

THIS PUBLIC BILL has this day been read a Third time and passed

*The Clerk of the Parliament.*

*Legislative Assembly Chamber,  
Brisbane, May 2016*



Queensland

**No.**

**A BILL for**

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





Queensland

# Public Health (Water Risk Management) Amendment Bill 2016

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**2016**

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**A Bill**

for

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

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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

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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;

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- (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;

- (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

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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

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- (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.

- (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

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- 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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