

# Public Health (COVID-19) and Other Legislation Amendment Regulation 2020

Explanatory notes for SL 2020 No. 37

made under the

*Hospital and Health Boards Act 2011*  
*Public Health Act 2005*

## General Outline

### Short title

*Public Health (COVID-19) and Other Legislation Amendment Regulation 2020*

### Authorising law

Section 282 of the *Hospital and Health Boards Act 2011*.  
Section 461 of the *Public Health Act 2005*.

### Policy objectives and the reasons for them

The policy objectives of the Regulation are to amend the *Public Health Regulation 2018* to:

- prescribe coronavirus (COVID-19) as a contagious condition in schedule 4 to give a person in charge of a school, education and care service or QEC approved service (school or care service) the same powers for COVID-19 as for other contagious conditions under schedule 4, such as diphtheria, gastroenteritis, measles and influenza;
- prescribe police officers as persons who may be appointed as emergency officers (general) under section 333 of the *Public Health Act 2005*; and
- update references to the temporary name of the coronavirus from “2019-nCoV” to refer to its official name “COVID-19”.

The Regulation also amends the *Hospital and Health Boards Regulation 2012* to correct a typographical error to replace “special registration” with “specialist registration”.

#### ***Prescribing COVID-19 as a contagious condition in schedule 4***

Chapter 5 of the Public Health Act establishes a framework to protect children from contagious conditions by requiring a child who has, or is suspected of having, a contagious condition to be excluded from a school or care service. Sections 158 and 160 of the Public Health Act enable a contagious condition and exclusion period for the contagious condition to be prescribed under a regulation.

Schedule 4 of the Public Health Regulation prescribes periods of time during which a child that has, or is suspected of having, a contagious condition, must not attend a school or care service. The prescribed period varies depending on the contagious condition involved. Keeping children away from a school or care service for these periods minimises the likelihood of the spread of contagious conditions within a school or care service.

Existing contagious conditions prescribed under schedule 4 of the Public Health Regulation include conditions such as diphtheria, gastroenteritis illness, haemophilus influenzae type b (invasive) disease, human influenza with pandemic potential, measles and typhoid. These are infectious diseases that can spread from person to person and can cause serious illness and possibly death. Children are at considerable risk of being exposed to a contagious condition when an infectious child attends a school or care service as they are places where close and prolonged contact often occurs between children through playing, eating and classroom activities.

The Public Health Act provides the following powers to protect children that attend a school or care service if a child has, or is suspected of having, a contagious condition:

- Section 161 – Parents that are aware their child has a contagious condition must not send their child to a school or care service for the prescribed period.
- Section 162 – A teacher or educator that has a reasonable belief that a child has a contagious condition must advise the person in charge of a school or care service.
- Sections 163 and 164 – A person in charge of a school or care service may advise a child's parents that the child has, or may have, a contagious condition and direct that the child must not attend the school or care service for the prescribed period.
- Sections 167 and 168 – The chief executive may authorise a doctor to examine children at a school or care service, with a parent's consent. Alternatively, a parent may organise their own doctor to examine their child.
- Section 172 – The chief executive may request the person in charge of a school or care service to provide information about a child who has, or is suspected of having, a contagious condition.
- Section 181 – The Minister for Health and Minister for Ambulance Services may order the closure of a school or care service for 1 month if there is an outbreak of a contagious condition at the school or care service, or in the community.

Preventing the spread of COVID-19 among children at a school or care service protects the health of children in Queensland and helps to minimise the spread of the condition in the community.

### ***Prescribing police officers as persons who may be appointed as emergency officers (general)***

Chapter 8 of the Public Health Act includes powers to declare and respond to public health emergencies and emergency notifiable conditions. Section 333 of the Act allows the chief executive to appoint persons as emergency officers (general) for a public health emergency including public service officers and employees, health service employees, local government employees, SES members and persons prescribed under a regulation. Under section 61 of the Public Health Regulation, ambulance officers are already prescribed as persons who may be appointed as emergency officers (general). It is proposed to also prescribe police officers as persons who may be appointed as emergency officers (general).

During a public health emergency, an emergency officer (general) has emergency powers to respond to a declared public health emergency as provided under the Public Health Act. These powers are subject to the direction of the chief executive and may be limited by conditions on the appointment. Prescribing police officers as persons who may be appointed as emergency officers (general) will provide additional operational flexibility to respond to COVID-19 and any future declared public health emergencies.

### ***Updating references to official name of COVID-19***

The *Public Health (Coronavirus (2019-nCoV)) Amendment Regulation 2020* (SL1 of 2020) prescribed coronavirus 2019-nCoV as a notifiable condition in schedule 1 of the Public Health Regulation and as a condition requiring immediate notification in schedule 2.

On 11 February 2020, the World Health Organization gave the coronavirus 2019-nCoV the official name ‘COVID-19’, meaning the coronavirus disease originating in 2019. It is necessary to update the references to ‘2019-nCoV’ in the Public Health Regulation to refer to the official name ‘COVID-19’.

## **Achievement of policy objectives**

The Amendment Regulation achieves the policy objectives by amending the Public Health Regulation to:

- prescribe COVID-19 as a contagious condition in schedule 4, including the prescribed period during which a child who has, or is suspected of having, COVID-19 must not attend a school or care service;
- prescribe police officers as persons who may be appointed as emergency officers (general); and
- update references to the temporary name of the coronavirus from “2019-nCoV” to refer to its official name “COVID-19”.

The prescribed period for COVID-19 is based on information published in *The Communicable Diseases Network of Australia (CDNA) National Guidelines for Public Health Units Coronavirus Disease 2019 (COVID-19)* (COVID-19 National Guidelines). The COVID-19 National Guidelines summarise national recommendations for surveillance, infection control, laboratory testing and contact management for COVID-19. The COVID-19 National Guidelines have been endorsed by the Australian Health Protection Principal Committee, the key decision-making committee for health emergencies comprised of all State, Territory and Commonwealth Chief Health Officers. The prescribed period is based on the criteria in the COVID-19 National Guidelines for releasing a confirmed case or a contact of a confirmed case from isolation.

The Regulation also amends schedule 2C of the Hospital and Health Boards Regulation to correct a typographical error to replace “special registration” with “specialist registration”.

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

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

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

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

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

The Amendment Regulation is the only effective means of achieving the policy objectives.

## **Benefits and costs of implementation**

Prescribing COVID-19 as a contagious condition will allow persons in charge of schools and care services to take appropriate measures to protect children's health and minimise the spread of the condition in schools, care services and the community. The Department of Education, schools and care services have well-established procedures for managing other contagious conditions and will adapt those procedures for COVID-19. As such, the costs of implementing this change are expected to be minimal.

Enabling the appointment of police officers as emergency officers (general) will provide additional operational flexibility to respond to COVID-19 and any future declared public health emergencies. It will enable highly trained police officers to be deployed to assist in managing the emergency, if needed. This may be particularly important in rural and remote areas, where public health officials or other types of emergency officers may not be readily available.

The costs associated with prescribing the official new name for COVID-19 are administrative in nature and will be met from existing budget allocations.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is generally consistent with fundamental legislative principles in the *Legislative Standards Act 1992*. However, the amendment that provides police officers may be appointed as emergency officers (general) potentially infringes the fundamental legislative principle that legislation has sufficient regard to rights and liberties of individuals only if administrative power is delegated in appropriate cases and to appropriate persons.

Section 333 of the Public Health Act provides that emergency officers (general) may be appointed for declared public health emergencies. The chief executive may appoint a person as an emergency officer (general) if they are a public service officer or employee, health service employee, local government employee, SES member under the *Fire and Emergency Services Act 1990* and persons prescribed under a regulation. Under section 61 of the Public Health Regulation, ambulance officers are already prescribed as persons who may be appointed as emergency officers (general). Police officers are highly trained individuals who exercise a range of statutory powers, including significant powers that can be exercised in emergencies. It is considered police officers are appropriate persons to be able to exercise emergency powers under the Public Health Act given their training.

## **Consultation**

Due to its urgent nature, consultation on the Amendment Regulation was not possible. However, Queensland Health will coordinate with the Department of Education to ensure schools and care services are informed about COVID-19 being prescribed as a contagious

condition. Queensland Health and the Department of Education will ensure clinical information is shared with schools and care services to mitigate the effects of COVID-19.

The Queensland Productivity Commission has advised that, under *The Queensland Government Guide to Better Regulation*, the Regulation is excluded from further regulatory impact analysis as it falls into category (m), regulatory proposals for matters that require an immediate legislative response to prevent damage to property or injury to persons.

## Notes on provisions

### Part 1 Preliminary

#### Short Title

*Clause 1* provides the short title of the regulation.

### Part 2 Amendment of Hospital and Health Boards Regulation 2012

#### Regulation amended

*Clause 2* provides this part amends the *Hospital and Health Boards Regulation 2012*.

#### Amendment of sch 2C (Prescribed health practitioners)

*Clause 3* amends schedule 2C to correct a typographical error by replacing “special registration” with “specialist registration”.

### Part 3 Amendment of Public Health Regulation 2018

#### Regulation amended

*Clause 4* provides this part amends the *Public Health Regulation 2018*.

#### Replacement of s 61 (Emergency officers (general)—Act, s 333)

*Clause 5* replaces section 61 of the Public Health Regulation to prescribe police officers as an additional category of persons who may be appointed as emergency officers (general) under section 333 of the *Public Health Act 2005*. This provides flexibility for the chief executive to be able to appoint police officers as emergency officers (general) for a declared public health emergency.

Under section 61 of the Public Health Regulation, ambulance officers under the *Ambulance Service Act 1991* are already prescribed as persons who may be appointed emergency officers (general). The replacement section 61 retains ambulance officers as persons who may be appointed emergency officers (general).

#### Insertion of new pt 11, div 1, hdg

*Clause 6* inserts a new heading for division 1 of part 11.

#### Insertion of new pt 11, div 2

*Clause 7* inserts a new division 2 into part 11 to provide transitional arrangements for the change from the temporary name for coronavirus “2019-nCoV” to the official name “COVID-19” assigned by the World Health Organization. New section 71 provides that a reference in a document to 2019-nCoV may be taken to be a reference to COVID-19, if the context permits.

**Amendment of sch 1 (Notifiable conditions)**

*Clause 8* amends schedule 1 to update “2019-nCoV” under the entry for coronaviruses to “COVID-19”. This amendment reflects the official name of the coronavirus disease that has been assigned by the World Health Organization.

**Amendment of sch 2 (Immediate notifications)**

*Clause 8* amends schedule 2 to update “2019-nCoV” under the entry for coronavirus to “COVID-19”. This amendment reflects the official name of the coronavirus disease that has been assigned by the World Health Organization.

**Amendment of sch 4 (Contagious conditions)**

*Clause 10* amends part 2 of schedule 4 to prescribe the coronavirus “COVID-19” as a contagious condition. It inserts the prescribed start and end period in columns 2 and 3 for COVID-19. The prescribed period applies in the same way as for the existing contagious conditions in schedule 4 of the Regulation. It provides the period for which a child that has, or may have, COVID-19 to be excluded from a school or care service.