



Queensland

Public Health (Water Risk Management) Amendment Act 2016

Act No. 33 of 2016

An Act to amend the Public Health Act 2005 for particular purposes

[Assented to 14 June 2016]



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Public Health (Water Risk Management) Amendment Act 2016

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The Parliament of Queensland enacts—

1 Short title

This Act may be cited as the *Public Health (Water Risk Management) Amendment Act 2016*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Act amended

This Act amends the *Public Health Act 2005*.

4 Insertion of new ch 2A

After section 61—

insert—

Chapter 2A Water risk management plans

Part 1 Preliminary

61A Definitions for chapter

In this chapter—

approved provider means an entity for which an approval is in force under the *Aged Care Act 1997* (Cwlth).

cooling tower see the *Work Health and Safety Act 2011*, schedule 1, part 1, section 1(6).

hazard means—

- (a) Legionella; or
- (b) microorganisms, substances or physical properties of water that are reasonably expected to cause injury or illness to an individual; or
- (c) microorganisms or substances prescribed by regulation.

hazardous event, for a prescribed facility, means—

- (a) an event, or series of events, that causes or has the potential to cause the presence of a hazard in water within a prescribed facility's water distribution system; or
- (b) an interruption of the supply of water to the prescribed facility.

hazard source means a location or condition that establishes or increases the presence of a hazard.

health service chief executive see the *Hospital and Health Boards Act 2011*, schedule 2.

Legionella means bacteria belonging to the genus *Legionella*.

prescribed facility means—

- (a) a public sector hospital that provides treatment or care to inpatients; or
- (b) a private health facility licensed under the *Private Health Facilities Act 1999*; or
- (c) a State aged care facility; or
- (d) a residential aged care facility, other than a State aged care facility, prescribed by regulation.

prescribed test means a test for Legionella prescribed by regulation for this chapter.

residential aged care facility means a facility at which an approved provider provides residential

care under the *Aged Care Act 1997* (Cwlth).

residential care has the meaning given by the *Aged Care Act 1997* (Cwlth), section 41–3.

responsible person, for a prescribed facility, means—

- (a) for a prescribed facility that is a public sector hospital—the health service chief executive for the public sector hospital; or
- (b) for a prescribed facility that is a private health facility licensed under the *Private Health Facilities Act 1999*—the licensee for the private health facility under that Act; or
- (c) for a prescribed facility that is a State aged care facility—the health service chief executive for the State aged care facility; or
- (d) for a prescribed facility that is a residential aged care facility, other than a State aged care facility—the approved provider that provides residential care at the residential aged care facility.

State aged care facility means a residential aged care facility at which the State provides residential care.

water distribution system, of a prescribed facility—

- (a) means the infrastructure within the prescribed facility from every point where water enters the facility through the infrastructure to every point where the water is used; but
- (b) does not include a cooling tower.

water risk management plan, for a prescribed facility, means a written plan to prevent or minimise the risks posed by hazards, hazard sources or hazardous events to individuals at the prescribed facility.

61B Operation of chs 2 and 2A

Nothing in this chapter is intended to affect the operation of chapter 2.

Part 2 Requirement and content of plans

61C Requirement for water risk management plans

The responsible person for a prescribed facility must ensure there is a water risk management plan for the prescribed facility that complies with section 61D, unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

61D Content of water risk management plans

The water risk management plan for a prescribed facility must—

- (a) describe the prescribed facility's water distribution system; and
- (b) identify hazards, hazard sources and hazardous events relevant to water within the prescribed facility's water distribution system; and
- (c) assess the risks associated with hazards, hazard sources and hazardous events identified under paragraph (b); and
- (d) state the following—
 - (i) measures to be taken to control the risks assessed under paragraph (c);
 - (ii) the procedures that must be implemented for monitoring the effectiveness of the measures;

- (iii) a schedule that must be complied with for testing water for *Legionella* and other identified hazards at a frequency informed by the risks, measures and procedures;
- (iv) the way records of results obtained under subparagraphs (ii) and (iii) will be kept; and
- (e) state procedures for responding to—
 - (i) the results of monitoring that indicate the failure of measures taken to control risks assessed under paragraph (c); or
 - (ii) the results of testing that indicate the presence of a hazard in water within the prescribed facility's water distribution system; and
- (f) include a requirement for the water risk management plan to be reviewed and when that review is to be carried out; and
- (g) include any other requirement prescribed by regulation.

61E Amending water risk management plans

- (1) This section applies if the chief executive is satisfied a water risk management plan for a prescribed facility requires amendment to comply with section 61D.
- (2) The chief executive may give the responsible person for the prescribed facility a notice requiring the responsible person to amend the water risk management plan.
- (3) The notice must state the following—
 - (a) that the responsible person must amend the water risk management plan;

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- (b) the way the water risk management plan must be amended;
 - (c) the day by which the water risk management plan must be amended;
 - (d) the day by which the responsible person must give the chief executive a copy of the amended water risk management plan.
- (4) The responsible person must comply with the notice, unless the responsible person has a reasonable excuse.

Maximum penalty—500 penalty units.

Part 3 Compliance

61F Obligation to give chief executive copy of water risk management plans

- (1) The chief executive may, by notice, ask the responsible person for a prescribed facility to give the chief executive a copy of the water risk management plan for the prescribed facility by the day stated in the notice.
- (2) The responsible person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

61G Complying with water risk management plans

- (1) The responsible person for a prescribed facility must ensure the facility operates in a way that complies with the facility's water risk management plan, unless the responsible person has a reasonable excuse.

Maximum penalty—500 penalty units.

- (2) The responsible person for a prescribed facility must take all reasonable steps to ensure each

person who has an obligation to comply with the plan, while the facility is operating, complies with the plan, unless the responsible person has a reasonable excuse.

Maximum penalty—200 penalty units.

61H Obligation to notify chief executive of Legionella

- (1) This section applies if the result of a prescribed test confirms the presence of Legionella in water used by a prescribed facility.
- (2) A person in charge of the prescribed facility must, under subsection (3), give the chief executive a notice about the result of the test, unless the person has a reasonable excuse.

Maximum penalty—

- (a) if the offence is committed intentionally—1000 penalty units; or
 - (b) otherwise—200 penalty units.
- (3) The notice must—
 - (a) be in the approved form; and
 - (b) be given to the chief executive within 1 business day after the person in charge is notified of the result of the test; and
 - (c) comply with any other requirements prescribed by regulation.

61I Obligation to give chief executive reports

- (1) A person in charge of a prescribed facility must, under subsection (2), give the chief executive a report for each reporting period about the results of prescribed tests carried out under the water risk management plan for the prescribed facility, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (2) The report must—
 - (a) be in the approved form; and
 - (b) be given to the chief executive within 30 business days after the end of the reporting period; and
 - (c) comply with any other requirements prescribed by regulation.
- (3) In this section—

reporting period means a period prescribed by regulation.

61J False or misleading reports

- (1) A person must not give the chief executive a report under section 61I containing information the person knows is false or misleading in a material particular.

Maximum penalty—1000 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the report—
 - (a) tells the chief executive, to the best of the person's ability, how it is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

61K Chief executive may publish reports

- (1) The chief executive may publish in a report—
 - (a) notices about the presence of *Legionella* given to the chief executive under section 61H; or

-
- (b) reports about prescribed tests given to the chief executive under section 61I.
 - (2) The report may also include any other information the chief executive considers relevant to the notices or reports.
 - (3) However, information may not be included in the report under subsection (2) if the information is adverse to a person unless—
 - (a) before the report is prepared, the chief executive gives the person an opportunity to make submissions about the information; and
 - (b) any submissions made by the person are fairly stated in the report.

5 Amendment of s 385 (Power to enter places)

- (1) Section 385(1)(d), after ‘389,’—

insert—

389A, 389B

- (2) Section 385(3), after ‘part’—

insert—

, other than under section 389B,

6 Insertion of new ss 389A and 389B

After section 389—

insert—

389A Power to enter a prescribed facility—general

- (1) This section applies if an authorised person intends to enter a prescribed facility, other than a place mentioned in section 389B(2), for monitoring compliance with the facility’s water risk management plan.

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- (2) The authorised person may enter the prescribed facility if the facility is open for carrying on business or otherwise open for entry.
- (3) However, an authorised person may not enter a part of the facility—
 - (a) where a person is undergoing a procedure conducted by a health practitioner; or
 - (b) where a person is consulting a health practitioner.
- (4) In this section—

prescribed facility see section 61A.

water risk management plan see section 61A.

389B Power to enter dwellings in residential aged care facilities

- (1) This section applies if—
 - (a) a person in charge of a residential aged care facility gives the chief executive a notice under section 61H about the residential aged care facility; or
 - (b) a person gives the chief executive a notice under chapter 3, part 2, division 2 that someone else at the residential aged care facility has or had a notifiable condition resulting from Legionella.
- (2) An authorised person may enter a part of the residential aged care facility that is an occupier's dwelling for monitoring compliance with the facility's water risk management plan.
- (3) Before entering the occupier's dwelling, the authorised person must do or make a reasonable attempt to do the following things—
 - (a) identify himself or herself to a person who is an occupier of the place and is present by producing the authorised person's identity

- card or another document evidencing the authorised person's appointment;
- (b) tell the person the authorised person is permitted under this section to enter the dwelling;
- (c) give the person an opportunity to allow the authorised person immediate entry to the place without using force.
- (4) The authorised person may enter the occupier's dwelling if the authorised person is accompanied by a person employed at the residential aged care facility to provide residential care to the occupier.
- (5) In this section—
- Legionella* see section 61A.
- residential aged care facility* see section 61A.
- water risk management plan* see section 61A.

7 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *approved provider*—
omit.
- (2) Schedule 2—
insert—

***approved provider*—**

- (a) for chapter 2A, see section 61A; and
- (b) for chapter 5, see section 158.

cooling tower, for chapter 2A, see section 61A.

hazard, for chapter 2A, see section 61A.

hazardous event, for chapter 2A, see section 61A.

hazard source, for chapter 2A, see section 61A.

health service chief executive, for chapter 2A, see section 61A.

Legionella, for chapter 2A, see section 61A.

prescribed facility, for chapter 2A, see section 61A.

prescribed test, for chapter 2A, see section 61A.

residential aged care facility, for chapter 2A, see section 61A.

residential care, for chapter 2A, see section 61A.

responsible person, for chapter 2A, see section 61A.

State aged care facility, for chapter 2A, see section 61A.

water distribution system, for chapter 2A, see section 61A.

water risk management plan, for chapter 2A, see section 61A.

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