Part 6 – Pap Test Register

Division 1 – Preliminary

89 Definitions (cf 1991 Act, s 42E)

In this part:

*cervical cancer* means a malignant growth of human tissue in the cervix of the uterus that is likely to spread to tissue beyond its site of origin.

*cervical cancer test* means a test carried out to determine whether or not a woman has cervical cancer or any of its precursors, being:

(a) a pathological examination of a specimen of any kind taken from the woman, or

(b) a test prescribed by the regulations for the purposes of this paragraph.

*identifying particulars* of a woman means the woman’s:

(a) full name (and any previous name), and

(b) residential, postal address or email address.

**Pap Test Register** – see section 90.

**Pap Test Registrar** means the Director-General or, if arrangements are in force for the maintenance of the Pap Test Register by some other person, that other person.

**pathology request form** means a form submitted to a pathology laboratory by or on behalf of a health practitioner requesting the laboratory to carry out a pathological or cytological examination of a specimen.
Division 2 – The Pap Test Register

90 The Pap Test Register (cf 1991 Act, ss 42F, 42G and 42H)

(1) The Director-General must maintain, or arrange for the maintenance of, the Pap Test Register.

(2) The Director-General may enter into an agreement or arrangement with any other person for the maintenance of the Pap Test Register.

(3) The object of the Pap Test Register is to reduce the incidence of, and mortality from, preventable cervical cancer by using the Register for the purposes specified in section 91.

(4) Subject to Division 3, the Pap Test Register is to contain the following information in relation to a cervical cancer test:

(a) the identifying particulars of the woman who had the test,
(b) her date of birth and ethnicity,
(c) the date of the test,
(d) the result of the test,
(e) an indication of whether the test was carried out:
   (i) because the woman had symptoms that warranted investigation, or
   (ii) as a routine measure only,
(f) the identification number of the test,
(g) if the test consisted of a pathological or cytological examination of a specimen taken from the woman:
   (i) the name, address and identification code of the health practitioner by or on whose behalf the relevant pathology request form was submitted, and
   (ii) the identification code of the laboratory that examined the specimen,
(h) if the test was a test, or a test of a class, prescribed by the regulations:
   (i) the name, address and identification code of the health practitioner who carried out the test, and
(ii) such clinical information as the regulations may prescribe,

(i) whether and when the woman was vaccinated against the human papilloma virus.

(5) In this section: identification code of a health practitioner or laboratory means a code used to identify the health practitioner or laboratory for the purposes of the Register. identification number of a cervical cancer test means the number allocated uniquely to the test:

(a) by the laboratory that carried out the test (in the case of a test consisting of a pathological or cytological examination of a specimen taken from a woman), or

(b) by the health practitioner (in any other case).

91 Use of information in Pap Test Register (cf 1991 Act, s 42l)

(1) The information in the Pap Test Register may be used for the following purposes:

(a) to remind any woman who does not have a further cervical cancer test (or other appropriate investigation or treatment) within a reasonable time after a cervical cancer test that a further test (or investigation or treatment) is recommended,

(b) to provide a record of test results of cervical cancer tests that links each woman tested with her health practitioner and any laboratory that produces her test results,

(c) to monitor rates and patterns of cervical cancer tests to assist in the planning and evaluation of test programs,

(d) to provide information (being information that does not include any woman’s identifying particulars):

(i) to the public – so as to increase public awareness of the Register and its objects, and

(ii) to health practitioners and laboratories – to assist them to monitor their quality control procedures in relation to cervical cancer tests, and

(iii) to the Department, and

(iv) to the Commonwealth,
(e) to maintain a database (being a database that does not contain any woman’s identifying particulars) for use in research into the prevention and treatment of cervical cancer.

(2) A person acting for the purposes of this Division does not, if acting in good faith, incur any liability because of any notice or advice to a woman, or any failure to notify or advise a woman, in relation to any matter included in or otherwise concerning the Pap Test Register.

(3) In this section, **test results** means the results of a cervical cancer test.

### 92 Circumstances in which identifying particulars may be disclosed (cf 1991 Act, s 42J)

(1) A person must not disclose the identifying particulars of a woman who has had a cervical cancer test, in conjunction with the result of the test, otherwise than:
   (a) to the woman concerned, or
   (b) with the written consent of the woman, or
   (c) to the woman’s health practitioner, or
   (d) to the person in charge of a laboratory that is, or has previously been, engaged on the woman’s behalf to make a pathological or cytological examination of a specimen taken from her, or
   (e) for a purpose specified in section 91 (1) (a), (b), or (c), or
   (f) if permitted or required to do so under the terms of an order of a court or the provisions of an Act, or
   (g) in accordance with the regulations.

(2) The regulations may prescribe either or both of the following:
   (a) the persons, or class of persons, to whom the identifying particulars of a woman who has had a cervical cancer test may be disclosed in conjunction with the result of the test,
   (b) the circumstances in which such a disclosure may be made.
93 Provision of information for inclusion in Pap Test Register (cf 1991 Act, s 42K)

(1) Within 30 days after a cervical cancer test is carried out in a pathology laboratory, the person in charge of the laboratory must provide a report to the Pap Test Register, in the approved form, on the result of the test.

Maximum penalty: 50 penalty units.

(2) Within 30 days after carrying out a cervical cancer test prescribed by the regulations (other than a test carried out in a pathology laboratory), a health practitioner must provide a report to the Pap Test Register, in the approved form, on the result of the test.

Maximum penalty: 50 penalty units.

(3) The person in charge of a laboratory does not commit an offence against subsection (1) merely because the report concerned did not include information that it was not in the power of the laboratory to provide.

(4) It is the duty of a health practitioner who takes a specimen from a woman for the purposes of a cervical cancer test to ensure that the relevant pathology request form contains as much of the information required by this section to be included in a report from a laboratory as it is in the power of the health practitioner to provide.

(5) This section is subject to Division 3.
Division 3 – Right to anonymity

94 Woman may elect not to be identified in Pap Test Register (cf 1991 Act, ss 42M and 42N)

(1) A woman who has a cervical cancer test may elect to have her identifying particulars withheld from the Pap Test Register by advising the health practitioner carrying out the test, or taking the specimen for the purposes of the test, that she does not want to be identified in the Register.

(2) A woman may at any time request the Director-General, in writing, to remove her identifying particulars from the Pap Test Register.

(3) The Direct-General is to cause any such request to be complied with as soon as practicable after receiving it.

95 Woman may elect to have identifying particulars withheld from Pap Test Register (cf 1991 Act, s 42O)

(1) If a woman elects to have her identifying particulars withheld from the Pap Test Register, the health practitioner to whom she makes the election:
   (a) must note any relevant pathology request form accordingly, and
   (b) must not provide those particulars to any person for the purpose of their inclusion in the Register.

Maximum penalty: 50 penalty units.

(2) A person in charge of a laboratory that receives a pathology request form noted as referred to in subsection (1) must ensure that the laboratory does not provide the identifying particulars of the woman to whom the form relates to any person for the purpose of their inclusion in the Pap Test Register.

Maximum penalty: 50 penalty units.
(3) A person who suspects that a woman has elected to have her identifying particulars withheld from the Pap Test Register is not to include those particulars in the Register.

96 Health practitioner to provide information about Pap Test Register (cf 1991 Act, s 42P)

(1) Before carrying out a cervical cancer test, or taking a specimen from a woman for the purposes of any such test, the health practitioner who is to carry out the test or take the specimen must advise the woman as to the following:
(a) the object of the Pap Test Register,
(b) the information that is recorded in the Pap Test Register,
(c) the purposes for which information in the Pap Test Register may be used,
(d) the way in which the confidentiality of the Pap Test Register is protected.

(2) If the health practitioner’s records do not indicate that the woman has previously been provided with the advice referred to in subsection (1), the health practitioner must also advise the woman:
(a) that she may elect to have her identifying particulars withheld from the Pap Test Register, and
(b) that if she does not so elect, she may have those particulars removed from the Pap Test Register at any time after they are recorded in it.

(3) This section does not apply if the health practitioner’s records indicate that the woman has previously been provided with the advice referred to in this section. In that case the health practitioner is merely to remind the woman of her right to have her identifying particulars removed from the Register.