

Public Health (Emergency Officers (General)) Amendment Regulation 2020

Explanatory notes for SL 2020 No. 48

made under the

Public Health Act 2005

General Outline

Short title

Public Health (Emergency Officers (General)) Amendment Regulation 2020

Authorising law

Section 461 of the *Public Health Act 2005*.

Policy objectives and the reasons for them

The policy objective of the Amendment Regulation is to provide additional operational flexibility to respond to COVID-19 and any future declared public health emergencies, by expanding the persons who may be appointed as emergency officers (general) under the *Public Health Act 2005*.

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 of Queensland Health to appoint persons as emergency officers (general) for a public health emergency. These persons include public service officers and employees, health service employees, local government employees, State Emergency Service (SES) members and persons prescribed under a regulation. 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.

Under section 61 of the *Public Health Regulation 2018*, ambulance officers and police officers are already prescribed as persons who may be appointed as emergency officers (general). It is proposed to also prescribe fire service officers and harbour masters.

Achievement of policy objectives

The Amendment Regulation achieves the policy objectives by amending the Public Health Regulation to prescribe fire service officers and harbour masters as persons who may be appointed as emergency officers (general).

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

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

Consistency with fundamental legislative principles

The Amendment Regulation potentially infringes the fundamental legislative principle under the *Legislative Standards Act 1992*, that legislation has sufficient regard to rights and liberties of individuals only if administrative power is delegated in appropriate cases and to appropriate persons.

The amendments are consistent with the intent of section 333 of the Public Health Act, which provides that emergency officers (general) may be appointed for declared public health emergencies, and that 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* or a person prescribed under a regulation.

Prescribing fire service officers and harbour masters as persons who may be appointed as emergency officers (general) is consistent with the prescribing of ambulance officers and police officers, both of which are already prescribed in the Public Health Regulation for this purpose.

Fire service officers are highly trained individuals who exercise a range of statutory powers, including significant powers that can be exercised in emergencies. Additionally, harbour masters are qualified officers that can give directions to ship owners, ship masters, ships, and other persons to ensure the effectiveness and efficiency of the Queensland maritime industry.

It is considered fire service officers and harbour masters are appropriate persons to be able to exercise emergency powers under the Public Health Act given their qualifications.

Consultation

Due to its urgent nature, consultation on the Amendment Regulation was not possible. The Queensland Productivity Commission has advised that, under *The Queensland Government Guide to Better Regulation*, the Amendment 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

Short Title

Clause 1 provides the short title of the amendment regulation.

Regulation amended

Clause 2 provides this part amends the *Public Health Regulation 2018*.

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

Clause 3 amends section 61 of the Public Health Regulation to prescribe fire service officers under the *Fire and Emergency Services Act 1990*, and harbour masters under the *Transport Operations (Marine Safety) Act 1994* as additional categories 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 fire service officers and harbour masters 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* and police officers are already prescribed as persons who may be appointed emergency officers (general).