events Queensland Act 2012	TEQ Board	Section 51(3): *The Governor in Council may at any time remove a member from office for any reason or none.* Section 17(2) (regarding the CEO): *The Governor in Council may at any time remove the CEO from office for any reason or none.*
Legal Aid Queensland Act 1997	LAQ Board	Section 51(3): *The Governor in Council may* remove *a member from office for any reason or none.*
Rural and Regional Adjustment Act 1994	Queensland Rural and Industry Development Authority	Section 17(3): *The Governor in Council may, at any time, end the appointment of a director for any reason or none.*

Coexistence Queensland Act 2013	Coexistence Queensland	Section 14: *The Governor in Council may at any time remove a member from office for any reason or none.* Section 30(3) (regarding CEO): *Coexistence Queensland may at any time remove the chief executive officer from office for any reason or none.*
Racing Act 2002	Racing Queensland Board	Section 16(2): *The Governor in Council may remove a member from office as a member for any reason or none.* Section 18(3) (regarding chair / deputy chair): *The Governor in Council may remove a person from office as the chairperson or deputy chairperson for any reason or none.* Section 35(3) (regarding CEO): *The Governor in Council may remove the chief executive officer for any reason or none.*
Food Production (Safety) Act 2000	Safe Food Board (Safe Food Production Queensland)	Section 4, schedule 1: *The Governor in Council may, at any time, terminate the appointment of all appointed directors, or an appointed director, for any reason or none.*
Gold Coast Waterways Authority Act 2012	Gold Coast Waterways Authority Board	Section 50: *The Governor in Council may at any time remove an appointed member from office for any reason or none.*
Residential Tenancies and Rooming Accommodation Act 2008	RTA Board of Directors	Section 474(3): *The Governor in Council may, at any time, end the appointment of a director for any reason or none.*
Corrective Services Act 2006	Parole Board Queensland	Section 226(2): *The Governor in Council may, at any time, end the appointment of a community board member for any reason or none.* * other provisions apply for removal of other types of board members

Statement of Reservation

QUEENSLAND LABOR OPPOSITION

Statement of Reservation

58TH PARLIAMENT

Acknowledgment of Country

We acknowledge the Traditional Owners of the lands, seas, skies and waterways from across Queensland.

We pay our respect to the Elders, past, present and emerging, for they hold the memories, traditions, the culture and hopes of Aboriginal peoples and Torres Strait Islander peoples.

This artwork by The Hon Leeanne Enoch MP is called "The Power of Many" from her "Connections" series. It represents the paths we take to reach our goals and the many important and often powerful connections we make with each other along the way.

The *Health Legislation Amendment Bill No.3* (Bill) amends eight health portfolio acts.

The Queensland Labor Opposition supports clarifications and changes introduced by this bill, including the technical amendments to ensure the *Assisted Reproductive Technology Act* operates as intended, maximising opportunities for organ donation through a clear consent framework and ensuring safety and compliance for cosmetic surgery.

While the Queensland Labor Opposition supports these amendments, we hold signficant reservations with regards to the removal of office holders under the *Hospital and Health Boards Act 2011*, *Health and Wellbeing Queensland Act 2019*, *Pharmacy Business Ownership Act 2024* and the *Hospital Foundations Act 2018*, with or without grounds.

The Bill allows for Governor in Council to remove office holders for any or no reason. The explanatory notes for the bill, in the view of the Queensland Labor Opposition falsley claim that the introduction of these amendments:

> *"Improves governance of the health system"* (Page 1, Health Legislation Amendment Bill No.3 Explanatory Notes)

While the removal powers this bill inserts are present in some Queensland Acts, including the *Legal Aid Queensland Act 1997* and the *Gold Coast Waterways Authority Act 2012*, this is not consistent across all Acts and more significantly does not even reflect a congruent approach amongst the Crisaulli LNP Government's current policy agenda.

A bill before the Legislative Assembly of the Queensland Parliament, the *Major Sports Facilities and Other Legislation Amendment Bill 2025,* inserts Governor in Council approval, outlines reasons that qualify a person for appointment to the board and importantly provides clear reasoning for disqualification.

When the Queensland Labor Opposition queried the reasoning for inserting these powers at the Public Committee Hearing on the 29 October 2025, Queensland Health responded, *"This is a policy decision for the minister. I cannot explain, and nor can the team."* (Page 5, Public Hearing Inquiry into Health Legislation Amendment Bill 3)

Furthermore, key stakeholders have articulated their concerns regarding the removal of board members without grounds. The Queensland Law Society stated in their submission:

> *"QLS holds reservations regarding the proposed amendments allowing for the removal of board members, and the CEO for Health and Wellbeing Queensland and the Queensland Pharmacy Business Ownership Council, by the Governor-in-Council, with or without grounds."*
>
> *"These amendments do not properly provide the affected individuals with natural justice or procedural fairness. They are also inherently unfair as they apply to existing officer holders."*

They go on to say, *"Public trust must also be predicated on appointment and termination processes that are transparent and fair. The Bill creates opaque processes."* (Page 1, Queensland Law Society Submission to the Inquriy into the Health Legislation Amendment Bill No.3)

These concerns from the Queensland Law Society clearly demonstrate that the Crisafulli LNP Government have once again turned their backs on promises of increased transparency, integrity and accountability.

The hypocritical approach of the Crisafulli LNP Government is of serious concern to the Queensland Labor Opposition. Since coming to government, a desktop analysis shows that the LNP have appointed 61 of their mates to government boards, including former LNP elected representatives, donors, close friends and associates.

The powers inserted by this bill permit the Crisafulli LNP Government to unfairly, in the view of the Labor Opposition and stakeholders, remove hardworking and qualified members of health boards.

This gives the Crisafulli LNP Government latitude to replace board members with LNP aligned figures, continuing their 'job for mates' hiring spree.

Queenslanders were promised integrity, increased accountability and transparency.

These amendments stand in direct contradiction to this, representing another broken promise of the Crisafulli LNP Government.

The LNP's haphazard approach to removing experts from Queensland Health boards, is reflected across their agenda of cuts, chaos, delays and ignoring the experts.

Queenslanders deserve better.

The Queensland Labor Opposition reserves the right to articulate further views on this legislation during the Second Reading debate.

JOE KELLY MP
MEMBER FOR GREENSLOPES
DEPUTY CHAIRPERSON OF THE COMMITTEE
SHADOW ASSISTANT MINISTER FOR HEALTH

DR BARBARA O'SHEA MP
MEMBER FOR SOUTH BRISBANE