

Work Health and Safety (Plant Registration) Amendment Regulation 2020

Explanatory notes for SL 2020 No. 252

made under the

Work Health and Safety Act 2011

General Outline

Short title

Work Health and Safety (Plant Registration) Amendment Regulation 2020

Authorising law

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

Policy objectives and the reasons for them

The objectives of the *Work Health and Safety (Plant Registration) Amendment Regulation 2020* (Amendment Regulation) are to:

- maintain a requirement for annual renewal of plant item registration; and
- allow the Regulator to waive and refund the plant item registration fee for amusement devices in the current plant registration cycle.

Renewal period for plant item registration

Provisions in the *Work Health and Safety Regulation 2011* (WHS Regulation) providing for five-yearly renewal of plant item registration are due to commence on 1 January 2021. These provisions were introduced in Queensland as part of implementing the national model work health and safety laws in 2012 but have never commenced under Queensland's WHS Regulation. The commencement has been consistently delayed with Queensland instead preserving an annual plant item registration renewal period.

Issues regarding plant item registration under the WHS Regulation were considered during the Coronial Inquest into the fatalities at Dreamworld in October 2016. The Coroner's report noted that when Queensland adopted the national model WHS laws in January 2012, it delayed the commencement of the five-yearly renewal cycle for registration of items of plant and preserved the existing annual registration cycle due to operational and information technology system considerations.

As part of renewing plant item registration, the owner of the plant makes a declaration the plant has been maintained, inspected and tested as required under the WHS Regulation. The Regulator also requires amusement device owners to provide information about the annual inspection of their amusement device as required under section 241 of the WHS Regulation. Information required in the renewal of registration enables the Regulator to select certain high-risk plant for follow up auditing to verify the inspection of the plant by competent persons, particularly in relation to amusement devices.

For these reasons Queensland is no longer proceeding with implementing the five-yearly registration renewal period in the national model work health and safety laws. To achieve this, the Amendment Regulation omits provisions providing for five-yearly renewal of plant item registration and inserts new provisions to preserve an annual renewal period.

Waiver and refund provision for amusement device plant item registration fees

On 29 January 2020, in response to the COVID-19 health pandemic, a public health emergency was declared in Queensland under the *Public Health Act 2005*.

The COVID-19 health pandemic has caused significant hardship for the amusement device industry as major amusement parks and transportable amusement device owners have been unable to operate under COVID-19 public health restrictions.

Due to these exceptional circumstances, the Amendment Regulation provides fee relief to the amusement device industry in relation to plant item registration fees for amusement devices registered for the current registration cycle (1 February 2020 to 31 January 2021) and registered immediately before the Amendment Regulation commences.

Waiving or refunding the fee for plant item registration of an amusement device does not affect the validity of registration.

Achievement of policy objectives

The objective of the Amendment Regulation is achieved by:

- inserting new provisions to establish annual renewal of plant item registration; and
- inserting a new provision enabling the Regulator to waive and refund the fee for plant item registration of an amusement device in the current plant registration cycle.

The waiving of amusement device plant item registration fees is a temporary measure in response to the COVID-19 health pandemic. Consequently, new section 701B is limited to the waiving and refunding of amusement device plant item registration fees for the current registration cycle of 1 February 2020 to 31 January 2021.

Consistency with policy objectives of authorising law

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

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

The waiver and refund of amusement device plant item registration fees for the current registration cycle will provide a benefit to amusement device owners who have a device registered immediately before commencement of the Amendment Regulation. At 1 February 2020, the cost for amusement device plant item registration and renewal was an annual fee of:

- for a Class 2 amusement device – \$182.10
- for a Class 3 amusement device – \$282.80
- for a Class 4 or 5 amusement device – \$389.50

There are no additional costs associated with preserving an annual renewal system for plant item registration. It will provide certainty to owners of registrable plant regarding continuity of annual plant registration renewal. It will also provide a benefit to government as the annual registration renewal framework is supported by the Office of Industrial Relations' current information technology system.

As at 10 August 2020, the Office of Industrial Relations had received \$105,971 in amusement device registration fees for the current registration cycle. As renewal and payment of all plant item registration fees are due on 1 February each year, the total amount to be refunded and waived for amusement device registration fees is unlikely to increase much more than the amount collected to date. Consequently, the cost to government of waiving and refunding the amusement device registration fee for the current cycle is expected to be approximately \$106,000. The cost associated with administering the refunds will be met within existing resources.

Consistency with fundamental legislative principles

The Amendment Regulation does not conflict with the Fundamental Legislative Principles.

Consultation

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

OBPR applied an OBPR-assessable exclusion from undertaking further regulatory impact analysis under Category (k) – Regulatory proposals designed to reduce the burden of regulation, or that clearly do not add to the burden, and it is reasonably clear there are no significant adverse impacts.

No stakeholder consultation was undertaken as the Amendment Regulation does not impose new requirements on owners of registrable plant, and provides a benefit for those amusement device owners eligible for a waiver or refund of amusement device plant registration fees.

Notes on provisions

Short title

Clause 1 provides the short title of the regulation is the *Work Health and Safety (Plant Registration) Amendment Regulation 2020*.

Regulation amended

Clause 2 provides the Amendment Regulation amends the *Work Health and Safety Regulation 2011*.

Amendment of s 2 (Commencement)

Clause 3 omits section 2(2c) of the WHS Regulation.

Replacement of s 272 (Duration of registration)

Clause 4 omits and replaces section 272 to provide for the duration of registration for an item of plant.

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

Clause 5 omits section 272A which is no longer required.

Amendment of s 279 (Decision on application)

Clause 6 omits section 279(2)(d) which is no longer required.

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

Clause 7 omits and replaces section 279A to provide for an annual renewal period for registration of an item of plant.

Insertion of new s 701B

Clause 8 inserts a new section 701B to provide for the waiving and refund of amusement device plant item registration fees in the current plant registration cycle.

Insertion of new pt 13.8 Transitional provision for Work Health and Safety (Plant Registration) Amendment Regulation 2020

Clause 9 inserts a transitional provision to clarify the application of new section 701B in relation to applications for amusement device plant item registration before and after commencement of the Amendment Regulation. The transitional provision clarifies new section 701B does not apply in relation to an application for amusement device plant item registration where the registration was cancelled before the Amendment Regulation commenced.