

Fire and Emergency Services (Levy Groups) Amendment Regulation (No. 2) 2019

Explanatory notes for SL 2019 No. 191

made under the

Fire and Emergency Services Act 1990

General Outline

Short title

Fire and Emergency Services (Levy Groups) Amendment Regulation (No. 2) 2019

Authorising law

Sections 108 and 154E of the *Fire and Emergency Services Act 1990*.

Policy objectives and the reasons for them

For each financial year, the owners of prescribed property must contribute to the cost of administering and giving effect to the *Fire and Emergency Services Act 1990* (the Act). The contribution, known as the Emergency Management Levy (the Levy), recognises that all Queenslanders are at risk from a wide range of emergencies and ensures there is a sustainable funding base for the delivery of fire and emergency services.

While, the Act places a legal obligation on local governments to administer the levy, which is collected through local government rate notices, the *Fire and Emergency Services Regulation 2011* (the Regulation), at Schedule 2, sets out annual contributions of owners of prescribed properties, organised by levy group, category and levy district class.

On 1 July 2019, the *Fire and Emergency Services (Levy Groups) Amendment Regulation 2019* (the July 2019 Amendment Regulation) introduced two new levy group categories (7.01 and 7.02) to more appropriately reflect the nature of craft breweries and distilleries and ensure that they were not required to contribute the same amount as large commercial breweries.

After introduction of the July 2019 Amendment Regulation, it was identified that a more diverse range of business models were operating within the craft brewery and distillery industry and that the new categories may not achieve the policy intent of the July 2019 amendments.

To more adequately account for the diversity of business models operating within the brewery and distillery industry, further amendment to the Regulation is proposed. The object of the Amendment Regulation, is to allow for a brewery or distillery with a gross floor area of not more than 15,000m² to be taken as commercial premises for the purpose of section 108 of the *Fire and Emergency Services Act 1990*.

Achievement of policy objectives

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

- repealing the existing category 7.01 and 7.02 (former item) with retrospective effect;
- amending Schedule 2 of the Regulation to provide that commencing 1 July 2020, a brewery or distillery with a gross floor area of not more than 15,000m² is taken to be commercial premises;
- for the financial year ending 30 June 2020, Schedule 2 of the Regulation, as amended by the Amendment Regulation, will be taken to be the applicable schedule for determining annual contributions made for that year; and
- where a brewery or distillery has been categorised for the financial year ending 30 June 2020 at 7.01 and 7.02, that upon commencement of the Amendment Regulation, that local government is to determine the category for the brewery or distillery against a suitable category in Schedule 2, but not in a category higher than levy group 7.

Levy categories 12.01 and 12.03 will continue to apply to breweries and distilleries 15,000m² and over.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Act.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

The Amendment Regulation will not impose any additional cost on Government. Implementation costs are limited to adjustment of levy systems and will be met through existing budgets.

Amendment of the categories for craft breweries and distilleries provides for an appropriate lesser levy for those businesses.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with the fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

The Amendment Regulation contain provisions that have retrospective effect and could be considered a breach of the FLP in respect of its proposed retrospective application (section 4(3)(g) of the LS Act). The departure is justified in that the provision seeks to ensure that no individual is disadvantaged by the impact of the July 2019 Amendment Regulation.

Consultation

Consultation with the Independent Brewers Association, individual brewers and distillers in Queensland, the Local Government Association of Queensland and specific local governments that have responsibilities to determine and collect the Levy under the Act has occurred. These stakeholders have indicated support for the amendments.

In accordance with the Queensland Government Guide to Better Regulation (the Guidelines), the Office of Best Practice Regulation (OBPR) was consulted in relation to the proposed amendment.

The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required as further analysis and consultation would not be beneficial at this stage.