



Queensland

# **National Parks, Recreation, Sport and Racing Legislation Amendment Regulation (No. 3) 2012**

## **Explanatory Notes for SL 2012 No. 227**

made under the

*Forestry Act 1959*

*Marine Parks Act 2004*

*Nature Conservation Act 1992*

*Recreation Areas Management Act 2006*

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## **General outline**

### **Short title**

The short title of the Regulation is the *National Parks, Recreation, Sport and Racing Legislation Amendment Regulation (No. 3) 2012*.

### **Authorising law**

Section 97 and schedule 2 of the *Forestry Act 1959*, section 150 of the *Marine Parks Act 2004*, section 175 of the *Nature Conservation Act 1992* and section 232 of the *Recreation Areas Management Act 2006*.

### **Policy objectives and the reasons for them**

The policy objective is to amend regulations administered by the Queensland Parks and Wildlife Service (QPWS) to reduce the regulatory burden on people undertaking activities in a State forest, marine park, protected area or recreation area.

Specifically, regulations will be amended to:

- remove the need for a permit or written approval to allow people to use a generator for a medical purpose in a State forest, protected area, recreation area or marine park.
- achieve consistency with the *Guide, Hearing and Assistance Dogs Act 2009* by adding 'hearing dog', 'assistance dog' and 'trainee support dog' to the current references to 'guide dog', in order to clarify that no approval is required to take these dogs into a State forest, marine park or protected area.
- allow a combined commercial activity permit to be issued for a commercial activity, such as a guided tour, that extends across more than one of the following areas - State forest, protected area and recreation area.
- remove the need for written approval for a person to transport a dog in a vehicle through the Moreton Island Recreation Area, via the most direct route, to land that the person owns, or to the person's principal place of residence.

## **Achievement of policy objectives**

### *Removing approvals for medical generator use*

A permit or written approval is required for a person to use a generator in all parts or specified parts of State forests, marine parks, protected areas and recreation areas under the *Forestry Regulation 1998*, *Marine Parks Regulation 2006*, *Nature Conservation (Protected Areas Management) Regulation 2006* and *Recreation Areas Management Act 2006*. These approval requirements allow for the management of nuisance and safety issues related to generator use (e.g. noise, fumes, fuel storage, electrical and trip hazards from power leads).

In most cases, visitors to these areas (usually people camping) want to run a generator for convenience rather than necessity. However, some people require generators for medical purposes, e.g. they have a medical condition requiring electrically powered equipment. Examples are sleep apnoea requiring the use of a continuous positive airway pressure (CPAP) machine, or a condition requiring a liquefied food diet that requires food to be prepared using a food processor.

In the case of these medical needs, alternative power or equipment may not be practical or available and it would be unreasonable to withhold approval if the generator is within an acceptable noise range and is used only for the required medical purpose. A specific exemption in the relevant regulations will eliminate the need for people in these circumstances to obtain a written approval.

The exemption will apply if the person uses or allows use of a generator to operate a device for treatment of a medical condition for which the person has a medical certificate or equivalent document, and the generator emits a maximum noise level of 65dB(A) at 7 metres (the current noise standard applied for written approvals).

#### *Providing for combined commercial activity permits*

The *Forestry Regulation 1998* provides that a person must not, other than under a permit or other authority, conduct a commercial activity in a State forest. Equivalent provisions (requiring a permit for commercial activities) exist for protected areas in the *Nature Conservation (Administration) Regulation 2006* and *Nature Conservation (Protected Areas Management) Regulation 2006*, and for recreation areas in the *Recreation Areas Management Act 2006*.

Some commercial activities, e.g. guided tours, can extend across more than one of the following areas - State forest, protected area or recreation area. Therefore, these 'cross-tenure' commercial activities require a commercial activity permit under more than one Act.

As a consequence, the person conducting the activity currently has to apply for, and be granted, multiple commercial activity permits. Permit application and issue will be simplified by amending the relevant legislation to allow a combined permit to be granted. The amendments do not affect fees, because the regulations already provide that only one set of fees is payable in cases where a commercial activity extends across areas managed by QPWS under more than one Act.

#### *Updating references to guide dogs*

The *Forestry Regulation 1998*, *Marine Parks Regulation 2006* and *Nature Conservation (Protected Areas Management) Regulation 2006* refer to 'guide dogs' in the context of a person not requiring a permit or approval to take a guide dog into areas where dogs are otherwise prohibited or

restricted. These references to 'guide dogs' will be updated to refer to a 'support dog', which is defined to mean an assistance dog, guide dog, hearing dog and trainee support dog under the *Guide, Hearing and Assistance Dogs Act 2009*.

### *Removing approvals for landowners and residents to transport dogs to Moreton Island properties*

A written approval is required under the *Recreation Areas Management Act 2006* to take a live animal into a recreation area. A strict policy applies of not allowing domestic animals in the Moreton Island Recreation Area (which is also predominantly national park).

However, the present policy allows Moreton Island landholders and residents to be granted a written approval to transport a dog in a vehicle through the recreation area via the most direct route to or from land that the person owns or the person's principal place of residence. A specific exemption will be provided in the regulation to eliminate the need for people in these circumstances to obtain a written approval.

The exemption will apply only to the Moreton Island Recreation Area. The exemption does not need to apply to other recreation areas because:

- local laws prohibit the keeping of dogs and cats on Fraser Island,
- in the Cooloola Recreation Area, approval is not needed to take dogs to Teewah Township (via direct access from the south), and
- other recreation areas (at Bribie Island, Green Island and Stradbroke Island) do not have private properties that need to be accessed via the recreation area.

### **Consistency with policy objectives of authorising law**

The amendment regulation is consistent with the policy objectives of the authorising Acts, as it allows for more efficient administration of activities undertaken in QPWS managed areas.

### **Inconsistency with policy objectives of other legislation**

The regulation is consistent with the policy objectives of other legislation.

## **Alternative ways of achieving policy objectives**

Consideration was given to the need to maintain the policy intent in relation to the requirement for approvals (environmental protection, public safety, orderly management of public lands, and commercial return to the State for commercial use of public lands), and whether this intent could be adequately maintained while diminishing the regulatory impact on business and the public.

A range of options was considered from 'no change' through to 'no regulation'.

The 'no change' option was rejected because suitable options were identified that would lower the regulatory impact.

The 'no regulation' option was rejected because of the resultant inability to use other means to effectively and efficiently achieve the policy intent. For example, allowing for medical generator use without prescribed conditions (i.e. having a medical certificate supporting the need for the generator and not exceeding specified noise levels) would leave the regulatory exemptions open to exploitation and reduce the ability to keep noise, particularly in overnight camping areas, to manageable levels.

The 'guide, hearing and assistance dogs' provision is a simple clarification to bring QPWS administered legislation into line with the defining legislation - the *Guide, Hearing and Assistance Dogs Act 2009*.

## **Benefits and costs of implementation**

There will be an administrative cost saving to government through a reduction in the issue of permits and approvals. This saving will outweigh the small initial cost of revising associated policies and procedures.

Allowing for combined commercial activity permits will allow affected commercial operators to more efficiently apply for and obtain approvals. This represents an administrative saving for those operators.

The provisions relating to medical generator use and Moreton Island landowners' transport of dogs to their properties will eliminate the need for people to apply for and obtain relevant permits and approvals. This represents a significant time saving for those people.

### **Consistency with fundamental legislative principles**

The amendments are of an administrative nature and do not breach any fundamental legislative principles.

### **Consultation**

The amendments are based on and consistent with suggestions from stakeholders, including commercial tour operators and Moreton Island landowners.

A regulatory principles checklist and preliminary impact assessment have been completed as part of the development of this regulation, and Queensland Treasury and Trade's Regulatory Reform Branch has advised that the regulation does not impose a significant adverse effect on community, business or government. Consequently a Regulatory Assessment Statement is not required and similarly the regulation is exempt from preparing a Regulatory Impact Statement under Part 5 of the *Statutory Instruments Act 1992*.

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#### ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of National Parks, Recreation, Sport and Racing.

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