



Queensland

State Penalties Enforcement (Approved Sponsors) Amendment Regulation 2019

Subordinate Legislation 2019 No. 216

made under the

State Penalties Enforcement Act 1999

Contents

		Page
1	Short title	3
2	Regulation amended	3
3	Insertion of new pt 5B	3
	Part 5B Approved sponsors	
	Division 1 Obtaining approvals	
	19AG Application for approval	3
	19AH Additional information	3
	19AI Eligibility to be approved sponsor	4
	19AJ Decision on application	6
	19AK Notice of decision	6
	Division 2 Administration	
	19AL Statutory conditions for approval	7
	19AM Amending approvals	8
	19AN Record keeping by approved sponsors	8
	19AO Auditing of records	9
	19AP Conflicts of interest	10
	19AQ Voluntary surrender of approval	10
	19AR Approval not transferable	11
	Division 3 Disciplinary action	
	19AS Definitions for division	11

Contents

	19AT	Grounds for suspension or cancellation	11
	19AU	Show cause notice	12
	19AV	Representations responding to show cause notice . .	12
	19AW	Ending show cause process without further action . .	13
	19AX	Suspension or cancellation of approval	13
	19AY	Immediate suspension	14
	Division 4	External review	
	19AZ	External review of decisions under this part	15
4		Amendment of sch 2 (Dictionary)	15

1 Short title

This regulation may be cited as the *State Penalties Enforcement (Approved Sponsors) Amendment Regulation 2019*.

2 Regulation amended

This regulation amends the *State Penalties Enforcement Regulation 2014*.

3 Insertion of new pt 5B

After section 19AF—

insert—

Part 5B Approved sponsors

Division 1 Obtaining approvals

19AG Application for approval

- (1) A person may apply to the registrar for the approval of the person, or a stated entity, as an approved sponsor for 1 or more types of work and development order.
- (2) The application must be made using the approved form.

19AH Additional information

- (1) The registrar may ask the applicant for additional information necessary to decide the application.
- (2) If the applicant does not comply with the request for additional information within the reasonable time stated in the request, the registrar may give the applicant a notice dismissing the application.

19A Eligibility to be approved sponsor

- (1) An individual is eligible to be an approved sponsor for a type of work and development order if—
 - (a) the individual is able to appropriately carry out the functions of an approved sponsor as provided for under the Act, part 3B; and
 - (b) the individual is able to maintain public confidence in the integrity of the work and development order program; and
 - (c) the individual, or a supervisor for the individual, has appropriate qualifications, training or relevant experience for the proposed activities; and
 - (d) the individual has suitable insurance cover for the proposed activities; and
 - (e) if the proposed activities are medical or mental health treatment—the individual is a health practitioner.
- (2) An entity, other than an individual, is eligible to be an approved sponsor for a type of work and development order if—
 - (a) the entity is able to appropriately carry out the functions of an approved sponsor as provided for under the Act, part 3B; and
 - (b) the entity is able to maintain public confidence in the integrity of the work and development order program; and
 - (c) the entity, or a supervisor for the entity, has appropriate qualifications, training or relevant experience for the proposed activities; and
 - (d) the entity has suitable insurance cover for the proposed activities; and
 - (e) the entity has—

-
- (i) a funding agreement relevant to the proposed activities; or
 - (ii) appropriate governance and a quality and risk management system that demonstrate the entity's capacity to comply with a funding agreement relevant to the proposed activities; and
- (f) the entity has—
- (i) a complaints management and resolution system; and
 - (ii) an incident management system; and
- (g) if the entity is a for-profit organisation—the organisation's objective, governance and funding are consistent with carrying out the functions of an approved sponsor; and
- (h) if the entity is a general practice—the persons providing proposed activities are health practitioners.

(3) In this section—

funding agreement means a written agreement between an entity and a department or the Commonwealth government under which the department or Commonwealth government provides funding to the entity for the provision of a product or service to the community.

general practice means a business providing health services provided by health practitioners.

health practitioner see the Act, section 32G(3).

proposed activities, for an entity as an approved sponsor, means the proposed activities for the types of work and development order for which the entity would be an approved sponsor.

supervisor, for an entity, means another entity who, on behalf of the entity, supervises an individual for the individual's work and

development order.

19AJ Decision on application

- (1) The registrar must consider the application and decide to grant or refuse the application.
- (2) The registrar may grant the application only if satisfied the applicant is eligible to be an approved sponsor under section 19AI.
- (3) The registrar may refuse to grant the application if satisfied—
 - (a) the applicant has not provided all the relevant information for the application; or
 - (b) the application contains false or misleading information.
- (4) If the registrar grants the application, the registrar may also impose the additional conditions the registrar considers reasonable and relevant.
- (5) In this section—

additional conditions means conditions other than the statutory conditions imposed under section 19AL.

19AK Notice of decision

- (1) As soon as practicable after the registrar decides to grant or refuse the application, the registrar must give the applicant written notice of the decision, including information about any additional conditions imposed on the approval.
- (2) The notice of the decision must comply with the QCAT Act, section 157 if the registrar decides to—
 - (a) grant the application and impose additional conditions on the approval; or
 - (b) refuse the application.

Division 2 Administration

19AL Statutory conditions for approval

- (1) An approval as an approved sponsor is subject to the conditions that the approved sponsor must—
 - (a) comply with the reporting requirements, relating to work and development orders, as notified by the registrar; and
 - (b) comply with the record keeping requirements under section 19AN; and
 - (c) comply with all funding agreements applying to the sponsor and relevant to the proposed activities; and
 - (d) maintain appropriate risk management arrangements for the relevant activities, including workplace health and safety policies and financial management accountability policies; and
 - (e) maintain a complaints management and resolution system; and
 - (f) comply with—
 - (i) for an approved sponsor who is a health practitioner—the National Privacy Principles; or
 - (ii) for another approved sponsor—the Information Privacy Principles; and
 - (g) report all reportable incidents to the registrar; and
 - (h) report all real or perceived conflicts of interest for the sponsor to the registrar.
- (2) In this section—

conflicts of interest means a conflict of interest under section 19AP.

[s 3]

funding agreement means a written agreement between an entity and a department or the Commonwealth government under which the department or Commonwealth government provides funding to the entity for the provision of a product or service to the community.

Information Privacy Principles means the principles stated in the *Information Privacy Act 2009*, schedule 3.

National Privacy Principles means the principles stated in the *Information Privacy Act 2009*, schedule 4.

relevant activities, for an entity as an approved sponsor, means the activities for the types of work and development order for which the entity is to be an approved sponsor.

reportable incident means an incident involving the death or serious injury of an individual while undertaking an activity or program for a work and development order.

19A Amending approvals

- (1) The registrar may amend an approval of an approved sponsor with the agreement of the sponsor.
- (2) However, the registrar must not agree to an amendment if, because of the amended approval, the sponsor would not be eligible to be an approved sponsor under section 19AI.

19AN Record keeping by approved sponsors

- (1) An approved sponsor must keep the following records—
 - (a) proof of the identity of an individual on whose behalf the sponsor has applied for a work and development order;

-
- (b) the sponsor's assessment of an individual's eligibility to participate in a work and development order;
 - (c) a record of the positive notices held by the sponsor and any supervisor for the approved sponsor.
- (2) Subsection (1)(a) does not apply to an individual who is a resident of remote and discrete Aboriginal or Torres Strait Islander community.
 - (3) An approved sponsor must keep a record mentioned in subsection (1) for a period of 7 years after the completion, withdrawal or revocation of the work and development order to which the record relates.
 - (4) In this section—

positive notice see the *Working with Children (Risk Management and Screening) Act 2000*, section 220(a).

remote and discrete Aboriginal and Torres Strait Islander community means—

- (a) the town of Coen; or
- (b) the local government area of Aurukun, Cherbourg, Doomadgee, Hope Vale, Kowanyama, Lockhart River, Mapoon, Mornington, Mossman Gorge, Napranum, Northern Peninsula Area, Palm Island, Pormpuraaw, Torres, Torres Strait Island, Woorabinda, Wujal Wujal or Yarrabah.

supervisor, for an approved sponsor, means a person who, on behalf of the sponsor, supervises an individual for that individual's work and development order.

19AO Auditing of records

- (1) If requested by the registrar, an approved sponsor

[s 3]

must give the registrar copies of all documents relevant to the work and development orders for which the sponsor is an approved sponsor.

- (2) An approved sponsor must give the registrar, or another person nominated by the registrar, access to all documents relevant to work and development orders for which the sponsor is the approved sponsor.

19AP Conflicts of interest

A *conflict of interest* exists for an approved sponsor if—

- (a) any activity performed by a person for an approved sponsor, under a work and development order, results in a personal benefit to—
 - (i) the sponsor; or
 - (ii) an associate of the sponsor; or
 - (iii) a relative of the sponsor; or
 - (iv) a person who supervises the person for the sponsor; or
- (b) the approved sponsor sponsors a work and development order for a person who is an associate, relative or employee of the sponsor.

19AQ Voluntary surrender of approval

- (1) The holder of an approval as an approved sponsor may surrender the approval by written notice given to the registrar.
- (2) The surrender takes effect—
 - (a) on the day the notice is given; or
 - (b) if a later day is stated in the notice, on the later day.

19AR Approval not transferable

An approval as an approved sponsor can not be assigned or transferred.

Division 3 Disciplinary action

19AS Definitions for division

In this division—

show cause notice see section 19AU(2).

show cause period see section 19AU(2)(d).

written representation means a written representation made in response to a show cause notice.

19AT Grounds for suspension or cancellation

Each of the following is a ground for suspending or cancelling the approval of an approved sponsor—

- (a) the sponsor has failed to, or is no longer able to, comply with a condition of the approval;
- (b) the approved sponsor, or an agent of the sponsor, has contravened the Act or this regulation;
- (c) if the approved sponsor is an individual—the individual is an insolvent under administration within the meaning of the Corporations Act, section 9;
- (d) if the approved sponsor is a company—the company is a Chapter 5 body corporate under Corporations Act, section 9;
- (e) the approval was granted because of false or misleading information;

- (f) the approved sponsor has ceased to provide the activities relevant to the approval;
- (g) having regard to the conduct of the approved sponsor, or an agent of the approved sponsor, the continuation of the sponsor's approval is likely to undermine the public's confidence in the integrity of the work and development order program;
- (h) a conflict of interest exists for the approved sponsor under section 19AP.

19AUShow cause notice

- (1) This section applies if the registrar reasonably believes a ground exists to suspend or cancel the approval of an approved sponsor.
- (2) The registrar may give the approved sponsor a notice (a *show cause notice*) stating the following—
 - (a) the registrar proposes to suspend or cancel the approval (the *proposed action*);
 - (b) the grounds for the proposed action;
 - (c) an outline of the facts and circumstances forming the basis for the grounds;
 - (d) an invitation to the approved sponsor to make a written representation to the registrar, within 28 days after being given the notice (the *show cause period*), to show why the proposed action should not be taken.

19AVRepresentations responding to show cause notice

The registrar must consider all written representations made to the registrar within the show cause period.

19AWEnding show cause process without further action

- (1) This section applies if, after considering the written representations made to the registrar within the show cause period, the registrar no longer believes a ground exists to suspend or cancel the approval.
- (2) The registrar must not take further action in relation to the show cause notice.
- (3) The registrar must give the approved sponsor written notice that no further action is to be taken in relation to the show cause notice as soon as practicable after the registrar forms the belief.

19AXSuspension or cancellation of approval

- (1) If, after considering the written representations made to the registrar within the show cause period, the registrar believes a ground exists to suspend or cancel the approval, the registrar may decide to—
 - (a) require the approved sponsor take remedial action to address the grounds for suspension or cancellation within a stated period; or
 - (b) suspend the approval for a stated period of time of not more than 3 months; or
 - (c) cancel the approval.
- (2) The registrar must, as soon as practicable after making the decision, give written notice of the decision to the approved sponsor.
- (3) The notice of the decision must comply with the QCAT Act, section 157 if the registrar decides to take any action mentioned in subsection (1).
- (4) If the approved sponsor does not take the remedial action, to the satisfaction of the registrar, within the stated period, the approval is cancelled from the day after the period ends.

19AY Immediate suspension

- (1) This section applies if the registrar reasonably believes—
 - (a) a ground exists for suspending or cancelling an approved sponsor's approval under section 19AT; and
 - (b) the approved sponsor's approval must be suspended immediately to—
 - (i) ensure the integrity of the work and development order program is not jeopardised; or
 - (ii) remove an immediate and unacceptable risk that the approved sponsor will not comply with an obligation under the Act or this regulation.
- (2) The registrar may decide to immediately suspend the approved sponsor's approval.
- (3) If the registrar decides to immediately suspend the approved sponsor's approval, the registrar must give the approved sponsor written notice of the suspension and the grounds of the suspension.
- (4) A suspension under this section—
 - (a) starts immediately after the approved sponsor is given the notice of the suspension; and
 - (b) ends on the earliest of the following—
 - (i) the day that is 3 months after the day on which the suspension started;
 - (ii) the day a notice is given to the approved sponsor ending the suspension under subsection (5).
- (5) If, during the suspension, the registrar no longer believes the approved sponsor's approval should be suspended, the registrar must end the suspension by giving notice to the approved

sponsor.

Division 4 External review

19AZ External review of decisions under this part

- (1) This section applies to a person entitled to be given notice of any of the following decisions—
 - (a) a decision, to grant an application for an approval as an approved sponsor, imposing an additional condition on the approval under section 19AJ;
 - (b) a decision to refuse to grant an application for an approval as an approved sponsor under section 19AJ;
 - (c) a decision to require the approved sponsor take remedial action under section 19AX;
 - (d) a decision to suspend or cancel an approval under section 19AX.
- (2) The person may apply, as provided under the QCAT Act, to QCAT for a review of the decision.

4 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

show cause notice, for part 5B, division 3, see section 19AU(2).

show cause period, for part 5B, division 3, see section 19AU(2)(d).

written representation, for part 5B, division 3, see section 19AS.

ENDNOTES

- 1 Made by the Governor in Council on 7 November 2019.
- 2 Notified on the Queensland legislation website on 8 November 2019.
- 3 The administering agency is Queensland Treasury.

© State of Queensland 2019