

Work Health and Safety Amendment Regulation (No. 1) 2014

Explanatory notes for SL 2014 No. 238

made under the

Work Health and Safety Act 2011

General Outline

Short title

Work Health and Safety Amendment Regulation (No. 1) 2014

Authorising law

Section 276 of the *Work Health and Safety Act 2011*

Policy objectives and the reasons for them

The national model Work Health and Safety (WHS) laws were implemented in Queensland through the commencement of the *Work Health and Safety Regulation 2011*. The regulation included some transitional arrangements and delayed the commencement of certain provisions to give duty holders time to make the transition to new requirements. These included the following:

- delayed commencement of a five year renewal period for registration of certain items of plant used at workplaces, such as lifts, cranes and pressure vessels;
- delayed commencement of asbestos health monitoring provisions; and
- a transitional arrangement for high risk work licences to assist with the introduction of a new licence class for reach stackers. The transitional arrangement permits holders of high risk work licences to operate non-slewing mobile cranes to also operate a reach stacker.

The Queensland Government is committed to making it easier for business and the community to understand and deal with government regulation by reducing red tape while maintaining high safety standards and improved safety outcomes. Also, the Council of Australian Governments (COAG) has agreed that all governments would review the national model WHS laws with a particular focus on reducing red tape. A report recommending improvements to the model WHS laws is due to be considered by COAG at the end of 2014.

The requirement to register plant is one of the issues being considered as part of the COAG review. As abolishing plant registration requirements is being considered by all jurisdictions at a national level, it would be prudent not to implement new five yearly registration renewal requirements and maintain current arrangements until the Queensland Government can consider the outcome of the COAG review.

Health monitoring record keeping and notification requirements are also being considered as part of the COAG review of the model WHS laws. Like plant registration requirements, it is considered prudent to extend the delayed commencement date for mandatory asbestos health monitoring requirements until the Queensland Government can consider the outcomes of the COAG review.

Nationally, consideration may be given to reach stackers no longer being a class of high risk work requiring a licence. Consequently, the transitional arrangement permitting holders of high risk work licences to operate non-slewing mobile cranes to also operate a reach stacker will be extended to avoid disruption for business and this occupational group.

Achievement of policy objectives

The policy objectives are achieved by amending the *Work Health and Safety Regulation 2011* to –

- extend the commencement date for provisions regarding a five yearly renewal period for items of plant that require registration to 1 January 2016;
- extend the commencement date for provisions regarding health monitoring for asbestos to 1 January 2016; and
- extend a transitional arrangement permitting holders of a high risk work licence for the non-slewing mobile crane class to carry out the reach stacker class of work until 31 December 2015.

Consistency with policy objectives of authorising laws

The objective of the *Work Health and Safety Act 2011* is to protect workers and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks arising from work, plant or substances. This objective is achieved by establishing a framework for preventing or minimising a person's exposure to the risk of death, injury or illness caused by work, plant or substances. The proposed amendments are consistent with the objectives of the *Work Health and Safety Act 2011*.

Inconsistency with policy objectives of other legislation

No inconsistencies with policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by regulatory amendment.

Benefits and costs of implementation

The amendment regulation is beneficial as it provides continuity of current arrangements and ensures the relevant provisions in the *Work Health and Safety Regulation 2011* do not commence before the implementation of any proposed amendments being considered nationally. This avoids a situation where business is required to adapt to one regulatory change when more changes are under consideration.

There are no costs to implement the amendment regulation.

Consistency with fundamental legislative principles

The amendment regulation is consistent with fundamental legislative principles.

Consultation

Industry stakeholder consultation has not occurred for the amendment regulation as broader consultation on the model WHS laws is being carried out through Safe Work Australia's review on improving the model WHS laws requested by the Council of Australian Governments (COAG). Safe Work Australia released an *Issues Paper and Consultation Regulation Impact Statement on Improving the Model Work Health and Safety Laws* in July 2014 which addressed the issue of removing plant registration requirements. A report to relevant Ministers and COAG with recommendations on improving the model WHS laws, with a particular focus on reducing red tape, is expected by the end of 2014.

The Office of Best Practice Regulation in the Queensland Competition Authority has been consulted. As the amendment regulation is not considered likely to result in significant adverse impacts a regulatory impact statement has not been prepared.

Notes of Provisions

Short Title

Clause 1 provides the short title of the regulation.

Regulation amended

Clause 2 provides that this regulation amends the *Work Health and Safety Regulation 2011*.

Amendment of s 2 (Commencement)

Clause 3 amends section 2(2B) so the commencement date for the plant registration and asbestos health monitoring provisions is 1 January 2016.

Amendment of s 272A (Duration of registration on commencement)

Clause 4 amends section 272A to extend for a further twelve months the transitional duration period relating to granting registration for items of plant. The expiry date for section 272A is also delayed for a further twelve months until 31 January 2016. This is necessary as a consequence of section 272 now not commencing until 1 January 2016.

Amendment of s 279A (Duration of renewal on commencement)

Clause 5 amends section 279A to extend for a further twelve months the transitional duration period for renewing the registration of items of plant. The expiry date for section 279A is also delayed for a further twelve months until 31 January 2016. This is necessary as a consequence of section 279(2)(d) now not commencing until 1 January 2016.

Amendment of s 726 (Particular licence classes to include other licence classes)

Clause 6 amends section 726(2) by extending this transitional arrangement to enable holders of high risk work licences for operating a non-slewing mobile crane to also carry out the reach stacker class of work until 31 December 2015.