

NORTHERN TERRITORY OF AUSTRALIA

CANCER (REGISTRATION) ACT 2009

Act No. 24 of 2009

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 24 of 2009

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

[Assented to 1 September 2009]
[Second reading 11 June 2009]

The Legislative Assembly of the Northern Territory enacts as follows:

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.

Chief Health Officer means the person holding or occupying the office of Chief Health Officer under the *Public Health Act*.

hospital means:

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

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

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*.

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* 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* 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.