

# Queensland



## Explanatory Notes for SL 2002 No. 215

### *Residential Services (Accreditation) Act 2002*

# RESIDENTIAL SERVICES (ACCREDITATION) REGULATION 2002

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## GENERAL OUTLINE

### **Short title**

*Residential Services (Accreditation) Regulation 2002*

### **Authorising Law**

Details are contained in the regulatory impact statement.

### **Policy Objectives**

Details are contained in the regulatory impact statement.

### **How policy objectives will be achieved**

Details are contained in the regulatory impact statement.

### **Consistency with authorising law**

Details are contained in the regulatory impact statement.

### **Options and alternatives**

Details are contained in the regulatory impact statement.

**Cost-benefit analysis**

Details are contained in the regulatory impact statement.

**Fundamental legislative principles**

Details are contained in the regulatory impact statement.

**Consultation**

Consultation on the content of the Regulation has occurred over a three-year period, through the work of the Hostel Industry Development Unit (HIDU). Extensive consultation on the industry standards was undertaken with stakeholders through meetings with residents, questionnaires distributed to industry members and other major stakeholders, and advertisements through the Courier-Mail seeking input from industry. In 1999/2000 the proposed standards and accreditation process were tested in 11 premises through a pilot project that was overseen by a working group comprising representatives of residents, service providers, Brisbane City Council and the Queensland Government.

Significant consultation has also been undertaken during a Regulatory Impact Statement (RIS) process conducted throughout May–June 2002. Over 800 copies of the *Residential Services Regulatory Impact Statement* were sent to key stakeholders, members of the public, individual industry participants and resident advocates. A copy of the RIS was also sent to each local government mayor in Queensland and to members of the Premier's Hostel Industry Taskforce.

All members of the Residential Services Strategy Implementation Unit Joint Advisory Council (JAC) were provided with copies of the RIS. Membership of this group comprises: the Supported Accommodation Providers Association, Boarding House Owners and Managers Association, Commerce Queensland, Brisbane City Council, Boarding House Action Group, Queensland Disability Housing Coalition, Community Services and Health Industry Training Council, Aged Care Queensland and Australian Pensioners and Superannuants League.

**Results of consultation**

There is general support for the overall direction of the Regulation however stakeholders raised a number of specific issues around the detail of the registration and accreditation standards and the imposition of fees.

A number of industry operators and local governments have expressed concerns at the prescriptive nature of the proposed residential service building standards. Specific concerns were raised regarding the appropriateness of a number of the proposed standards for small residential service buildings that predate the Building Code of Australia. Stakeholders asserted that the infrastructure of the many of these older buildings made it impossible for compliance with some of the proposed standards, even if operators were provided with financial assistance to undertake building upgrades. They also maintained that the application of modern building standards to old buildings is unreasonable.

The proposed mandatory building standards have been amended in response to the issues raised. The standards are now less onerous for owners of older buildings, yet still provide an adequate level of protection for residents. In particular, a requirement for compliance with Australian Standards for interior lighting and dampness has been removed. Dining room requirements have been amended so that dining rooms must be distinct from, rather than separate from lounge facilities. Whilst the overall size requirements for common areas have not been reduced, a specification requiring that half of all common area floor space be located externally, has been removed. In addition to these amendments, a number of modifications have been made to standards for laundry facilities including removal of specific performance criteria for washing machines and clothes dryers, the removal of requirements to provide hand basins in laundries and provide hot water to laundry wash troughs.

However a request for the removal of requirements relating to the provision of hot water for all laundry facilities and bathroom washbasins has been rejected. It is considered unreasonable to expect residents to wash themselves using cold water. The standard for laundry facilities has been amended to require hot water to be provided to washing machines only, where the amount of hot water used is regulated according to a washing cycle.

The Public Advocate has raised concerns about the lack of disability access requirements within the Regulation and has proposed that residential services accommodating people with a physical disability should comply with the access requirements of the Building Code of Australia for Class 3 buildings. The Public Advocate has also recommended that a minimum space of 1200mm between beds should be provided.

Consultation on the Residential Services RIS has not encompassed the issue of disability access to residential services buildings. Thus the impacts of such requirements on the industry have not been fully established.

Notwithstanding this, it is reasonable to expect that residents with a physical disability can independently gain access to and from their accommodation.

The suitability of residential service buildings in relation to residents' physical access needs will be assessed through the accreditation process. Where residential service buildings fail to adequately provide for the physical access needs of residents, conditions on the accreditation of a service provider may be imposed. Such conditions may require modification of the facility to meet the necessary access standards or that residents are offered assistance to relocate to accessible accommodation. This issue will also be closely monitored throughout implementation of the regulatory scheme.

Individual service providers, industry representatives and local government respondents to the RIS expressed objections to the fees associated with applications for registration and accreditation. The proposed fees are based on a minimum cost recovery model and the fee structure has been amended to reflect the occupancy rate at the time of making an application for accreditation.

A number of residential services providing student and other shared accommodation will be covered by the Act. This will occur where tenure arrangements involve residents renting a bedroom and sharing other facilities, such as kitchens, bathrooms and living rooms. These arrangements are distinct from other share housing where premises are leased to a household of residents under one tenancy agreement.

Property owners and property management companies have raised concerns about the impacts this will have on that sector of the residential services industry. Submissions have stated that current industry practices are based on the provisions of the *Residential Tenancies Act 1994*, which is considered to provide a more appropriate form of regulation for this sector. However as boarders and lodgers are specifically exempted from the *Residential Tenancies Act*, except for provisions relating to rental bonds, any agreements between service providers and residents remain unenforceable under that Act. In view of the issues raised, further policy work will be undertaken to ascertain the most appropriate form of coverage for this type of accommodation. For the interim however, student and other shared accommodation will be covered by the *Residential Services (Accreditation) Act 2002*.

**NOTES ON PROVISIONS OF THE REGULATION**

*Clause 1* sets out the short title to the Regulation.

*Clause 2* allows for commencement of the provisions of the Regulation on 23 August 2002.

*Clause 3* provides for an exemption from coverage by *the Residential Services (Accreditation) Act 2002* for retirement village schemes in specified circumstances. The exemption relates to retirement village schemes registered under the *Retirement Villages Act 1999* that are accredited under the voluntary accreditation scheme of the industry association, Aged Care Queensland within 2 years of the date of commencement of the *Residential Services (Accreditation) Act 2002*. New retirement village schemes will be required to be accredited under the voluntary accreditation scheme of the industry association, Aged Care Queensland within 2 years from commencing operations in order to be exempted from the Act. Failure to obtain accreditation under the voluntary scheme within the specified time period will result in the exemption being removed for the premises concerned.

*Clause 4* states that prescribed building requirements are set out in part 20 of the Queensland Development Code.

*Clause 5* provides for additional matters that must be considered prior to making a level 1 accreditation decision. These matters are established as a set of standards relating to residents' needs and rights, residential service buildings and amenities and management and staffing of a residential service.

*Clause 6* provides for additional matters that must be considered prior to making a level 2 accreditation decision. These matters are established as a set of standards relating the provision of a food service.

*Clause 7* provides for additional matters that must be considered prior to making a level 3 accreditation decision. These matters are established as a set of standards relating the provision of a personal care service.

*Clause 8* sets out additional matters about which any changes must be communicated to the chief executive. A registered service provider must notify the chief executive of the changes in the approved form within 30 days of becoming aware of them. The matters are:

- a change to the fire safety management plan for the registered premises that affects the plan's compliance with clause 9. This will enable a timely reassessment of the adequacy of the amended fire safety management plan;

- a change to a matter that was taken into account under section 22 of the Act in deciding if the service provider or an associate was a suitable person. This will allow the chief executive to reassess if the service provider or associate are suitable persons for the purposes of the Act; and
- a local government deciding that premises do not comply with the prescribed building requirements.

*Clause 9* provides a definition of a fire safety management plan for a building that is not a budget accommodation building.

*Clause 10* sets out specific records that must be maintained by a service provider for a registered residential service and the time for which those records must be maintained. The records that must be maintained vary according to the type of services provided.

*Schedule 1* states the fees payable under the Act.

*Schedule 2* provides for amendments to the *Integrated Planning Regulation 1998* and the *Standard Building Regulation 1993*.

The amendment to the *Integrated Planning Regulation 1998* will allow individuals with a health qualification to be appointed as Referees of the Building and Development Tribunal.

The amendment to the *Standard Building Regulation 1993* will ensure that development approval is not given for a residential service building that does not, or cannot, comply with the prescribed building requirements.

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#### ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Department of Tourism, Racing and Fair Trading.