

Work Health and Safety and Other Legislation Amendment (Postponement) Regulation 2025

Explanatory notes for SL 2025 No. 9

Made under the

Work Health and Safety and Other Legislation Amendment Act 2024

General Outline

Short title

Work Health and Safety and Other Legislation Amendment (Postponement) Regulation 2025

Authorising law

Section 15DA of the *Acts Interpretation Act 1954*

Section 2 of the *Work Health and Safety and Other Legislation Amendment Act 2024*

Policy objectives and the reasons for them

The objective of the *Work Health and Safety and Other Legislation Amendment (Postponement) Regulation 2025* (Postponement Regulation) is to postpone the automatic commencement of certain provisions of the *Work Health and Safety and Other Legislation Amendment Act 2024* (WHSOLA Act) to 29 March 2026.

The WHSOLA Act received Royal Assent on 28 March 2024. A staged commencement was planned to allow industry representatives, businesses and the Government a reasonable timeframe for implementation given the scale of the reforms. Provisions in the WHSOLA Act commenced either on assent or by the following proclamation:

- on 20 May 2024 by the *Proclamation No. 1—Work Health and Safety and Other Legislation Amendment Act 2024*, and
- on 29 July 2024 by the *Proclamation No. 2—Work Health and Safety and Other Legislation Amendment Act 2024*.

Sections 9, 52, 64(1), 68 and schedule 1, item 1 of the WHSOLA Act are the only remaining WHSOLA provisions that have not yet commenced. These provisions relate to a new information sharing power and the definition of *high risk plant* in the WHS Act.

Under section 15DA(2) of the *Acts Interpretation Act 1954* (AI Act), a provision of an Act that has not commenced will automatically commence one year after the day of Royal Assent. Section 15DA(3) provides that a regulation may extend the commencement of provisions by to two years of the assent day.

The Postponement Regulation will allow further time for the Office of Industrial Relations to consider the most effective means of implementing the provisions of the WHSOLA Act which have not yet commenced, including to conduct further consultation with industry representatives on prescribing the definition of *high risk plant*.

New information sharing power (sections 9, 52 and 64(1) of WHSOLA Act – new section 155A in *Work Health and Safety Act 2011* (WHS Act))

Upon commencement, section 52 of the WHSOLA Act inserts new section 155A in the WHS Act to allow a health and safety representative or work health and safety entry permit holder to request information contained in an enforcement notice from the regulator.

Sections 9 and 64(1) of the WHSOLA Act are consequential amendments to support the operation of new section 155A in the WHS Act. Section 9 of WHSOLA Act amends section 32 of *Safety in Recreational Water Activities Act 2011* to ensure regulator provisions remain consistent between the Acts. Section 64 of WHSOLA Act clarifies the confidentiality requirements for information provided in new section 155A under section 271 of the WHS Act.

High risk plant (section 68 and schedule 1, item 1)

Upon commencement, section 68 of the WHSOLA Act amends schedule 1 of the WHS Act to enable the definition of *high risk plant* to be prescribed by regulation. This will address existing inconsistencies in definitions between the WHS Act and *Work Health and Safety Regulation 2011* and provide greater flexibility if future amendments are required.

Postponement of the *cooling tower* definition in schedule 1, item 1 of the WHSOLA Act is also necessary on the basis that the definition of *cooling tower* in the *Public Health Act 2005* is linked to the definition of *high risk plant* in the WHS Act.

Achievement of policy objectives

To achieve its objectives, the Postponement Regulation will postpone commencement of sections 9, 52, 64(1), 68 and schedule 1, item 1 of the WHSOLA Act for an additional maximum of 12 months under the AI Act to 29 March 2026.

Consistency with policy objectives of authorising law

The Postponement Regulation is consistent with the policy objectives of the WHSOLA Act, and the AI Act which provides that a regulation may extend the commencement of provisions by up to two years of the assent day.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

There are no costs associated with the implementation of the Postponement Regulation.

Consistency with fundamental legislative principles

The Postponement Regulation is consistent with fundamental legislative principles.

Consultation

Queensland Health was consulted in respect of the delayed commencement date of the definition of *cooling tower* under the *Public Health Act 2005*. The Department of the Premier and Cabinet and Queensland Treasury were also consulted.

No further consultation was undertaken as the Postponement Regulation is minor and technical in nature. However, further consultation will be undertaken on provisions relating to high risk plant prior to implementation.

In accordance with the *Queensland Government Better Regulation Policy*, the Office of Best Practice Regulation was consulted in relation to the postponement regulation. The Postponement Regulation is determined to be a proposal that is of a machinery nature not requiring further impact analysis.