

Work Health and Safety and Other Legislation Amendment (Postponement) Regulation 2018

Explanatory notes for SL 2018 No. 157

made under the

Work Health and Safety and Other Legislation Amendment Act 2017

General Outline

Short title

Work Health and Safety and Other Legislation Amendment (Postponement) Regulation 2018

Authorising law

Section 15DA of the *Acts Interpretation Act 1954* and Section 2 of the *Work Health and Safety and Other Legislation Amendment Act 2017*

Policy objectives and the reasons for them

The objective of the *Work Health and Safety and Other Legislation Amendment (Postponement) Regulation 2018* (Postponement Regulation) is to postpone the automatic commencement of certain provisions in Part 2, Division 4 of the *Work Health and Safety and Other Legislation Amendment Act 2017* (WHSOLA Act) that have not yet commenced.

Sections 15DA(2) and 15DA(3) of the *Acts Interpretation Act 1954* provide that a provision of an Act that did not commence on Assent will automatically commence one year after the day of Assent if it has not commenced before, unless a regulation extends the period before automatic commencement.

The WHSOLA Act substantively commenced by Assent on 23 October 2017, however, Part 2, Division 4 was to commence by Proclamation. It is necessary to defer the automatic commencement of the provisions that establish the office and role of the WHS prosecutor to enable the recruitment and appointment of the WHS prosecutor to be finalised.

Commencing these provisions prior to the appointment of the WHS prosecutor would essentially remove the ability for the Work Health and Safety Regulator to undertake prosecutions for breaches of the *Work Health and Safety Act 2011* (WHS Act) and create a significant gap in the work health and safety enforcement regime. The

Postponement Regulation will ensure breaches of the WHS Act are still able to be prosecuted by the WHS regulator until a WHS prosecutor is appointed.

Achievement of policy objectives

The policy objectives are achieved by making the Postponement Regulation, which will postpone automatic commencement of certain provisions in Part 2, Division 4 of the WHSOLA Act until the end of 23 October 2019.

Consistency with policy objectives of authorising law

The Postponement Regulation is consistent with the object of the WHSOLA Act to implement the recommendations arising from the best practice review of work health and safety laws to ensure the work health and safety framework is administered in a robust manner.

Inconsistency with policy objectives of other legislation

The Postponement Regulation is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by regulatory amendment.

Benefits and costs of implementation

There are no costs involved in postponing the commencement of these provisions.

Consistency with fundamental legislative principles

The Postponement Regulation is consistent with fundamental legislative principles.

Consultation

Consultation in relation to the making of this Regulation is not considered necessary as it is machinery in nature and does not change existing government policy.

The Office of Best Practice Regulation (OBPR) within the Queensland Productivity Commission was consulted on the Postponement Regulation. Under the *Queensland Government Guide to Better Regulation*, the Office of Industrial Relations self-assessed the Regulation as falling within the agency-assessed exclusion category (g), 'regulatory proposals that are of a machinery nature'. OBPR supported this assessment.

Notes on Provisions

Short Title

Clause 1 provides the short title of the regulation.

Postponed commencement of uncommenced provisions

Clause 2 extends the automatic commencement date of the sections of the *Work Health and Safety and Other Legislation Amendment Act 2017* that have not yet commenced, to the end of 23 October 2019, to avoid these sections commencing one year after Assent, as would otherwise occur under section 15DA(2) of the *Acts Interpretation Act 1954*.

Expiry

Clause 3 provides that the Postponement Regulation expires on 25 October 2019.