



Queensland

Health and Hospitals Network and Other Legislation Amendment Regulation (No. 1) 2012

Explanatory Notes for SL 2012 No. 90

made under the

*Aboriginal and Torres Strait Islander Communities (Justice, Land
and Other Matters) Act 1984*

Ambulance Service Act 1991

Coroners Act 2003

Drug Court Act 2000

Environmental Protection Act 1994

Guardianship and Administration Act 2000

Health Act 1937

Hospital and Health Boards Act 2011

Hospitals Foundations Act 1982

Industrial Relations Act 1999

Legal Profession Act 2007

Petroleum and Gas (Production and Safety) Act 2004

Public Sector Ethics Act 1994

Public Service Act 2008

Queensland Civil and Administrative Tribunal Act 2009

Radiation Safety Act 1999

State Penalties Enforcement Act 1999

Statutory Bodies Financial Arrangements Act 1982

Supreme Court of Queensland Act 1991

Waste Reduction and Recycling Act 2011

General outline

Short title

Health and Hospitals Network and Other Legislation Amendment Regulation (No. 1) 2012.

Authorising law

Hospital and Health Boards Act 2011 - sections 17, 40, 42, 85, 91, 94, 112, 150, 151, 282, 286, 289, 290, 294, 319 and schedule 1, section 8(1)(b) and schedule 2.

Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984

Ambulance Service Act 1991

Coroners Act 2003

Drug Court Act 2000

Environmental Protection Act 1994

Guardianship and Administration Act 2000

Health Act 1937

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Statutory Bodies Financial Arrangements Act 1982

Supreme Court of Queensland Act 1991

Waste Reduction and Recycling Act 2011

Policy objectives and the reasons for them

The primary purpose of the regulation is to support the full operation of Hospital and Health Services from 1 July 2012. The regulation deals with the following matters:

- the renaming of the *Health and Hospitals Network Regulation 2012* to the *Hospital and Health Boards Regulation 2012*
- the renaming of 'Local Health and Hospital Networks' to 'Hospital and Health Services'
- supporting the movement of health service employees between Hospital and Health Services, and between Services and the department
- the establishment of minimum requirements for clinician engagement strategies, and consumer and community engagement strategies, that Services are required to develop and publish under the *Hospital and Health Boards Act 2011*
- the establishment of minimum requirements for protocols with local primary healthcare organisations that Services are required to develop and publish under the *Hospital and Health Boards Act 2011*
- provisions related to quality assurance committees established under the Act
- provisions related to root cause analyses undertaken under the Act
- the specification of the Board Committees that Hospital and Health Boards must have in place - namely, a safety and quality committee, a finance committee, and an audit committee
- the specification of entities to which confidential information may be disclosed under the Act, and agreements under which confidential information may be disclosed under the Act
- the definition of 'major capital works' for the purposes of the Act
- transitional regulations to support the full operation of Hospital and Health Services from 1 July 2012
- amendments to the *Public Service Regulation 2008* to apply certain provisions of the *Public Service Act 2008*, and directives made under that Act, to health service employees, the department and Hospital and Health Services
- amendments to the *Industrial Relations Regulation 2011* to provide that Hospital and Health Services are not national system employers for the purposes of the *Commonwealth Fair Work Act 2009*

- amendments to the *Statutory Bodies Financial Arrangements Regulation 2007* to grant Hospital and Health Services Category 2 investment powers, and
- consequential amendments to other regulations.

Achievement of policy objectives

Employment matters (*Hospital and Health Boards Regulation 2011, Part 3; Amendment to Public Service Regulation 2008; Amendment to Industrial Relations Regulation 2011*)

The amendment regulation gives Hospital and Health Services the authority to move employees between Services by agreement between the Services. The departmental chief executive, as system manager, also has the authority to direct the movement of employees (other than health service chief executives) between Services, or between a Service and the department. The Minister has a similar authority for health service chief executives. However, the regulation provides that these authorities may only be exercised if it is necessary to mitigate a significant risk to the public sector health system (section 5(3) and 6(4)). This may be required, for example, to fill a temporary but critical vacancy in another Service.

The regulation retains employee leave and superannuation entitlements for any health service employee who moves between Services or between a Service and the department. This would include circumstances where an employee successfully applied for a position in another Service or where the employee is the subject of an employee movement directed by the departmental chief executive as outlined above.

The regulation also amends the *Public Service Regulation 2008*. The amendments apply specified provisions of the *Public Service Act 2008*, and directives made under that Act, to Services, the department and health service employees. Provisions of the Public Service Act applied by the regulation include those related to the management and employment principles, disciplinary action and appeals. This model is similar to the current approach that applies to health service employees employed under the *Health Services Act 1991*.

The regulation also amends the *Industrial Relations Regulation 2011* to prescribe Services as not being 'national system employers' for the purposes of the Commonwealth Fair Work Act. This has the effect of retaining employees of Services within the State industrial relations

system. For the exclusion to be effective under the Commonwealth Fair Work Act, the Commonwealth Minister is to make a declaration under that Act.

It should be noted that, under the *Hospital and Health Boards Act 2011*, Hospital and Health Services may employ health executives. Once a Service is prescribed by regulation under section 20(4) of the Act, the Service may employ any health service employee. As such, the above-mentioned provisions of the regulation will only apply to health executives employed in Services if a Service has not been prescribed under section 20(4) and to a larger number of employees once a Service is prescribed.

Engagement Strategies and Protocols (*Hospital and Health Boards Regulation 2011, Part 4*)

The *Hospital and Health Boards Act 2011* requires each Service to develop a clinician engagement strategy (section 40), a consumer and community engagement strategy (section 40), and a protocol with the relevant primary healthcare organisation (or 'Medicare Local') (section 42). It is a requirement of the Act that each Service has these engagement strategies and protocols in place within 6 months of commencement, namely 31 December 2012 (section 313).

The draft regulation specifies the minimum requirements for these strategies and protocols. The draft minimum requirements are broad and outcome-focussed. For example, the clinician engagement strategy must include matters such as:

- the objectives of the strategy and how the strategy will contribute to organisational objectives
- the methods to be used to consult with health professionals
- the key issues for consultation
- how the Service will use information obtained from the implementation of the strategy to continuously improve consultation arrangements, and
- how the effectiveness of the strategy will be measured and reported on publicly.

The strategies and protocols also require a summary of key issues discussed, and decisions made, at Board meetings to be published, subject to the Board's privacy and confidentiality obligations.

Safety and Quality (*Hospital and Health Boards Regulation 2011, Parts 5 & 6, and Schedule 2*)

The *Hospital and Health Boards Act 2011* enables Services and other entities to establish quality assurance committee and root cause analysis teams, similar to the existing arrangements under the *Health Services Act 1991*. The regulation supports the operation of quality assurance committees and root cause analysis teams.

The regulation specifies meeting procedures for quality assurance committees and prescribes patient safety entities to which quality assurance committee reports may be provided. The regulation also outlines reporting obligations of quality assurance committees.

The regulation defines a 'reportable event' for the purpose of the root cause analysis provisions of the Act. The regulation also prescribes patient safety entities to which root cause analysis reports may be provided.

Mandatory Board Committees (*Hospital and Health Boards Regulation 2011, Part 7*)

The Act provides that a regulation may require Boards to establish specified committees (Schedule 1, section 8(1)(b)). The regulation specifies that Boards must establish three committees - namely, a safety and quality committee, a finance committee, and an audit committee. The regulation also outlines the functions of these committees.

Other matters

The amendment regulation also:

- specifies entities who may receive confidential information for specified purposes (section 35), and agreements under which confidential information may be disclosed (section 36 and schedule 3)
- defines 'major capital works' for the purposes of the Act (section 37)
- allocates Category 2 investment powers to Services under the *Statutory Bodies Financial Arrangements Act 1982*, and
- makes consequential amendments to other regulations.

Transitional provisions

Transitional provisions in the regulation include the following:

- the retention of entitlements (and the non-payment of redundancy payments) if a district manager is immediately appointed as a health service chief executive or to another health executive position in a Service
- the saving of existing departmental policies and protocols (as defined) that apply to districts, so that they apply to Services for a period of up to 12 months, and
- preserving existing quality assurance committees.

Consistency with policy objectives of authorising law

The regulation is consistent with the object of the *Hospital and Health Boards Act 2011*.

Benefits and costs of implementation

The regulation supports the full operation of Hospital and Health Services under the *Hospital and Health Boards Act 2011* from 1 July 2012. The Act and the regulation will strengthen the decentralisation of healthcare delivery in Queensland.

Consistency with fundamental legislative principles

The regulation is consistent with section 4 of the *Legislative Standards Act 1992*.

Consultation

Key stakeholders were consulted on the minimum requirements for engagement strategies and protocols with primary healthcare organisations, and the provisions related to the employment of health service employees. Stakeholders consulted included the Clinical Senate, Health Consumers Queensland, General Practice Queensland, Aged Care Queensland, primary healthcare organisations, health unions and the Key Stakeholder Panel, which was established to support the implementation of the national

health reforms by facilitating broad stakeholder feedback on a range of issues.

Submissions indicated support for the proposals.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is Queensland Health.

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