Impact Analysis Statement

Summary Impact Analysis Statement

Details

Lead department	Queensland Health
Name of the proposal	Health Legislation Amendment Regulation 2025
Submission type	Summary Impact Analysis Statement
Title of related legislative or regulatory instrument	The Amendment Regulation makes minor and technical amendments to the: • *Food Regulation 2016* • *Hospital and Health Boards Regulation 2023* • *Public Health Regulation 2018* • *Radiation Safety Regulation 2021.* The amendments will ensure that Queensland legislation is contemporary and aligns with other States and Territories. The amendments will reduce regulatory duplication and the administrative burden on Queensland Health.
Date of issue	August 2025

For proposals noted in table below, no further analysis is required.

Proposal type	Details
Minor and machinery in nature	**Hospital and Health Boards Regulation** The proposed amendments will prescribe new cross-border agreements with New South Wales and Victoria. This will allow the continued sharing of confidential patient information between Queensland, New South Wales and Victoria and will facilitate Queensland recovering the costs of treating visiting New South Wales and Victorian residents in Queensland public hospitals. This will ensure health services provided by Queensland public hospitals to these interstate residents are appropriately funded. The NSW cross-border reconciliation for the period 1 July 2019 to 30 June 2023 is awaiting processing and is worth approximately $64.5 million (net) to Queensland. This amount takes into consideration the 'provisional' payments (that is, the estimated part payments) made by both jurisdictions each financial year. The total value of funding payable to Queensland over the duration of the agreement is approximately $310.7 million (net). The Victorian cross-border reconciliation for the period 1 July 2020 to 30 June 2023 is also awaiting processing and is worth approximately $24 million (net) to Queensland. There is no 'provisional' payment arrangement in place between Queensland and Victoria. The total

	value of funding payable to Queensland over the duration of the agreement is approximately $44.5 million (net). Without these bilateral cross-border agreements being prescribed, Queensland Health will not be able to undertake the necessary reconciliation process needed to secure funding from New South Wales and Victoria to cover the cost of treating their residents in Queensland public hospitals. Prescribing the agreements ensures Queensland is acting in accordance with the *National Health Reform Agreement Addendum (2020-25)* which provides that cross-border agreements must be developed between jurisdictions that experience significant cross-border flows of public patients where one of the jurisdictions requests a cross-border agreement be in place. As these agreements permit the disclosure of confidential patient information, they may infringe upon the privacy of persons whose medical information may be disclosed. However, this infringement is mitigated by appropriate safeguards in the *Hospital and Health Boards Act 2011* and within the agreements regarding use of the information. This includes safeguards ensuring the information is used only for the purpose for which it was given. Disclosure of confidential data under these agreements also serves a compelling public interest by promoting public health. In summary, the proposal seeks to maintain the status quo: • regarding the sharing of confidential patient information necessary to facilitate Queensland recovering the costs of treating visiting New South Wales and Victorian residents in Queensland public hospitals • in circumstances where there are new cross-border agreements with New South Wales and Victoria. On this basis, it is appropriate to characterise this as a regulatory proposal that is minor and machinery in nature. This is because it involves a routine update (no substantive regulatory or policy change) and no further Regulatory Impact Analysis is required under *The Queensland Government Better Regulation Policy*.
Regulatory proposals where no Regulatory Impact Analysis is required	**Public Health Regulation** The proposed amendments will remove mpox as a pathology request notifiable condition under schedule 1. The proposed amendment will have a positive impact on private pathology laboratories. This includes enabling laboratories to streamline their workflows by reducing the time and resourcing associated with identifying and then notifying the relevant public health unit of these testing requests. By only prompting a follow up when a suspected case of mpox has been confirmed by a laboratory, the proposed amendments will optimise public health unit resources within Queensland Health. The proposed amendments are not expected to negatively impact the community. Confirmed cases of mpox will continue to receive appropriate public health follow-up upon receipt of pathological diagnosis notifications. Also, the provision of appropriate advice in

	relation to preventing further transmission will continue to be provided at the time of testing. The amendments will align Queensland notification requirements with those in other Australian jurisdictions, and with the national best practice guidelines for mpox outlined in the Communicable Diseases Network Australia's *Series of National Guidelines*. Mpox will remain a pathological diagnosis notifiable condition that must be notified immediately upon diagnosis. This will ensure Queensland Health can respond rapidly to confirmed cases or potential outbreaks and reduce the risk of mpox spreading. This includes by identifying contacts who may be at a higher risk of transmission. This ensures the effectiveness of the notifiable conditions register is maintained in relation to the purposes for which it was established. Removing the pathology request notification requirement will also have a positive direct impact on the human right to privacy, as it will reduce the disclosure of confidential information. In summary, the proposal will remove mpox as a pathology request notifiable condition under schedule 1. This will enable laboratories to streamline their workflows by reducing the time and resourcing associated with identifying and then notifying the relevant public health unit of these testing requests. On this basis, the proposal may be characterised as a regulatory proposal that is deregulatory (removes regulation) and does not increase costs or regulatory burden on business or the community and is not subject to the Regulatory Impact Analysis requirements under *The Queensland Government Better Regulation Policy*. **Radiation Safety Regulation** <u>Expanding the classes of persons who are 'prescribed licensees' for use licences</u> The proposed amendments will expand the classes of persons who are 'prescribed licensees' for use licences to include: • oral health therapists, dental hygienists and dental therapists • diagnostic radiographers • radiation therapists • nuclear medicine technologists • specialist health practitioners (for example, specialist surgeons and dermatologists) • veterinary surgeons. Amendments to the Radiation Safety Regulation to prescribe additional classes of persons as use licensees will reduce an unnecessary regulatory and administrative burden. The increase in deemed use licences will reduce the administrative costs for Queensland Health in processing licence applications and renewals. It will also avoid licensing costs being incurred by persons within the additional prescribed licensee classes. Under the proposed amendments, approximately 4,583 persons will no longer be required to pay a fee to apply for and attain or renew a use licence. This will reduce the licensing revenue received by

	Queensland Health by approximately $340,059 per annum, noting that each applicant currently pays a $103.88 initial application fee and a $74.20 annual licence fee. The reduction in licensing revenue will be partially offset by the consequent reduction in Queensland Health's administrative costs associated with processing licensing applications and renewals. In addition to reducing resourcing requirements at the local level, the amendments will result in an estimated cost saving to the Department of Health and Hospital and Health Services of $118,720 per annum. This is because Queensland Health reimburses or pays the application and licence fees for its employees who use radiation sources, which is approximately 1,600 people. As the application and licence fees under the *Radiation Safety Act 1999* are set on a cost-recovery basis, the amendments should be considered cost-neutral. However, given the number of licensees impacted by this proposal, the full financial impact may not be known for some time. As such, consideration will be given to reviewing licence fees within three years of implementation. For many existing use licence holders, the proposed amendments will mean they automatically become prescribed licensees taken to hold a use licence. As such, their existing use licence will expire upon commencement of the amendments. However, the Radiation Safety Regulation does not provide for a pro rata refund of a licence fee. To minimise this potential impact, Queensland Health has only been issuing one-year licence renewals in place of three-year licence renewals for licences expiring prior to the amendments commencing. Overall, licence holders will benefit from the amendments by no longer needing to renew their use licence and pay the associated licence renewal fee. Some applicants for a new use licence may become a prescribed use licensee before their application is decided. In those instances, their application will not be granted and any application fee paid will be refunded. Deemed use licences will avoid the time and costs of Queensland Health conducting duplicative vetting checks. This will not reduce regulatory oversight because the prescribed licensees must be registered with their relevant professional registration body, and these professional registration bodies already conduct assessments of their registrants. These assessments relate to the criminal history and conduct of registrants, as well as skill, training, competency, knowledge and experience. As Queensland Health's own licensing process largely mirrors these assessments, it is unnecessarily duplicative. Prescribed licensees will still be subject to the same requirements, conditions and penalties for contraventions of the Radiation Safety Act as licensees that have applied for and been granted licences. This means their licences may be suspended and cancelled in the same manner. The proposed amendments will assist individuals who are already registered professionals with the requisite training to enter the workforce without delay and remove an unnecessary regulatory barrier to cross-border practice. It can take up to 90 days for a decision to be made on an application for a use licence. A person who

	applies for a use licence is not authorised to use a radiation source until a decision has been made on their application. This adversely impacts on an applicant's ability to apply for and commence work, including new graduates and interstate locums seeking employment in Queensland. The proposed amendments mean that these professionals will not have to apply for, and be granted, a use licence. The impact is that student cohorts will have a smooth transition into the workforce, and workforce mobility issues for locums will be addressed. Queensland is the only Australian jurisdiction that does not participate in the automatic mutual recognition scheme under the *Mutual Recognition Act 1992* (Cth). This Act entitles a person who holds an occupational registration in one jurisdiction to work in a second jurisdiction without having to apply for registration or a licence to work in that second jurisdiction. The proposed amendments are consistent with this initiative and will have a positive impact on workforce mobility. The proposed amendments do not create any extra patient or environmental risks because they do not expand the scope of practice that the additional prescribed use licensees are skilled and competent to provide. The radiation sources that may be used will align with the training and competencies of each class. The proposed amendments will state the qualifications, professional registration or training that must be held by each class of prescribed licensee. They will also prescribe the radiation source that each class of prescribed licensee is allowed to use and the radiation practice that each class of prescribed licensee is allowed to carry out. Despite the approximately 4,583 existing use licensees that will become prescribed licensees, the proposed amendments do not capture all radiation sources and radiation practices used in Queensland. Approximately 4,100 persons will still need to hold a use licence, where some or all the radiation sources they use or the radiation practices they carry out are not included within prescribed use licences. This will allow Queensland Health to maintain close regulatory oversight of these activities, particularly those involving more hazardous, varied or uncommon radiation sources and/or radiation practices. It will also provide Queensland Health with important data about how the standard practice of different practitioners is continuing to evolve, which in turn will inform any future legislative changes. To ensure practitioners understand the scope of their prescribed use licence, including any activities for which a separate use licence is still required, Queensland Health will deliver an education campaign for the nuclear medicine profession. As part of this, Queensland Health will consult with the profession to develop clear descriptors for the activities covered by the prescribed use licences. <u>Amending the standard conditions for radiation practice in dental services</u> The proposed amendments will update the description of diagnostic imaging equipment used by dental radiation practitioners to include commonly used newer forms of dental imaging using ionising radiation sources, such as cone beam computed tomography. The amendments will also prescribe the 2025 *Code for Radiation*

	Protection in Dental Exposure in place of the similar, now superseded, 2005 *Code of Practice for Radiation Protection in Dentistry*. Both the 2005 Code and the 2025 Code were published by the Australian Radiation Protection and Nuclear Safety Agency. These proposed amendments will ensure that the standard conditions attached to a possession or use licence held by a dental radiation practitioner apply to all forms of dental imaging using ionising radiation sources, not only simple plain X-rays. It will also ensure that the conditions attached to a possession or use licence held by a dental radiation practitioner reflect contemporary requirements for radiation sources used in dentistry. In summary, the proposal removes the need for certain classes of practitioners to be licensed. This reduces the regulatory burden of completing a licence application and paying a licence fee. On this basis, the proposal may be characterised as a regulatory proposal that is deregulatory (removes regulation) and does not increase costs or regulatory burden on business or the community and is not subject to the Regulatory Impact Analysis requirements under *The Queensland Government Better Regulation Policy*.

*Refer to *The Queensland Government Better Regulation Policy* for regulatory proposals not requiring regulatory impact analysis (for example, public sector management, changes to existing criminal laws, taxation).

For all other proposals, complete below.

What is the nature, size and scope of the problem? What are the objectives of government action?

Food Regulation

The proposed amendments will update the definition of 'prescribed food' to clarify that it means all food for sale, including raw meat and raw fish that are intended as ready-to-eat food. However, the definition will continue to exclude raw meat and raw fish that are intended to be cooked, preserved or otherwise treated before consumption. The amendments will clarify that 'prescribed food' includes retention samples of food that have or will be sold.

The expanded definition of 'prescribed food' will ensure that all at-risk foods are subject to the same notification requirements as other foods when a prescribed contaminant has been identified.

The proposed amendments will also update the list of 'prescribed contaminants' in schedule 2 to list additional microbiological contaminants and to list chemical contaminants (and natural toxicants).

Revising and expanding the list of prescribed contaminants

The *Food Act 2006* is the primary food safety legislation in Queensland. Under the Food Act, it is an offence for a person to sell food that the person knows, or reasonably ought to know, is unsafe. To ensure food is safe, food businesses may arrange regular testing of food samples for prescribed contaminants. The Food Act requires Queensland Health to be notified when a prescribed contaminant is isolated in a prescribed food.

The original list of prescribed contaminants in Queensland has not been substantially expanded since it was first introduced in 1994. The only change was in 2006, when Shiga toxin-producing *Escherichia coli* (STEC) were added and *Yersinia enterocolitica* was amended to only include pathogenic strains.

This means that schedule 2 of the Food Regulation only lists seven prescribed microbiological contaminants. It does not include many of the types of microbiological contaminants prescribed in the *Australia New Zealand Food Standards Code* (the Code), the *Compendium of Microbiological Criteria for Food* (the Compendium) and in similar lists in other Australian jurisdictions. More concerningly, schedule 2 does not list any chemical contaminants (for example, lead) or natural toxicants (for example, histamine).

For several years, Queensland Health has been developing the proposal to expand the list of prescribed contaminants. The additional prescribed contaminants in the proposed amendments have been identified through developments in food laboratory testing, foodborne illness outbreaks, food recalls and notifications to Queensland Health.

Importantly, these additional prescribed contaminants have also been identified through consultation with a range of key stakeholders, including food laboratories, food businesses, regulators, the public and food industry associations. Stakeholders were first consulted on the proposal to expand the list of prescribed contaminants in 2023, when a consultation paper on a range of proposed changes to the Food Act was released for public comment.

Prescribing the additional contaminants will improve food safety outbreak detection sensitivity and enhance regulatory harmonisation across other States and Territories. Further, as referenced by the World Health Organisation (https://www.who.int/news-room/fact-sheets/detail/food-safety), the expanded list of prescribed contaminants aligns with major foodborne illness causes internationally.

To improve consistency of regulation across jurisdictions, Queensland Heath's Data Analytics Working Group reviewed prescribed contaminants nationally. Tasmania and South Australia are the most recent States to expand their prescribed contaminant notification requirements, and it is anticipated that other jurisdictions will eventually follow. The requirements in Tasmania and South Australia now include additional microbiological contaminants, chemical contaminants and natural toxicants. As with the proposed amendments, the requirements in these two jurisdictions reference permitted levels prescribed in the Code and the Compendium.

There is still considerable variance between jurisdictions in relation to notification requirements, However, the proposed amendments are consistent with the direction taken in both Tasmania and South Australia, which is the direction other States are likely to adopt. Also, in developing the proposed amendments, Queensland Health has carefully considered Queensland circumstances, including the local food industry profile and foodborne illness history, and feedback from food laboratories.

For example, South Australia and Tasmania list the broad *Listeria* species as notifiable. In Queensland, it is proposed that only the human pathogen *Listeria monocytogenes* will be notifiable. This is because Queensland has been identified as having a much larger food manufacturing industry than the other two States. If Queensland listed the broader species, this would potentially result in a significant volume of notifications of contaminants that do not cause risks to human health.

Similarly, Tasmania lists the broad *Vibrio* spp. as notifiable, due to the large seawater aquaculture industry in that State. In Queensland, where that industry is much smaller, it is proposed to only list the human pathogens, being *Vibrio cholera*, *Vibrio parahaemolyticus* and *Vibrio vulnificus*. In South Australia, only *Vibrio parahaemolyticus* is listed as notifiable.

Expanding the definition of 'prescribed food'

As noted above, the Food Act requires Queensland Health to be notified when a prescribed contaminant is isolated in a 'prescribed food'. The Food Act provides an expansive definition of food. For the purposes of a prescribed contaminants notice, 'prescribed food' means food prescribed under a regulation. The Food Regulation defines 'prescribed food' as food other than raw meat and clarifies that 'raw meat' does not include cured, dried, smoked or uncooked fermented meat.

This means that some raw, but ready-to-eat, meats such as sushi/sashimi, oysters, steak tartare, carpaccio and ceviche are not subject to the notification requirements for prescribed contaminants, despite being potentially hazardous foods. This existing definition of 'prescribed food' in the Food Regulation was made at a time when raw meats were not commonly consumed as ready to eat foods in Queensland.

The proposed amendments will clarify that 'prescribed food' means all food for sale, including raw meat and raw fish that are intended as ready-to-eat food. This will ensure that all at-risk foods are

subject to the same notification requirements as other foods when a prescribed contaminant has been identified.

What options were considered?

The options considered were:

1. amending the Food Regulation to revise and expand the list of 'prescribed contaminants' in schedule 2 and to amend the definition of 'prescribed food'
2. maintaining the status quo.

What are the impacts?

Revising and expanding the list of prescribed contaminants

The proposed amendments do not impose additional food testing requirements on food businesses. The Food Act already requires food businesses to ensure all food is safe. This includes implementing appropriate safety controls, such as testing samples of the food.

Similarly, the proposed amendments do not require food laboratories to conduct additional testing or different tests. Instead, the proposed amendments expand the list of prescribed contaminants that laboratories must notify to Queensland Health when any of those contaminants are identified during food testing.

The impact on food laboratories is not expected to be significant. Although the proposed amendments do not mandate additional testing, some laboratories may expand their standard suite of analyses as a best practice initiative. Laboratories may also need to modify their electronic notification systems to include all the prescribed contaminants that will become notifiable under the revised and expanded schedule 2. To ensure laboratories have sufficient time to make any such modifications, a three-month implementation period is proposed.

As food laboratories charge a fee for their service, the cost of any such expanded testing may be passed onto food businesses. However, it is expected that the analyses performed at many laboratories are already sufficient to isolate at least some of the additional prescribed contaminants.

Importantly, foods only need to be tested for the contaminants that may be relevant for that specific food. Certain foods are more commonly associated with microbiological contamination than others because they provide everything bacteria need to survive. For example:

- *Salmonella* spp. are commonly found in poultry, eggs and other animal products
- *Listeria monocytogenes* is commonly found in deli-style meats and soft cheeses
- *Vibrio parahaemolyticus* is generally associated with seafood.

To assist food businesses and food laboratories to understand and comply with the proposed amendments, Queensland Health will publish a guideline in relation to the expanded notification requirements. Queensland Health also intends to conduct a thorough post-implementation review of the proposed amendments to assess their impacts on businesses and laboratories. This review will assess whether the changes are practical, achieve their intended purpose and don't have any unintended consequences. Stakeholders, including industry bodies representing food businesses, will be consulted during this process.

Queensland Health's existing electronic web-based notification form will need to be updated to include the new prescribed contaminants. There are no expected resource or financial implications for these changes.

Where routine testing identifies one of the newly-added prescribed contaminants, a laboratory will be required to notify Queensland Health of the contaminant. This may result in increased notification of prescribed contaminants in prescribed food, which will then need to be investigated by Queensland Health public health units to help protect public health and safety. However, it is not expected there will be a significant increase in the number of notifications as food laboratories

already provide voluntary notifications of contaminated food where risks to human health are identified.

Expanding the definition of 'prescribed food'

Expanding the definition of 'prescribed food' is unlikely to result in any significant impact on affected food businesses, given that most foods are already covered by the existing definition. The proposed amendments will only add a very limited category of food. It is expected that most food businesses handling those foods would also handle other foods already within the definition. As such, the amendment is unlikely to result in any significant change to their food safety requirements. The impact is simply that existing notification requirements would apply to the foods being added to the definition.

Even for food businesses that only handle the foods being added to the definition, such as those only selling raw oysters or sushi/sashimi, the impact is anticipated to be minimal. Again, it simply means that the notification requirements would now apply to the foods. The Food Act already requires these businesses to ensure their foods are safe, including by implementing appropriate safety controls, such as testing.

Foodborne illness is largely preventable. The proposed amendments are intended to reduce the incidence of foodborne illness by mitigating key risk factors. Reducing foodborne illness has a positive impact on community health and increases consumer confidence in the food industry. It also reduces the significant costs associated with foodborne illness, including lost productivity due to non-fatal illness, premature mortality and the direct costs of hospitalisations and other health care, which were estimated in 2022 to be $2.44B across Australia.

Who was consulted?

In June 2025, Queensland Health published a consultation paper about the Amendment Regulation on the Queensland Health website. Affected stakeholders and the general public were invited to make submissions in relation to the proposed amendments.

At the same time, Queensland Health undertook targeted consultation by providing a draft of the proposed amendments to the Food Regulation to industry peak bodies and professional associations. These targeted stakeholders included industry bodies representing food businesses and food manufacturers, as well as food laboratories and consumer groups.

Stakeholders generally supported the proposed changes in the Amendment Regulation. In relation to the Food Regulation, seven submissions were received. Some submitters raised concerns regarding the potential impact of the amendments on the sale of raw meat. Submitters were advised that although the Food Act is the primary food safety legislation in Queensland, it does not directly regulate the primary production of meat. The objectives of the *Food Production (Safety) Act 2000* include ensuring that the production of primary produce is carried out in a way that makes it fit for human or animal consumption, maintains food quality and provides food safety measures. That Act is administered by Safe Food Production Queensland. This means that raw meat and fish, except raw meat and fish that are sold as a ready-to-eat food (for example, sushi/sashimi, oysters and steak tartare) are not captured by the notification requirements in the Food Regulation in relation to prescribed contaminants.

One submitter recommended that the expanded list of prescribed contaminants should be limited to only high-risk pathogens that have significant public health implications. The submitter was advised that the proposed amendments align with developments in other States, while still recognising the local food industry profile and foodborne illness history. Also, the additional prescribed contaminants were developed in consultation with a range of key stakeholders. For these reasons, Queensland Health is satisfied that the amendments reflect a risk-based approach to the notification requirements.

Several submitters raised the potential impact on food testing. This included, for example, whether food laboratories will be required to conduct additional testing to determine the specific species or serotype of a contaminant. The submitters were advised that the proposed amendments do

not impose additional testing requirements on either food businesses or food laboratories. Also, foods only need to be tested for the contaminants that may be relevant to that specific food. As such, it is not expected that the proposed amendments will have any significant impact on the existing food safety requirements for most food businesses.

Submitters were advised that Queensland Health intends to conduct a thorough post-implementation review of the proposed amendments. This will include assessing the impact on small and medium-sized businesses and whether revised, or additional, guidance materials are required.

What is the recommended option and why?

Option 1 (amending the Food Regulation) was the preferred option. By revising and expanding the existing notification requirements to include additional microbiological contaminants and chemical contaminants (and natural toxicants), the proposed amendments will improve food safety outbreak detection sensitivity. These amendments will also enhance regulatory harmonisation across Australian jurisdictions and ensure that Queensland Health is notified of the results of any additional testing that is undertaken.

Further, amending the definition of 'prescribed food' to include all food for sale, if intended as ready-to-eat food, will ensure that all at-risk foods are subject to appropriate testing and notification requirements.

The option of retaining the status quo was considered. Option 2 would maintain the limited types of microbiological prescribed contaminants in schedule 2. This means that for food safety concerns arising from all other contaminants, Queensland Health must continue to depend on ad hoc and voluntary notifications from food laboratories. As such, Queensland Health may not have the timely and comprehensive information needed to respond appropriately and rapidly to food safety issues. Option 2 means that some at-risk foods will continue to be unregulated because they are outside the definition of 'prescribed food'. Given the significant health and safety risks to the community arising from foodborne illnesses, option 2 was not considered adequate.

In summary, this proposal will:

- update the definition of 'prescribed food' to clarify that it means all food for sale, including raw meat and raw fish that are intended as ready-to-eat food
- update the list of 'prescribed contaminants' in schedule 2 to list additional microbiological contaminants and to list chemical contaminants (and natural toxicants).

The proposal does not change existing obligations on food businesses to ensure all food is safe and does not impose additional food testing requirements on food businesses. Although the proposal does impose additional notification requirements on food businesses and laboratories, some of which may be passed on to food businesses or the community, the impact is not expected to be significant.

Dr David Rosengren
Director-General
Queensland Health

Date: 27/08/2025

The Honourable Timothy Nicholls MP
Minister for Health and Ambulance Services

Date: 3/09/2025