

Queensland

Sanitary Product Provision Youth Act 2021

Youth Act No. 2 of 2021

A Youth Act to impose a duty on occupiers of certain places to provide sanitary products to the public, and to amend the Liquor Act 1992, the Work Health and Safety Act 2011 and the Work Health and Safety Regulation 2011 for particular purposes

[Assented to 13 October 2021]



Queensland

Sanitary Product Provision Youth Act 2021

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The Youth Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Youth Act may be cited as the Sanitary Product Provision Youth Act 2021.

2 Commencement

- (1) Schedule 1, part 1 commences on 1 March 2022.
- (2) Part 2A and schedule 1, part 2 commence on 1 October 2022.
- (3) Part 9 and schedule 1, part 3 commence on 1 March 2023.

Note-

The remaining provisions of this Youth Act commence on assent by operation of the *Acts Interpretation Act 1954* section 15A.

3 Main purposes of Youth Act

The main purposes of this Youth Act are to—

- (a) to improve persons' ability to dispose of sanitary products and continence products; and
- (aa) to ensure all persons who cannot access sanitary products are provided with a quantity of sanitary products sufficient to meet the needs of the persons; and
- (ba) to improve persons' immediate access to sanitary products in case of unexpected menstruation, misplaced sanitary products or similar,
- (c) promote the health of persons who menstruate; and
- (d) decrease the stigma associated with menstruation; and

- (e) reduce indignity arising from lack of access to sanitary products; and
- (f) respect the privacy of persons who menstruate; and
- (g) increase workforce participation and productivity.

4 Youth Act binds all persons

- (1) This Youth Act binds all persons including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) The State, the Commonwealth and the other States are liable for an offence against this Youth Act.

Part 2 Interpretation

5 Definitions

The dictionary in schedule 2 defines particular words used in this Youth Act.

6 Meaning of prescribed sanitary product

- (1) A *prescribed sanitary product* is a tampon or sanitary pad.
- (2) However, a tampon or sanitary pad is not a *prescribed* sanitary product if it is—
 - (a) not in the original individual packaging; or
 - (aa) not of the quality prescribed by regulation or
 - (b) damaged.

7 Meaning of prescribed toilet

- (1) A *prescribed toilet* is a toilet that—
 - (a) is open for use by the public, customers or patrons; and

- (b) is an assisted toilet, a female toilet or a gender-neutral toilet.
- (1A) However, a toilet within an accommodation unit is not a prescribed toilet.
 - (2) In this section—

assisted toilet means a toilet designated for use by persons with a disability.

female toilet means a toilet designated for use by women.

gender-neutral toilet means a toilet—

- (a) not designated for use by any particular gender; or
- (b) designated for use by two or more genders.

8 Meaning of prescribed place

A *prescribed place* is a place that is—

- (a) a type of place—
 - (i) mentioned in schedule 1; or
 - (ii) prescribed by regulation; or
- (b) prescribed by regulation.

9 Meaning of prescribed sanitary bin

A *prescribed sanitary bin* is a sanitary bin which can be used to dispose of both sanitary products and continence products.

10 Land, buildings or space within boundaries of a place

- (1) If a reasonable person would, after considering all the relevant circumstances, see that land, buildings or space within the outer physical boundary of a place are not a part of the place, then—
 - (a) the place (the *enclosing place*) does not include the land, buildings or space; and

(b) the land, buildings or space are a place (the *enclosed place*).

Example of an enclosed place—

A stadium has a bar inside it. The bar is separated from the rest of the stadium seating, has unique staff and has different entry requirements to the rest of the stadium. The bar is an enclosed place within the stadium (the enclosing place).

Example of land, buildings or space which are not an enclosed place—

- 1 A public university has a park on the campus. The park is not fenced and is located in between the buildings of the university. The university is responsible for the maintenance of the park.
- 2 A cafe is within a train station. Customers can order food without having to purchase a train ticket and walls and moveable boards separate the cafe from the rest of the train station. However, the cafe primarily serves commuters and the cafe does not have its own toilets.
- (2) Without limiting subsection (1), each of the following circumstances are relevant circumstances—
 - (a) if and how the land, buildings or space is separated from the place;
 - (b) the location of toilets;
 - (c) the type and purpose of the land, buildings or space;
 - (d) the type and purpose of the place;
 - (e) the occupier the land, buildings or space;
 - (f) the occupier of the place;
 - (g) the relationship between the land, buildings or space and the place.

Part 2A Provision of sanitary bins

10A Duty on occupiers to provide sanitary bins

The occupier of a place that is not a residence must ensure, so far as it is reasonably practicable, the provision of prescribed

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sanitary bins within all cubicles within all toilets within the place.

Maximum penalty—100 penalty units

Part 2B Provision of sanitary products—period poverty schemes

10B Meaning of period poverty scheme

- (1) A *period poverty scheme* is a scheme where a local government provides suitable sanitary products without fee to any person who reasonably requests them in a quantity sufficient to meet the needs of the person.
- (2) The purpose of a period poverty scheme is to combat period poverty.
- (3) In this section—

suitable means fit for use by the person, having regard to all the relevant circumstances, including, for example—

- (a) the age of the person; and
- (b) the menstrual flow of the person; and
- (c) any disability the person has.

10C Duty on local governments to establish and administer a period poverty scheme

- (1) A local government must establish a period poverty scheme by 1 October 2022.
- (2) A local government must, unless there are exceptional circumstances, continue to administer the period poverty scheme.

10D Annual review of scheme

- (1) Each year a local government must—
 - (a) review the local government's period poverty scheme, considering all the relevant circumstances; and
 - (b) provide a statement to the Parliament—
 - (i) explaining the findings of the review; and
 - (ii) detailing how the local government plans to alter the scheme in response to those findings.
- (2) For subsection (1)(a), relevant circumstances include—
 - (a) the purpose of the scheme; and
 - (b) the demand for sanitary products; and
 - (c) the types of sanitary products provided; and
 - (d) the suitability of places where sanitary products are provided; and

Example of a suitable place—

town hall, council office, electorate office, public sector hospital, public sector health service facility, community facilities

- (e) inclusiveness, including, for example, of persons with disability, of vulnerable persons and of children; and
- (f) the sustainability of the sanitary products provided

Example of a sustainable sanctuary product—

menstrual cup, period underwear

10E Local governments protected from civil liability

Local governments are not civilly liable for any act done, or omission made, honestly and without negligence under this part.

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Part 3 Provision of sanitary products—prescribed places

10F Certain small businesses and charities exempt

- (1) This part does not apply to an occupier of a prescribed place if—
 - (a) the occupier—
 - (i) employs less than 20 persons and is not a franchisee; or
 - (ii) is a charity; and
 - (b) the prescribed place is—
 - (i) a campsite; or
 - (ii) an indoor sport and recreation facility; or
 - (iii) an outdoor sport and recreation facility; or
 - (iv) a food and drink outlet.
- (2) For subsection (1)(a)(i), a casual employee is counted if the employee is employed by the occupier on a regular and systematic basis.

Example of employment on a regular and systematic basis—

The employee normally works three days each week, with the days of employment being notified in advance every week..

11 Provision—generally

(1) The occupier of a prescribed place must ensure, so far as it is reasonably practicable, the provision of prescribed sanitary products within all prescribed toilets within the prescribed place without fee.

Maximum penalty—100 penalty units.

Examples of a contravention—

1 The occupier only provides prescribed sanitary products in 5 prescribed toilets, despite having 6 prescribed toilets.

- 2 The occupier provides prescribed sanitary products 200 metres away from a prescribed toilet, instead of within it.
- (2) For subsection (1), the occupier must ensure the provision of both sanitary pads and tampons.

Note-

Occupiers are encouraged to use sanitary pads and tampons that are environmentally friendly

12 Provision—hospitals

(1) The occupier of a prescribed place that is a hospital must, so far as it is reasonably practicable, provide prescribed sanitary products and maternity pads to inpatients without fee.

Maximum penalty—100 penalty units.

Examples of a contravention—

A public sector hospital does not provide prescribed sanitary products unless patients stay in the hospital for more than three days.

(2) In this section—

hospital means a public sector hospital or a private health facility.

13 Adequate signage

(1) The occupier of a prescribed place must ensure, so far as is reasonably practicable, that adequate signage is displayed which conveys where prescribed sanitary products are provided.

Maximum penalty—25 penalty units.

(2) Signage is not adequate signage unless the signage complies with requirements prescribed by regulation.

14 Adequate quantity

(1) The occupier of a prescribed place must ensure, so far as is reasonably practicable, the provision of an adequate quantity of prescribed sanitary products.

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Maximum penalty—100 penalty units.

Example of a contravention—

An occupier fails to refill, with reasonable frequency, the prescribed sanitary product dispenser within the prescribed toilet.

(2) In this section—

adequate quantity means the quantity sufficient to meet demand, having regard to all the relevant circumstances, including, for example—

- (a) the number of visitors, customers and patrons of the place; and
- (b) the size of the place; and
- (c) the opening hours of the place; and
- (d) the quantity of prescribed sanitary products taken from the place.

Note—

It is assumed that each person needing sanitary products only takes enough sanitary products to meet their immediate needs.

15 Accessibility

The occupier of a prescribed place must ensure, so far as it is reasonably practicable, that the prescribed sanitary products provided are accessible.

Maximum penalty—25 penalty units.

Examples of a contravention—

- 1 A person only provides prescribed sanitary products in prescribed toilets which are not disability accessible despite having disability accessible toilets.
- 2 The dispenser that the prescribed sanitary products are stored cannot be used easily.

Part 4 Miscellaneous

16 No requirement to install toilets

Nothing in this Youth Act requires a person to install new toilets or increase the number of toilets within a place.

17 Administration and enforcement by State

(1) This Youth Act is administered and enforced by the State.

Note—

The following persons have functions and powers which enable the administration and enforcement of this Youth Act—

- the regulator, the WHS prosecutor and an inspector—see the *Work Health and Safety Act 2011*;
- the Commissioner for Liquor and Gaming and an investigator—see the *Gaming Machine Act 1991* and the *Liquor Act 1992*;
- a police officer—see the *Police Powers and Responsibilities Act* 2000.
- (2) For section 16(a) of the *Gaming Machine Act 1991*, the Commissioner for Liquor and Gaming must—
 - (a) advise and make recommendations to the Minister and report on the operation and effectiveness of this Youth Act; and
 - (b) monitor and enforce compliance with this Youth Act.
- (3) Nothing within this section limits the administration and enforcement of this Youth Act by local governments under section 20.

18 Administration and enforcement by local governments

- (1) This Youth Act is—
 - (a) a local government related law; and
 - (b) a Local Government Act.

(2) This Youth Act is administered and enforced by the local governments.

Note—

The following persons have functions and powers which enable the administration and enforcement of this Youth Act—

- an authorised person—see the City of Brisbane Act 2010;
- an authorised person—see the *Local Government Act* 2009.
- (3) Nothing within this section limits the administration and enforcement of this Youth Act by the State under section 19.

19 Regulation-making power

The Youth Governor in Council may make regulations to further the purpose of this Youth Act.

Part 5 Amendment of Work Health and Safety Regulation 2011

20 Regulation amended

This part amends the Work Health and Safety Regulation 2011.

21 Amendment of s 41 (Duty to provide and maintain adequate and accessible facilities)

(1) Section 41—

insert—

(1A) A person conducting a business or undertaking at a workplace must ensure, so far as it is reasonable practical, the provision of an adequate quantity of prescribed sanitary products without fee within all prescribed toilets within the workplace.

Maximum penalty—60 penalty units.

(1B) A person conducting a business or undertaking at

a workplace must ensure, so far as it is reasonably practicable, the provision of prescribed sanitary bins in all cubicles within all toilets within the workplace.

Maximum penalty—60 penalty units.

(1C) For subsection (1A), the person conducting a business or undertaking at a workplace must ensure the provision of both sanitary pads and tampons.

Note-

Persons conducting a business or undertaking are encouraged to use sanitary pads and tampons that are environmentally friendly.

(2) Section 41(2), after 'under subsection (1)'—

insert—

or (1A)

(3) Section 41—

insert—

(4) In this section—

adequate quantity see the Sanitary Product Provision Youth Act 2021, section 14(2).

prescribed sanitary bin see the Sanitary Product Provision Youth Act 2021, schedule 2.

prescribed sanitary product means—

- (a) a tampon or sanitary pad; but
- (b) does not include a tampon or sanitary pad if the tampon or sanitary pad is—
 - (i) not in the original individual packaging; or
 - (ii) damaged.

prescribed toilet see the Sanitary Product Provision Youth Act 2021, section 7.

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Part 6 Other amendments

Division 1 Amendment of Work Health and Safety Act 2011

22 Act amended

This division amends the Work Health and Safety Act 2011.

23 Particular references to 'this Act'

Each of the following provisions is amended by omitting 'this Act' and inserting 'this Act or the Sanitary Product Provision Youth Act 2021'—

- section 34
- section 113(3)
- section 152
- section 155
- section 160(a), (d), (e) and (f)
- section 165
- section 167
- section 175
- section 179
- section 184
- section 185
- section 191
- section 192
- section 215
- section 230(1AA), (3) and (4)

• section 232

- section 234
- section 239
- section 240
- section 244(2) and (3)
- section 245(1), (3) and (4)
- section 248(1)(b), (2), (3), (4) and (6)
- section 251(2) and (3)
- section 253
- section 267
- section 268
- section 272

Division 2 Amendment of Liquor Act 1992

24 Act amended

This division amends the Liquor Act 1992.

25 Particular references to 'this Act'

Each of the following provisions is amended by omitting 'this Act' and inserting 'this Act or the Sanitary Product Provision Youth Act 2021'—

- section 46
- section 49
- section 136
- section 142ZA
- section 175
- section 176
- section 177

- section 178
- section 179
- section 180
- section 182
- section 183
- section 183AA
- section 232

Division 3 Amendment of State Penalties Enforcement Regulation 2014

26 Regulation amended

This division amends the State Penalties Enforcement Regulation 2014.

27 Amendment of schedule 1 (Infringement notice offences and fines for nominated laws)

Schedule 1—

insert—

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Column 1 Infringement notice offence	Column 2 Infringement notice fine (penalty units)		
	Individual	Corporation	
s 11	5	25	
s 12	5	25	

Column 1 Infringement notice offence	Column 2 Infringement notice fine (penalty units)		
	Individual	Corporation	
s 13	2	10	
s 14	5	25	
s 15	2	10	
s 16	5	25	
s 17	5	25	

Administering authority for an infringement notice offence that is an offence against a provision of the Sanitary Product Provision Youth Act 2021, or an infringement notice about the offence—

- (a) for an infringement notice served by an employee of a local government—the local government; or
- (b) otherwise— the department in which the provision is administered.

Authorised person for service of infringement notices—

- (a) an investigator appointed under the *Work Health and Safety Act* 2011, section 156(1)(a), (b) or (c); or
- (b) an employee of the Brisbane City Council appointed as an authorised person under the *City of Brisbane Act 2010*, section 199; or
- (c) an employee of a local government appointed as an authorised person under the *Local Government Act 2009*, section 202; or
- (d) an inspector authorised under the *Liquor Act* 1992, section 174(1); or

25

(e) a police officer.

Amendment of schedule 1 (Infringement notice offences and fines for nominated laws) 28

Schedule 1, entry for Work Health and Safety Regulation 2011—

insert—

s 41(1A) 5 25 5 s 41(1B)

Schedule 1 Phases

section 8(a)(i)

Part 1 Phase 1

beach

bus station

community facility

courthouse

designated rest area

ferry terminal

light rail station

park

police station

public campsite

public sector health service facility

public sector hospital

public sport and recreation facility

public stadium

public theatre

public tourist attraction

public university campus

railway station

State school campus

TAFE Queensland campus

Part 2 Phase 2

airport
higher education campus
major event area, during the relevant major event period
non-State school campus
private health facility
RTO campus
stadium

Part 3 Phase 3

tourist attraction

bar

campsite

casino

food and drink outlet

function facility

hotel

indoor sport and recreation facility

nightclub

outdoor sport and recreation facility

prescribed club

service station

shopping complex

theatre

traveller accommodation facility

Schedule 2 Dictionary

section 5

accommodation unit see the Traveller Accommodation Providers (Liability) Act 2001, schedule 2.

bar means a place, with seating for 60 or less people, where—

- (a) liquor is sold for consumption at the place; and
- (b) entertainment may be provided, or food and drink may be prepared and sold for consumption at the place, ancillary to the selling of liquor.

Example of a bar—

premise with a bar licence held under the *Liquor Act 1992*.

campsite means a place open to the public for camping in a tent, caravan or other camping structure.

Commonwealth entity means—

- (a) the Commonwealth; or
- (b) a Commonwealth department; or
- (c) a Commonwealth government owned corporation; or
- (d) a Commonwealth statutory body.

community facility means a place—

- (a) that is occupied by a public entity; and
- (b) where—
 - (i) artistic, social or cultural facilities or community services are provided to the public; and
 - (ii) food and drink may be prepared and provided for consumption at the place, ancillary to the provision of artistic, social or cultural facilities or community services.

Examples of a community facility—

art gallery, Centerlink Service Centre, community centre, community hall, library, Medicare Service Centre, museum, Parliament House, town hall

control means the capacity of an entity to dominate decision-making, directly or indirectly, in relation to the financial and operating policies of another entity so as to enable the other entity to operate with it in pursuing the objectives of the controlling entity.

controlled entity means an entity subject to the control of 1 or more of the following—

- (a) a State entity;
- (b) a Commonwealth entity;
- (c) a local government;
- (d) another controlled entity.

designated rest area see Transport Infrastructure (State-controlled Roads) Regulation 2017, schedule 1.

food and drink outlet means a place where—

- (a) food and drink is prepared and sold for consumption on or off the premises; and
- (b) liquor may be sold for consumption at the place, ancillary to preparation and selling of food or drink.

Examples of a food and drink outlet—

cafe, coffee shop, drive-through facility, kiosk, milk bar, restaurant, snack bar, takeaway shop, tearoom

function facility means a place where—

- (a) receptions or functions are hosted; or
- (b) food and liquor is prepared and provided for consumption at the place as part of a reception or function.

higher education campus means a campus of a registered higher education provider.

hotel—

means a place where—

- (a) liquor is sold for consumption at the place; and
- (b) dining or entertainment, or accommodation to tourists or travellers, may be provided ancillary to the selling of liquor; but

does not include a bar.

Example of a hotel—

premises with a commercial hotel licence held under the *Liquor Act* 1992

indoor sport and recreation facility means a place where leisure, sport or recreation activities are carried on wholly or mainly indoors.

Examples of an indoor sport and recreation facility amusement parlour, bowling alley, gymnasium, squash court

major event area, see the Major Events Act 2014, section 9.

major event period, see the Major Events Act 2014, section 10.

nightclub means a place where—

- (a) entertainment that is cabaret, dancing or music is provided; and
- (b) liquor may be sold, or food may be prepared and sold, for consumption at the place, ancillary to the provision of entertainment.

Example of a nightclub—

premises with a nightclub licence held under the Liquor Act 1992

non-State school campus means the campus of an accredited school under the Education (Accreditation of Non-State Schools) Act 2017.

outdoor sport and recreation facility means a place where—

(a) recreation or sporting activities are carried on wholly or mainly outdoors; and

(b) food and drink, change room facilities or storage facilities may be provided or sold, ancillary to the carrying on of recreation or sporting activities.

Examples of an outdoor sport and recreation facility—

cricket oval, driving range, golf course, swimming pool, tennis court

park—

- (a) means a place that is accessible to the public without fee for sport, recreation and leisure activities; and
- (b) includes protected areas.

Examples of a parks—

botanic garden, conservation park, national park, playground, public sports field, skatepark

place means a specific place.

Examples of a place—

1 William Street, Brisbane, campsite within the Great Sandy National Park, Kuranda Railway station, Mackay Airport, Pacific Fair shopping centre, The Big Pineapple

prescribed club means a club where liquor is sold, or food is prepared and sold, to members of the public for consumption at the place regularly.

Examples of a prescribed club—

boat club which operates a bistro open to members of the public, league club, RSL, Services club, Surf Life Saving club

Examples of a place which is not a prescribed club—

members' only bowls club which, only on special occasions, sells liquor and food to members of the public, scout hall, senior citizen's club

prescribed place see section 8.

prescribed sanitary product see section /6

prescribed toilet see section 7.

private health facility see the Private Health Facilities Act 1999, section 8.

protected area see the *Nature Conservation Act 1992*, section 14.

public campsite means a campsite occupied by a public entity.
public entity means—

- (a) a State entity or
- (b) a local government; or
- (c) a Commonwealth entity; or
- (d) a controlled entity.

public tourist attraction means a tourist attraction occupied by a public entity.

public stadium means a stadium occupied by a public entity.

Examples of a public stadium—

soccer ground with stands owned by a local government entity, stadium owned by Stadiums Queensland, Brisbane Entertainment Centre, Brisbane Stadium (Lang Park), Anna Meares Velodrome, Brisbane Aquatic Centre

Examples of a stadium—

sport field with grandstand, arena, Doomben Racecourse

public sector health service facility see the Hospital and Health Boards Act 2011, schedule 2.

public sector hospital see the *Hospital and Health Boards Act* 2011, schedule 2.

public sport and recreation facility means an indoor sport and recreation facility or an outdoor sport and recreation facility occupied by a public entity.

Examples of a public sport and recreation facility—

swimming pool operated by a local government, Queensland State Hockey Centre

public theatre means a theatre occupied by a public entity.

Examples of a public theatre—

Queensland Performing Arts Centre, Riverstage

public university campus means a campus of—

- (a) Central Queensland University; or
- (b) Griffith University; or
- (c) James Cook University; or

- (d) Queensland University of Technology; or
- (e) The University of Queensland; or
- (f) University of Southern Queensland; or
- (g) University of the Sunshine Coast.

registered higher education provider see the Tertiary Education Quality and Standards Agency Act 2011 (Cwlth), section 5.

registered training organisation see the National Vocational Education and Training Regulator Act 2011 (Cwlth), section 3.

required number see section

RTO campus means a campus of a registered training organisation.

sanitary hardware includes a water closet pan, squatting pan, composting toilet, incinerating toilet, urinal or showerhead.

service station means a place where fuel is offered for retail sale to members of the public, other than a place where the primary business being conducted is the hiring, leasing or selling of motor vehicles.

shopping complex means a place where a group of retail premises are located in close proximity to each other.

Examples of a shopping complex—

shopping centre, shopping mall, shopping court, shopping arcade

State entity means—

- (a) the State; or
- (b) a department; or
- (c) a government owned corporation; or
- (d) a statutory body.

State school see the *Education (General Provisions) Act* 2006, schedule 4.

State school campus means a campus of a State school.

TAFE Queensland campus means a campus of TAFE Queensland.

theatre means a place where—

- (a) movies, live entertainment or music is presented to the public; and
- (b) food and drink may be prepared and sold for consumption at the place, ancillary to the presentation of movies, live entertainment or music.

Examples of a theatre—

cinema, concert hall, opera house, amphitheatre

toilet means a place which has sanitary hardware used for the collection or disposal of human urine or faeces.

tourist attraction includes a theme park, an amusement park, a zoo, a big thing, a cable car, a whale watching tour operation, a crocodile farm or a tourist railway.

traveller accommodation facility means a place that—

- (a) provides traveller accommodation; and
- (b) has two or more accommodation units.

traveller accommodation see the Traveller Accommodation Providers (Liability) Act 2001, section 6.

type of place means a category, class or particular kind of place.

Examples of a type of place—

tourist attraction, public university campus, community facility, public sector hospital