

Work Health and Safety (Certificates of Authority) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 94

made under the

Work Health and Safety Act 2011

General Outline

Short title

Work Health and Safety (Certificates of Authority) Amendment Regulation 2018

Authorising law

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

Policy objectives and the reasons for them

On 12 October 2017, the Queensland Parliament passed the *Work Health and Safety and Other Legislation Amendment Act 2017* (Amendment Act). The Amendment Act received Assent on 23 October 2017.

The Amendment Act introduced the ability for a person conducting a business or undertaking (PCBU) to appoint a work health and safety officer (WHSO). These provisions commence on 1 July 2018.

To clarify and ensure the efficient operation of these provisions, it is proposed to make further minor amendments to the *Work Health and Safety Regulation 2011* (WHS Regulation).

WHSO certificates of authority

As part of the Amendment Act, a new Part 5A was inserted into the WHS Act to enable a PCBU to appoint, as a WHSO for that business or undertaking, a person who holds a certificate of authority for appointment as a WHSO. A new Chapter 2A was also introduced into the WHS Regulation, outlining the process for persons to obtain a certificate of authority for appointment as a WHSO. Under the Chapter 2A provisions, the regulator has responsibility to grant certificates of authority to a WHSO applicant who has successfully completed an approved WHSO course. These provisions are due to commence on 1 July 2018.

To reduce the regulator's administrative burden in issuing certificates of authority for appointment as a WHSO, it is proposed to amend Chapter 2A to enable approved Registered Training Organisations (RTOs) to issue certificates of authority to a person on the successful completion of an approved WHSO or WHSO recertification course.

The regulator will still be able to issue certificates of authority where a person applies for one in the approved form and can demonstrate they have successfully completed an approved WHSO or WHSO recertification course, or if the applicant has the qualifications or experience necessary to satisfactorily perform the functions of a WHSO.

Approved WHSO course

The Amendment Act amended the WHS Regulation to define an approved WHSO course as (a) a Certificate IV in Work Health and Safety BSB41412; or (b) another WHSO course approved by the regulator under section 31C. The BSB41412 course code is not the most recent and was inserted into the Amendment Act in error. It is proposed to amend this definition to mean, "a work health and safety officer course approved by the regulator under section 31E". The regulator will then notify of approved courses on its website. The regulator intends on approving Certificate IV in Work Health and Safety BSB41415 and another WHSO course developed by the regulator, as approved courses on its website.

This amendment is proposed so that the regulator can more efficiently make updates where course codes change and/or new courses are recognised as approved WHSO courses.

Achievement of policy objectives

The objective of the *Work Health and Safety (Certificates of Authority) Amendment Regulation 2018* is achieved by making amendments to Chapter 2A of the WHS Regulation regarding WHSO certificates of authority and approved courses.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the authorising law.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

WHSO certificates of authority

There will only be minor costs associated with this proposal involving the production of certificates by RTOs. This is not expected to have any significant impact on RTOs or to applicants of the WHSO course.

These amendments will benefit the government in that it will reduce unnecessary administrative burden and associated costs.

Approved WHSO course

The proposed changes to the definition of an approved WHSO course will mean that people who have completed the BSB41412 course will not be automatically eligible to be appointed as a WHSO. The BSB41415 course has been available since 2015 and contains considerable changes to assessment conditions, which means that those who hold the previous qualification may not meet the standards required for appointment as a WHSO unless they can demonstrate they have the qualifications or experience necessary to satisfactorily perform the functions of a WHSO.

Updating the definition of an approved WHSO course ensures that future updates to the courses can be communicated more efficiently through the regulator's website.

Consistency with fundamental legislative principles

The Amendment Regulation does not conflict with the fundamental legislative principles.

Consultation

Consultation has occurred with the Office of Best Practice Regulation (OBPR). OBPR determined there are no significant impacts arising as a result of the Amendment Regulation.