

Public Health Amendment Regulation (No. 2) 2021

Explanatory notes for SL 2021 No. 82

made under the

Public Health Act 2005

General Outline

Short title

Public Health Amendment Regulation (No. 2) 2021

Authorising law

Sections 362MC and 461 of the *Public Health Act 2005*

Policy objectives and the reasons for them

Quarantine fees - increase

On 29 January 2020, a public health emergency was declared under section 319 of the *Public Health Act 2005* for COVID-19.

On 19 March 2020, the *Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020* amended the Public Health Act to include powers for the Chief Health Officer (CHO) to make public health directions to assist in containing, or to respond to, the spread of COVID-19 in the community.

Since 28 March 2020, a CHO public health direction has been in place requiring anyone arriving in Queensland from overseas to quarantine in a hotel or other premises nominated by an emergency officer appointed under the Act. The current version of the direction is the Quarantine for International Arrivals Direction (No. 9), which was made on 6 May 2021.

The *Community Services Industry (Portable Long Service Leave) Act 2020* amended the Public Health Act to include a head of power for fees to be charged for quarantine and the *Public Health Regulation 2018* to prescribe the fees for a person's quarantine. The amendments commenced on 1 July 2020 and were scheduled to expire on 18 March 2021.

On 8 March 2021, the *Public Health and Other Legislation (Extension of Expiring Provisions) Amendment Act 2021* extended part 7AA of the Public Health Act, which includes the head of power for fees to be charged for quarantine fees, to 30 September 2021.

Section 362MC of the Public Health Act provides for a regulation making power, which permits a regulation to prescribe the fees payable for a person who is required to quarantine at a place other than the person's home. These fees include the types of costs associated with the person's quarantine, for example, the cost of accommodation or the cost of meals.

Section 61A of the Public Health Regulation sets out the fees payable for quarantine. The current daily accommodation fees are \$135 per room, including a \$15 linen service fee. A daily fee for meals is also payable with the fee being \$65 per day for adults and \$32.50 per day for children.

The quarantine fee was linked to these rates, which were negotiated in March 2020 following discussions with the then Queensland Department of Tourism, Innovation and Sport and hotel industry partners, as an acceptable rate in the initial stages of the Quarantine Hotel program.

To support costs for hotel quarantine continuing to be sustainably managed, it is necessary to increase the daily accommodation room fee. The new daily accommodation fees will be \$165 per room, including linen service, an increase of \$30 per night, effective 1 July 2021.

The quarantine fee daily meal rate for children aged 13 years or older will be increased and charged at the daily rate for adults, to align with the meal costs charged by hotels. Children aged three years or older, but under 13 years, will be charged the current rate of \$32.50 per day, with no increase to the current charge. Children aged under three years will not be charged for meals.

Queensland Health has a fee waiver scheme that enables a full or partial waiver of the quarantine fee to be granted on specific grounds. There is also an option to pay in instalments by entering into a payment plan.

Notifiable condition – Respiratory syncytial virus

Chapter 3 of the Public Health Act deals with notifiable conditions and establishes the notifiable conditions register. The notifiable conditions register is an important tool to manage and contain the spread of communicable diseases within Queensland. The Public Health Act requires doctors, persons in charge of hospitals and directors of pathology laboratories to notify the chief executive of Queensland Health when a person may have or has a notifiable condition. The notice must comply with the requirements prescribed in a regulation.

The conditions that are required to be notified in Queensland are listed in Schedule 1 of the Public Health Regulation. Section 31 of the Public Health Regulation provides that each medical condition listed in Schedule 1, column 1 is a notifiable condition. Section 32 of the Public Health Regulation provides that notification must be given within 48 hours after an examination, pathological examination or receipt of a request, unless the condition is mentioned in schedule 2, in which case the notification must be made immediately.

Section 64 of the Act provides that a notifiable condition is a medical condition prescribed under a regulation as a notifiable condition. Section 64 also requires the Minister to be satisfied the condition is a significant risk to public health before recommending to Governor in Council that a condition be prescribed as a notifiable condition.

Respiratory syncytial virus (RSV) is one of the leading potentially preventable cause of mortality in children with acute lower respiratory tract infection during their initial five years of life. RSV is of significant public health concern, causing significant mortality and morbidity, particularly in young children, the elderly population, and those with pre-existing conditions. RSV remains one of a few major causes of childhood acute lower respiratory infections with no available vaccine. As a single RSV infection does not result in long-lasting protective immunity, symptomatic illness tends to occur repetitively in children.

Currently, there is not a comprehensive understanding of RSV's patterns of emergence, evolution and spread. Making RSV a notifiable condition will allow health professionals to develop a better understanding of the burden and epidemiology of this disease. This will subsequently provide data to assist in the development of public health control strategies.

Achievement of policy objectives

Quarantine fees - increase

The proposed amendment to section 61A of the Public Health Regulation increases the daily accommodation fee for hotel quarantine to \$165 per room, including a \$15 linen service fee, an increase of \$30 per night, from 1 July 2021.

The proposed amendment to section 61A of the Public Health Regulation will also increase the quarantine fee daily meal rate for children aged 13 years or older and charge them at the daily rate for adults, to align with the meal costs charged by hotels. The cost of meals for those aged 13 years or older will be \$65 per day. Children aged three years or older, but under 13 years, will be charged the current rate of \$32.50 per day, with no increase to the current charge. Children aged under three years will not be charged for meals.

The intent of charging a fee is to offset the cost to government (similar to other fees and charges). The government is not seeking to recover the entire costs of quarantine, as the costs of security overlay for hotels, health support services, transport and logistics is not included in the calculation of the fee.

Notifiable condition – Respiratory syncytial virus (RSV)

The proposed amendment to schedule 1 of the Public Health Regulation prescribes RSV as a notifiable condition.

Consistency with policy objectives of authorising law

The Regulation is consistent with the policy objectives of the authorising Act.

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives.

Benefits and costs of implementation

Quarantine fees - increase

Queensland Health will continue to collect and administer quarantine fees within existing resources. The ongoing requirement for individuals subject to quarantine to pay a fee for quarantine reduces the burden on taxpayers to pay for the costs of hotel quarantine.

Notifiable condition – Respiratory syncytial virus (RSV)

Prescribing RSV as a notifiable condition will be essential in understanding the epidemiology of the virus, the development of public health strategies and identifying and managing any outbreaks within Queensland. It will improve health professionals' understanding of the epidemiology and burden of disease by improving understanding of how the virus emerges, evolves and spreads. It will support the development of public health control strategies.

Directors of pathology laboratories will use established methods to notify the chief executive of Queensland Health of all positive cases of RSV. This is an established feed for all notifiable conditions, which generates the electronic communication between the laboratory system and the notifiable conditions register. As such, any costs incurred are expected to be minimal.

Consistency with fundamental legislative principles

The Amendment Regulation is generally consistent with fundamental legislative principles in section 4 of the *Legislative Standards Act 1992*.

Quarantine fees – increase

Whether the legislation has sufficient regard to the rights and liberties of individuals (Legislative Standards Act, section 4(2)(a))

The amendment to increase quarantine fees for accommodation and meals potentially breaches the principle that legislation must have sufficient regard to an individual's rights and liberties by not retrospectively imposing obligations, (Legislative Standards Act, section 4(3)(g)).

Section 362MC of the Public Health Act allows a fee to be charged for quarantine. The increase to the quarantine fee may add to the cost of returning from overseas for people who have already made arrangements to return to Queensland. The potential breach is justified as there is already a requirement to pay a fee for quarantine. The new fee reflects an increase from the fees which were initially set over a year ago and have since been re-negotiated with hotels providing quarantine.

Queensland Health will continue to offer a fee waiver scheme that enables a full or partial waiver of the quarantine fee. There is also an option to pay in instalments by entering into a payment plan.

Notifiable condition – Respiratory syncytial virus (RSV)

Whether the legislation has sufficient regard to the rights and liberties of individuals (Legislative Standards Act, section 4(2)(a))

The amendment to include RSV as a notifiable condition may potentially breach the principle that legislation must have sufficient regard to individuals' rights and liberties, as it will require clinicians and pathologists to disclose confidential information, such as patient details, to the notifiable conditions register.

Section 77 of the Public Health Act provides a general duty of confidentiality for persons who are or were involved in the administration or enforcement of the notifiable conditions register. A maximum penalty of 50 penalty units applies for disclosing confidential information. Sections 78 to 88 of the Public Health Act allow for disclosure of confidential information in limited circumstances.

It is considered that any potential impact that the amendment makes upon the rights and liberties of individuals in terms of access to confidential information is justified, given the existing protections in the Public Health Act and the important protections for public health that the amendment will provide.

The confidentiality of data contained in the notifiable conditions register is protected by section 77 of the Public Health Act. Sections 78 to 85 of the Public Health Act provide specific conditions for the disclosure of confidential data. For example, for the purpose of contact tracing, because it is in the public interest or for public health monitoring. Only an appropriate delegate within Queensland Health can disclose confidential data. For example, the chief executive can disclose confidential health data in the public interest.

Consultation

Quarantine fees - increase

Public consultation was not undertaken on the proposed amendments relating to the increase of quarantine fees. Queensland Health will continue to administer a fee waiver scheme that enables a full or partial waiver of the quarantine fee. Payment plans are also available.

The increase to quarantine fees has been exempted by government from further analysis under *The Queensland Government Guide to Better Regulation*.

Notifiable condition – Respiratory syncytial virus (RSV)

A notifiable status assessment panel established by the Communicable Diseases Network Australia (CDNA) recently undertook an assessment of RSV to determine whether it should be added to the national notifiable diseases list. Following endorsement by CDNA, the Australian Health Principal Protection Committee endorsed RSV becoming nationally notifiable from 1 July 2021.

Public consultation was not undertaken on the proposed amendments to include RSV as a notifiable condition. Queensland Health has a communication network with clinicians including the medical practitioners and pathologists who will be affected by the amendment. Queensland Health will ensure an appropriate communications strategy is adopted to inform relevant clinicians and pathologists of the requirements to notify RSV.

The Office of Best Practice Regulation (OBPR) was consulted on the amendments to include RSV as a notifiable condition. OBPR advised that under *The Queensland Government Guide to Better Regulation*, the amendment is excluded from further regulatory impact analysis as it would not significantly add to the burden of regulation and is unlikely to result in significant adverse impacts.

Notes on provisions

Short title

Clause 1 states that the short title of the regulation is the *Public Health Amendment Regulation (No. 2) 2021*.

Commencement

Clause 2 provides that the regulation commences on 1 July 2021.

Regulation amended

Clause 3 states the regulation amends the *Public Health Regulation 2018*.

Amendment of s 61A (Fees for quarantine during COVID-19 emergency—Act, s 362MC)

Clause 4 amends section 61A to:

- increase the fee for accommodation for each night of quarantine;
- increase the fee for meals for a child 13 years or older to the current daily meal rate for adults; and
- clarify that children aged under three years will not be charged for meals.

Clause 4(1) amends subsections (2)(a) and (3)(a) to increase the fees for accommodation, including linen service, for each night of quarantine to \$165 per night, to align with the costs charged by hotels.

Clause 4(2) amends subsection (3)(b) to provide that children 13 years or older will be charged \$65 for meals, for each day of quarantine. A child aged three years or older, but under 13 years will continue to be charged \$32.50 for meals, for each day of quarantine. A child under 3 years will not be charged for meals. These costs align with the costs charged by hotels.

Amendment of sch 1 (Notifiable conditions)

Clause 5 amends schedule 1 to insert respiratory syncytial virus as a notifiable condition. The amendment also inserts a mark in column 3 for the entry, providing that it will be for a pathological diagnosis notifiable condition.