



Queensland

Water Fluoridation Amendment Regulation (No. 1) 2012

Explanatory Notes for SL 2012 No. 245

made under the

Water Fluoridation Act 2008

General outline

Short title

Water Fluoridation Amendment Regulation (No. 1) 2012.

Authorising law

Section 100 of the *Water Fluoridation Act 2008*.

Policy objectives and the reasons for them

The main policy objective of the Amendment Regulation is to make a number of machinery amendments to the *Water Fluoridation Regulation 2008* (the Regulation) as a consequence of changes made to the *Water Fluoridation Act 2008* (the Act) by the *South East Queensland Water (Restructuring) and Other Legislation Amendment Act 2012* (the Amendment Act).

The Amendment Act gives effect to Government's determination, that in accordance with its commitment to reduce the regulatory burden and empower local communities, decisions about the fluoridation of drinking water are to be made by local government.

The Amendment Act repeals the mandatory obligation that a public potable water supply servicing at least 1,000 members of the public be fluoridated. In place of this requirement, local government will be responsible for deciding whether it is in the best interests of a community within their local government area for the drinking water supplied to the community to be fluoridated. Public potable water suppliers will be responsible for actioning the decision of a local government. When adding, or ceasing to add, fluoride to a water supply the public potable water supplier must not affect another local government's water security or water supply or the fluoridation of another local government's water supply, without the other local government's agreement.

As a result of the changes to the Act, the regulation making head of power for particular provisions of the Regulation have been either repealed or amended. It is therefore proposed that the Regulation be amended to align with the changes made to the Act by the Amendment Act.

Achievement of policy objectives

The policy objective of the Amendment Regulation will be achieved by:

- omitting section 4 and Schedule 1 as a consequence of the repeal of section 7 of the Act, which imposed the mandatory obligation on a public potable water supplier for a relevant public potable water supply to add fluoride to the relevant public potable water supply within the time prescribed under Schedule 1 of the Regulation
- omitting section 4A as a consequence of the repeal of section 8 of the Act, which sets out the criteria for granting an exemption from the obligation under section 7
- amending section 5 to remove the reference to section 4A of the Regulation given that this section is to be repealed. This section will now reference section 6 of the Regulation.
- amending section 6 to update the meaning of the term local government area, so that it has the same meaning as provided for by the *Local Government Act 2009*
- amending section 8 to refer to the new section 13 of the Act, which requires a public potable water supplier to issue a fluoridation notice in the approved form, at least 30 days before adding or ceasing to add fluoride to a public potable water supply

- amending section 11 to remove doubt that a quarterly report should be submitted if fluoridation of a public potable water supply ceases during a particular quarter.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the main objective of the *Water Fluoridation Act 2008*, which is to promote good oral health in Queensland by the safe fluoridation of public potable water supplies.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is consistent with the policy objectives of other related legislation that aims to protect and promote the public health, such as the *Public Health Act 2005*.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives.

Benefits and costs of implementation

The main policy objective of the Amendment Regulation is to amend the Regulation as a consequence of the changes made to the Act by the *South East Queensland Water (Restructuring) and Other Legislation Amendment Act 2012*.

Consistency with fundamental legislative principles

The amendments are consistent with section 4 of the *Legislative Standards Act 1992*.

Consultation

No consultation was undertaken as the amendments to the Regulation are only machinery in nature.

Notes on provisions

Short Title

Clause 1 sets out the short title of the regulation.

Regulation Amended

Clause 2 states that this regulation amends the *Water Fluoridation Regulation 2008*.

Omission of s 4 (Prescribed dates - Act, s7)

Clause 3 omits sections 4 and 4A.

Section 4 is to be omitted as a consequence of the repeal of section 7 of the Act, which required a public potable water supplier mentioned in Schedule 1 of the Regulation to add fluoride to a relevant public potable water supply (mentioned in Schedule 1) that is under the control or management of the supplier.

Section 4A is to be omitted as a consequence of the repeal of section 8 of the Act, which set out the criteria under which a public potable water supplier could apply for an exemption from the mandatory obligation under section 7 of the Act, that a relevant public potable water supply under its management or control be fluoridated.

Omission of s 5 (Forms of fluoride - Act, s 12(a))

Clause 4 amends section 5, which sets out the various forms of fluoride that may be added to a public potable water supply. Paragraph 5(d), which deals with naturally occurring fluoride in a source of water, is to be amended as a consequence of the omission of section 4A of the Regulation.

Currently, this paragraph specifies that, in order to comply with the Act, naturally occurring fluoride contained in a source of water may be added to a public potable water supply, if the concentration of fluoride is higher than the maximum concentration, for the water supply, prescribed under section 4A. The amendment provides for the concentration of fluoride to be determined having regard to the levels specified under section 6. This means that a water source that has naturally occurring fluoride may be

blended with a potable public water supply in order to fluoridate the water supply, however, the concentration of fluoride in the water source must be higher than that specified in section 6.

Amendment of s 6 (Fluoride concentration - Act, s 12(b))

Clause 5 amends the definition of local government area for the purposes section 6 to update the reference to Queensland's Local Government Act. That is, the meaning of this term is as defined in schedule 4 of the Local Government Act 2009.

Amendment of s 8 (Fluoride notice)

Clause 6 amends section 8, which specifies that a fluoridation notice required to be given under section 13 of the Act must be in the approved form.

The reference to section 13 of the Act needs to be amended in light of changes made to the Act by the South East Queensland Water (Restructuring) and Other Legislation Amendment Bill 2012. Under the amended section 13, a public potable water supplier will now be required to give the chief executive a fluoridation notice and publish it in a locally circulating newspaper for the information of the community serviced by a water supply, at least 30 days before the supplier gives effect to a local government's decision to either fluoridate or cease fluoridation of the water supply.

Amendment of s 11 (Reporting requirements)

Clause 7 amends section 11, which sets out the information that must be included in the quarterly reports that a public potable water supplier must submit to the chief executive about the addition of fluoride to a public potable water supply.

A new subsection (4) has been added to clarify that a quarterly report must still be submitted if a public potable water supply ceases to fluoridate a public potable water supply during a particular quarter.

Amendment of sch 1 (Local governments)

Clause 8 omits schedule 1 as a consequence of the repeal of section 7 of the Act. Section 7 mandated that a public potable water supplier mentioned in Schedule 1 of the Regulation must add fluoride to a relevant public potable water supply mentioned in Schedule 1, that is under the control or management of the supplier.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is Queensland Health.

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