

**NORTHERN TERRITORY OF AUSTRALIA**

**CANCER (REGISTRATION) ACT 2009**

As in force at 1 July 2011

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 July 2011

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## CANCER (REGISTRATION) ACT 2009

**An Act to provide for the registration of details about cancer and for related matters**

### **Part 1 Preliminary matters**

#### **1 Short title**

This Act may be cited as the *Cancer (Registration) Act 2009*.

#### **2 Commencement**

This Act commences on the date fixed by the Administrator by *Gazette* notice.

#### **3 Definitions**

In this Act:

***cancer*** means:

- (a) a neoplasm of human tissue:
  - (i) in which cell multiplication is uncontrolled and progressive; and
  - (ii) that, if unchecked, may invade adjacent tissues or extend beyond its site of origin; and
  - (iii) that has the propensity to recur, either locally or remotely in the body; or
- (b) a disease declared under section 4.

***hospital*** means:

- (a) a hospital as defined in section 5 of the *Medical Services Act 1982*; or

- (b) a private hospital as defined in section 4 of the *Private Hospitals and Nursing Homes Act 1981*.

**Part 3 information** means information:

- (a) given to the Registrar under Part 3; or  
(b) taken to be Part 3 information under section 26.

**prescribed details** means details prescribed by regulation.

**register** means the register kept under section 7.

**Registrar** means the person holding or occupying the office of Registrar mentioned in section 6.

**Registrar of Births, Deaths and Marriages** means the person holding or occupying the office of Registrar of Births, Deaths and Marriages under the *Births, Deaths and Marriages Registration Act 1996*.

#### **4 Declaration of disease by Minister**

The Minister may, by *Gazette* notice, declare a disease to be cancer for this Act.

#### **5 Application of Criminal Code**

Part IIAA of the Criminal Code applies to an offence against this Act.

*Note for section 5*

*Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.*

## **Part 2 Registrar**

### **6 Registrar**

The Minister must appoint a person to be Registrar.

### **7 Register**

The Registrar must keep a register containing the prescribed details given to the Registrar under this Act.

## **Part 3 Giving information to the Registrar**

### **8 Duty of person in charge of place where specimen collected**

- (1) This section applies if:
  - (a) a specimen of human origin is collected at a place in the Territory (***the place***) for pathological examination, whether the pathological examination takes place within the Territory or elsewhere; and
  - (b) the pathological examination of the specimen indicates that the person from whom the specimen was taken is or was suffering from cancer.
- (2) The person in charge of the place must give the Registrar the prescribed details for the person from whom the specimen was taken within 7 days after the person in charge receives the results.

Fault element:            Strict liability offence.

Maximum penalty:        5 penalty units.

- (3) Subsection (2) does not require a person to give prescribed details not reasonably available to the person.

### **9 Duty of person in charge of hospital**

- (1) This section applies if a patient in a hospital:
  - (a) is diagnosed with cancer; or
  - (b) dies and cancer is an underlying cause of death.
- (2) The person in charge of the hospital must give the Registrar the prescribed details for the patient:
  - (a) for a patient diagnosed with cancer – within 7 days after the patient is diagnosed; or
  - (b) for a patient who dies – within 7 days after the patient dies.

Fault element:            Strict liability offence.

Maximum penalty:        5 penalty units.

- (3) Subsection (2) does not require a person to give prescribed details not reasonably available to the person.

**10 Direction to give further information**

- (1) This section applies if the Registrar is given prescribed details for a person under section 8 or 9 and considers further information is required to ensure the accuracy or completeness of the register.
- (2) The Registrar may, by written notice, direct any of the following persons to give the further information identified by the notice to the Registrar:
  - (a) the person who gave the Registrar the prescribed details;
  - (b) a medical practitioner mentioned in the details;
  - (c) if the Registrar considers another medical practitioner has information that may ensure the accuracy or completeness of the register – the medical practitioner.
- (3) The notice must include a statement informing the person that failure to comply with the direction within 7 days after receiving it is an offence under this Act.
- (4) The person must comply with the direction within 7 days after receiving it.

Fault element:                Strict liability offence.

Maximum penalty:        5 penalty units.

- (5) Subsection (4) does not require a person to give prescribed details not reasonably available to the person.

**11 Details about registered death**

If the registration of a person's death under the *Births, Deaths and Marriages Registration Act 1996* shows cancer as a cause of death, the Registrar of Births, Deaths and Marriages must give the Registrar under this Act the details contained in the registration within 42 days after the registration.

**12 Misleading information**

- (1) A person must not, in purported compliance with this Part, give the Registrar a document containing misleading information.

Fault element:                The person knows the document contains misleading information.

Maximum penalty:        5 penalty units.

- (2) Subsection (1) does not apply if the person, when giving the document:
- (a) draws the misleading aspect of the document to the Registrar's attention; and
  - (b) to the extent to which the person can reasonably do so – gives the Registrar the information necessary to remedy the misleading aspect of the document.

- (3) In this section:

***misleading information*** means information that is misleading in a material particular because it:

- (a) does not include relevant information; or
- (b) includes misinformation.

## **Part 4 Use of information**

### **13 Confidentiality of information**

- (1) A person must not disclose Part 3 information obtained by the person in the course of carrying out functions for the administration of this Act.

Fault element: The person is reckless as to the disclosure of the information.

Maximum penalty: 10 penalty units.

- (2) Subsection (1) does not apply to a person disclosing information under sections 14 to 17.

### **14 Disclosure for administration of Act**

For the administration of this Act, a person may disclose Part 3 information to another person who is carrying out functions for the administration of this Act.

### **15 Disclosure in statistical form**

The Registrar may disclose Part 3 information in a statistical form that does not identify the person who is the subject of the information.

**16 Disclosure to ensure accuracy of register**

The Registrar may disclose Part 3 information, other than in a statistical form, if:

- (a) the disclosure is for the purpose of ensuring the accuracy of the register; and
- (b) the disclosure is to:
  - (i) the person responsible for maintaining a cancer register established under a law of the Commonwealth, a State or another Territory; or
  - (ii) the National Cancer Statistics Clearing House at the Australian Institute of Health and Welfare; and
- (c) before disclosing the information, the Registrar takes reasonable steps to protect the privacy of a person who is the subject of the information.

**17 Disclosure to person authorised to receive information**

- (1) The Chief Health Officer may authorise a person as someone to whom Part 3 information, or Part 3 information of a particular kind, may be disclosed:
  - (a) to enable the person to undertake scientific research in accordance with the guidelines for research involving humans published by the National Health and Medical Research Council from time to time; or
  - (b) for the purpose of quality assurance, public safety or statistical reporting.
- (2) The Registrar may disclose Part 3 information, or Part 3 information of a particular kind, as mentioned in an authority under subsection (1) to a person specified in the authority if, before disclosing the information, the Registrar:
  - (a) takes reasonable steps to protect the privacy of a person who is the subject of the information; and
  - (b) if the information was given under section 11 – obtains the written consent of the Registrar for Births, Deaths and Marriages to disclose the information.



## **Part 5 Protection from liability**

### **18 Protection of people giving information**

- (1) If a person, acting in good faith, gives information to the Registrar under Part 3:
  - (a) giving the information is not a breach of confidentiality, professional etiquette, professional ethics or a rule of professional conduct; and
  - (b) the person is not civilly or criminally liable for giving the information.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the giving of the information.

### **19 Protection of Chief Health Officer and Registrar**

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function under this Act as:
  - (a) the Chief Health Officer; or
  - (b) the Registrar.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
- (3) In this section:

**exercise**, of a power, includes the purported exercise of the power.

**performance**, of a function, includes the purported performance of the function.

## **Part 6 Administrative matters**

### **20 Prosecution for offence**

A prosecution for an offence against this Act must not be started without the written approval of the Chief Health Officer.

### **21 Regulations**

The Administrator may make regulations under this Act.

## **Part 7                    Repeal and transitional matters for Cancer (Registration) Act 2009**

### **Division 1            Repeal**

#### **22            Repeal of Act**

The *Cancer (Registration) Act 1988* (No. 64 of 1988) is repealed.

### **Division 2            Transitional matters**

#### **23            Definitions**

In this Division:

***commencement date*** means the date on which section 22 commences.

***repealed Act*** means the *Cancer (Registration) Act 1988* as in force immediately before the commencement date.

#### **24            Registrar**

- (1) The person holding the office of Registrar under the repealed Act immediately before the commencement date is taken to be the Registrar appointed under section 6.
- (2) If a person is acting in the office of Registrar under the repealed Act immediately before the commencement date, the person is taken to be acting in the office of Registrar under this Act.

#### **25            Register**

The register kept under the repealed Act immediately before the commencement date is taken to be the register under this Act.

#### **26            Information given under repealed Act**

- (1) Information given to the Registrar under section 5 of the repealed Act is taken to be Part 3 information for this Act.
- (2) Section 10 applies in relation to details given to the Registrar under section 5 of the repealed Act as if the details were given under section 8 or 9 of this Act.

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## ENDNOTES

### 1 KEY

Key to abbreviations

amd = amended  
app = appendix  
bl = by-law  
ch = Chapter  
cl = clause  
div = Division  
exp = expires/expired  
f = forms  
Gaz = Gazette  
hdg = heading  
ins = inserted  
lt = long title  
nc = not commenced

od = order  
om = omitted  
pt = Part  
r = regulation/rule  
rem = remainder  
renum = renumbered  
rep = repealed  
s = section  
sch = Schedule  
sdiv = Subdivision  
SL = Subordinate Legislation  
sub = substituted

### 2 LIST OF LEGISLATION

#### ***Cancer (Registration) Act 2009 (Act No. 24, 2009)***

Assent date 1 September 2009  
Commenced 1 September 2010 (*Gaz* G35, 1 September 2010, p 3)

#### ***Public and Environmental Health Act 2011 (Act No. 7, 2011)***

Assent date 16 March 2011  
Commenced 1 July 2011 (*Gaz* S28, 3 June 2011)

### 3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22 of 2018) to: ss 1, 3, 11 and 23.

### 4 LIST OF AMENDMENTS

s 3 amd No. 7, 2011, s 140