



Queensland

Transport Legislation (COVID-19 Emergency Response) Regulation (No. 2) 2020

Subordinate Legislation 2020 No. 92

made under the

COVID-19 Emergency Response Act 2020
Rail Safety National Law (Queensland) Act 2017
Transport Infrastructure Act 1994
Transport Operations (Marine Safety) Act 1994

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Transport Legislation (COVID-19 Emergency Response) Regulation (No. 2) 2020*.

2 Declaration

Section 3 of this regulation is made under the *COVID-19 Emergency Response Act 2020*, section 13.

Part 2 Modification of Rail Safety National Law (Queensland) Act 2017

3 Modification of the Rail Safety National Law (Queensland) Act 2017, s 132

The *Rail Safety National Law (Queensland) Act 2017*, section 132 applies as if section 132(7) of that Act were replaced by—

- (7) This section and a transitional regulation expire on the earliest of the following days—
- (a) 31 December 2020;
 - (b) the day an amendment to section 8 of this Act commences.

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Part 3 Amendment of regulations

Division 1 Amendment of Rail Safety National Law (Queensland) (Transitional) Regulation 2017

4 Regulation amended

This division amends the *Rail Safety National Law (Queensland) (Transitional) Regulation 2017*.

5 Amendment of s 3 (Declaration that regulation is a transitional regulation—Act, s 132)

Section 3, note—

omit.

Division 2 Amendment of Transport Infrastructure (Public Marine Facilities) Regulation 2011

6 Regulation amended

This division amends the *Transport Infrastructure (Public Marine Facilities) Regulation 2011*.

7 Insertion of new pt 6, div 1A

Part 6—

insert—

Division 1A Waiver of relevant fee amount for commercial entity

81A Definitions for division

In this division—

commercial entity means an entity who conducts business—

- (a) on a commercial basis; or
- (b) as part of the not-for-profit sector.

COVID-19 emergency means the public health emergency declared on 29 January 2020 under the *Public Health Act 2005*, section 319(2), as extended and further extended under section 323 of that Act.

relevant fee amount means all, or part, of a fee stated in schedule 2 that became, or becomes, payable by a commercial entity under section 77.

written notice means a notice given to a commercial entity under section 81C(2)(a).

81B Period during which relevant fee amount may be waived

The chief executive may waive a relevant fee amount under section 81C only for the period—

- (a) starting 1 April 2020; and
- (b) ending on the later of the following—
 - (i) 30 September 2020; or
 - (ii) if the chief executive is satisfied it is appropriate having regard to the COVID-19 emergency to state a later day—the later day stated in a written notice that is no later than the day 6 months after the day the COVID-19 emergency ends.

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81C Relevant fee amount may be waived in particular circumstances

- (1) The chief executive may waive a relevant fee amount if the chief executive is satisfied—
 - (a) the commercial entity is liable to pay the amount; and
 - (b) the waiver may alleviate the financial burden on the commercial entity caused by the COVID-19 emergency.
- (2) If the chief executive is satisfied the amount may be waived, the chief executive must—
 - (a) give the commercial entity a written notice of the waiver; and
 - (b) if the amount was paid—refund the amount to the commercial entity.

81D Expiry of division

This division expires 6 months after the day the COVID-19 emergency ends.

Division 3 Amendment of Transport Operations (Marine Safety) Regulation 2016

8 Regulation amended

This division amends the *Transport Operations (Marine Safety) Regulation 2016*.

9 Insertion of new ch 6, pt 3A

Chapter 6—
insert—

Part 3A Amendment of authority, marine licence or marine licence indicator during COVID-19 emergency

155A Purpose of part

- (1) The purpose of this part is to enable an administering agency to amend an authority, a marine licence or a marine licence indicator—
 - (a) to minimise risks to the health and safety of persons caused by the COVID-19 emergency; and
 - (b) to ensure the effective and efficient operation, regulation and administration of this regulation during the COVID-19 emergency and particular periods after the emergency ends.
- (2) This part does not limit part 2, division 3 or part 3, division 3.

155B Definitions for part

In this part—

amend, in relation to an authority, a marine licence or a marine licence indicator, includes—

- (a) vary or waive a condition of the authority, marine licence or marine licence indicator; and
- (b) vary or extend the term of the authority, marine licence or marine licence indicator.

amendment notice see section 155D(1).

condition includes—

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- (a) for an authority—the term stated in the document evidencing the authority; and
- (b) for a marine licence indicator—the day stated on the indicator that the smartcard marine licence indicator for a marine licence expires.

COVID-19 emergency means the public health emergency declared on 29 January 2020 under the *Public Health Act 2005*, section 319(2), as extended and further extended under section 323 of that Act.

existing condition means a condition imposed on—

- (a) an authority issued under this chapter—
 - (i) for which the term has not expired; and
 - (ii) that has not been suspended or cancelled; or
- (b) a marine licence granted under this chapter that has not been suspended or cancelled; or
- (c) a marine licence indicator granted under this chapter—
 - (i) for which the term has not expired; and
 - (ii) that has not been suspended or cancelled.

155C Administering agency may amend existing conditions

During the COVID-19 emergency, the administering agency may amend an existing condition if the agency is satisfied, having regard to the COVID-19 emergency—

- (a) the amendment will achieve the purpose of this part; and

- (b) the amendment does not disadvantage the holder of the authority, marine licence or marine licence indicator; and
- (c) for an existing condition that is not the term of an authority or a marine licence indicator, unless the amendment is made—
 - (i) it would not be practicable or reasonable for the holder to comply with, or satisfy, an existing condition; or
 - (ii) complying with, or satisfying, an existing condition may risk the spread of COVID-19 within the community.

155D Publication of amendment notice

- (1) If the administering agency decides to amend an existing condition under section 155C, the agency must publish a notice (an *amendment notice*) on MSQ's website stating the following information—
 - (a) the day the amendment notice is published;
 - (b) the period for which the amendment notice has effect;
 - (c) if the amendment applies to a particular class of person—the class of persons affected by the amendment;
 - (d) if the amendment applies to particular authorities, marine licences or marine licence indicators—the authorities, marine licences or marine licence indicators affected by the amendment;
 - (e) the existing condition of the authority, marine licence or marine licence indicator that is amended;

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- (f) the nature of the amendment;
 - (g) that while the notice is in effect, the existing condition is amended as stated in the notice.
- (2) For subsection (1)(b), the period must be a period ending not later than 6 months after the day the COVID-19 emergency ends.
- (3) The amendment notice takes effect on the day it is published on MSQ's website or on any later day stated in the notice.

155E Effect of amendment notice

- (1) This section applies if an amendment notice is published in relation to an authority, a marine licence or a marine licence indicator.
- (2) The authority, marine licence or marine licence indicator stated in the amendment notice is taken to continue in effect subject to the existing condition as amended stated in the notice.

155F General provision about amendment notice

An amendment notice published by the administering agency under this part may—

- (a) apply generally to all persons and matters or be limited in its application to—
- (i) particular classes of persons; or
 - (ii) particular authorities, marine licences or marine licence indicators; and
- (b) make different provision in relation to—
- (i) different classes of persons; or
 - (ii) different authorities, marine licences or marine licence indicators.

155G Expiry of part

This part expires 6 months after the day the COVID-19 emergency ends.

Part 4 Expiry

10 Expiry of regulation

This regulation expires on 31 December 2020.

Endnotes

ENDNOTES

- 1 Made by the Governor in Council on 18 June 2020.
- 2 Notified on the Queensland legislation website on 19 June 2020.
- 3 The administering agency is the Department of Transport and Main Roads.

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