



Public Health (Water Risk Management) Amendment Bill 2016



Queensland

Public Health (Water Risk Management) Amendment Bill 2016

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2016

A Bill

for

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

[s 1]

The Parliament of Queensland enacts— 1

Clause 1 Short title 2

 This Act may be cited as the *Public Health (Water Risk Management) Amendment Act 2016*. 3
4

Clause 2 Commencement 5

 This Act commences on a day to be fixed by proclamation. 6

Clause 3 Act amended 7

 This Act amends the *Public Health Act 2005*. 8

Clause 4 Insertion of new ch 2A 9

 After section 61— 10

insert— 11

Chapter 2A Water risk 12
management plans 13

Part 1 Preliminary 14

61A Definitions for chapter 15

 In this chapter— 16

approved provider means an entity for which an 17
 approval is in force under the *Aged Care Act 1997* 18
 (Cwlth). 19

cooling tower see the *Work Health and Safety Act* 20
 2011, schedule 1, part 1, section 1(6). 21

hazard means— 22

-
- (a) *Legionella*; or 1
- (b) microorganisms, substances or physical 2
properties of water that are reasonably 3
expected to cause injury or illness to an 4
individual; or 5
- (c) microorganisms or substances prescribed by 6
regulation. 7
- hazardous event***, for a prescribed facility, 8
means— 9
- (a) an event, or series of events, that causes or 10
has the potential to cause the presence of a 11
hazard in water within a prescribed facility's 12
water distribution system; or 13
- (b) an interruption of the supply of water to the 14
prescribed facility. 15
- hazard source*** means a location or condition that 16
establishes or increases the presence of a hazard. 17
- health service chief executive*** see the *Hospital 18
and Health Boards Act 2011*, schedule 2. 19
- Legionella*** means bacteria belonging to the genus 20
Legionella. 21
- prescribed facility*** means— 22
- (a) a public sector hospital that provides 23
treatment or care to inpatients; or 24
- (b) a private health facility licensed under the 25
Private Health Facilities Act 1999; or 26
- (c) a State aged care facility; or 27
- (d) a residential aged care facility, other than a 28
State aged care facility, prescribed by 29
regulation. 30
- prescribed test*** means a test for *Legionella* 31
prescribed by regulation for this chapter. 32
- residential aged care facility*** means a facility at 33
which an approved provider provides residential 34
-

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- care under the *Aged Care Act 1997* (Cwlth). 1
- residential care** has the meaning given by the 2
Aged Care Act 1997 (Cwlth), section 41–3. 3
- responsible person**, for a prescribed facility, 4
means— 5
- (a) for a prescribed facility that is a public 6
sector hospital—the health service chief 7
executive for the public sector hospital; or 8
 - (b) for a prescribed facility that is a private 9
health facility licensed under the *Private* 10
Health Facilities Act 1999—the licensee for 11
the private health facility under that Act; or 12
 - (c) for a prescribed facility that is a State aged 13
care facility—the health service chief 14
executive for the State aged care facility; or 15
 - (d) for a prescribed facility that is a residential 16
aged care facility, other than a State aged 17
care facility—the approved provider that 18
provides residential care at the residential 19
aged care facility. 20
- State aged care facility** means a residential aged 21
care facility at which the State provides 22
residential care. 23
- water distribution system**, of a prescribed 24
facility— 25
- (a) means the infrastructure within the 26
prescribed facility from every point where 27
water enters the facility through the 28
infrastructure to every point where the water 29
is used; but 30
 - (b) does not include a cooling tower. 31
- water risk management plan**, for a prescribed 32
facility, means a written plan to prevent or 33
minimise the risks posed by hazards, hazard 34
sources or hazardous events to individuals at the 35
prescribed facility. 36

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;

[s 4]

- (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; 1
2
3
4
5
- (iv) the way records of results obtained under subparagraphs (ii) and (iii) will be kept; and 6
7
8
- (e) state procedures for responding to— 9
 - (i) the results of monitoring that indicate the failure of measures taken to control risks assessed under paragraph (c); or 10
11
12
 - (ii) the results of testing that indicate the presence of a hazard in water within the prescribed facility's water distribution system; and 13
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15
16
- (f) include a requirement for the water risk management plan to be reviewed and when that review is to be carried out; and 17
18
19
- (g) include any other requirement prescribed by regulation. 20
21

61E Amending water risk management plans 22

- (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. 23
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26
- (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. 27
28
29
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- (3) The notice must state the following— 31
 - (a) that the responsible person must amend the water risk management plan; 32
33

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|---|--------------|
| (b) the way the water risk management plan must be amended; | 1
2 |
| (c) the day by which the water risk management plan must be amended; | 3
4 |
| (d) the day by which the responsible person must give the chief executive a copy of the amended water risk management plan. | 5
6
7 |
| (4) The responsible person must comply with the notice, unless the responsible person has a reasonable excuse. | 8
9
10 |
| Maximum penalty—500 penalty units. | 11 |

Part 3 Compliance 12

61F Obligation to give chief executive copy of water risk management plans 13 14

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| (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. | 15
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19 |
| (2) The responsible person must comply with the notice, unless the person has a reasonable excuse. | 20
21 |
| Maximum penalty—200 penalty units. | 22 |

61G Complying with water risk management plans 23

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|--|----------------------------|
| (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. | 24
25
26
27
28 |
| Maximum penalty—500 penalty units. | 29 |
| (2) The responsible person for a prescribed facility must take all reasonable steps to ensure each | 30
31 |

[s 4]

person who has an obligation to comply with the	1
plan, while the facility is operating, complies with	2
the plan, unless the responsible person has a	3
reasonable excuse.	4
Maximum penalty—200 penalty units.	5

61H Obligation to notify chief executive of	6
Legionella	7

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|---|----|
| (1) This section applies if the result of a prescribed | 8 |
| test confirms the presence of Legionella in water | 9 |
| used by a prescribed facility. | 10 |
| (2) A person in charge of the prescribed facility must, | 11 |
| under subsection (3), give the chief executive a | 12 |
| notice about the result of the test, unless the | 13 |
| person has a reasonable excuse. | 14 |
| Maximum penalty— | 15 |
| (a) if the offence is committed | 16 |
| intentionally—1000 penalty units; or | 17 |
| (b) otherwise—200 penalty units. | 18 |
| (3) The notice must— | 19 |
| (a) be in the approved form; and | 20 |
| (b) be given to the chief executive within 1 | 21 |
| business day after the person in charge is | 22 |
| notified of the result of the test; and | 23 |
| (c) comply with any other requirements | 24 |
| prescribed by regulation. | 25 |

61I Obligation to give chief executive reports	26
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|---|----|
| (1) A person in charge of a prescribed facility must, | 27 |
| under subsection (2), give the chief executive a | 28 |
| report for each reporting period about the results | 29 |
| of prescribed tests carried out under the water risk | 30 |
| management plan for the prescribed facility, | 31 |
| unless the person has a reasonable excuse. | 32 |

Maximum penalty—200 penalty units.	1
(2) The report must—	2
(a) be in the approved form; and	3
(b) be given to the chief executive within 30 business days after the end of the reporting period; and	4 5 6
(c) comply with any other requirements prescribed by regulation.	7 8
(3) In this section—	9
<i>reporting period</i> means a period prescribed by regulation.	10 11
61J False or misleading reports	12
(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.	13 14 15 16
Maximum penalty—1000 penalty units.	17
(2) Subsection (1) does not apply to a person if the person, when giving the report—	18 19
(a) tells the chief executive, to the best of the person's ability, how it is false or misleading; and	20 21 22
(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.	23 24 25
61K Chief executive may publish reports	26
(1) The chief executive may publish in a report—	27
(a) notices about the presence of <i>Legionella</i> given to the chief executive under section 61H; or	28 29 30

[s 5]

	(b) reports about prescribed tests given to the chief executive under section 61I.	1 2
	(2) The report may also include any other information the chief executive considers relevant to the notices or reports.	3 4 5
	(3) However, information may not be included in the report under subsection (2) if the information is adverse to a person unless—	6 7 8
	(a) before the report is prepared, the chief executive gives the person an opportunity to make submissions about the information; and	9 10 11 12
	(b) any submissions made by the person are fairly stated in the report.	13 14
Clause 5	Amendment of s 385 (Power to enter places)	15
	(1) Section 385(1)(d), after ‘389,’—	16
	<i>insert—</i>	17
	389A, 389B	18
	(2) Section 385(3), after ‘part’—	19
	<i>insert—</i>	20
	, other than under section 389B,	21
Clause 6	Insertion of new ss 389A and 389B	22
	After section 389—	23
	<i>insert—</i>	24
	389A Power to enter a prescribed facility—general	25
	(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.	26 27 28 29 30

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|-----|---|-------------|
| (2) | The authorised person may enter the prescribed facility if the facility is open for carrying on business or otherwise open for entry. | 1
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| (3) | However, an authorised person may not enter a part of the facility— | 4
5 |
| (a) | where a person is undergoing a procedure conducted by a health practitioner; or | 6
7 |
| (b) | where a person is consulting a health practitioner. | 8
9 |
| (4) | In this section— | 10 |
| | <i>prescribed facility</i> see section 61A. | 11 |
| | <i>water risk management plan</i> see section 61A. | 12 |

389B Power to enter dwellings in residential aged care facilities

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|-----|--|----------------------------|
| (1) | This section applies if— | 13
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| (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 | 16
17
18
19 |
| (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 <i>Legionella</i> . | 20
21
22
23
24 |
| (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. | 25
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28 |
| (3) | Before entering the occupier's dwelling, the authorised person must do or make a reasonable attempt to do the following things— | 29
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31 |
| (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 | 32
33
34 |

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|--|----|
| card or another document evidencing the | 1 |
| authorised person's appointment; | 2 |
| (b) tell the person the authorised person is | 3 |
| permitted under this section to enter the | 4 |
| dwelling; | 5 |
| (c) give the person an opportunity to allow the | 6 |
| authorised person immediate entry to the | 7 |
| place without using force. | 8 |
| (4) The authorised person may enter the occupier's | 9 |
| dwelling if the authorised person is accompanied | 10 |
| by a person employed at the residential aged care | 11 |
| facility to provide residential care to the occupier. | 12 |
| (5) In this section— | 13 |
| <i>Legionella</i> see section 61A. | 14 |
| <i>residential aged care facility</i> see section 61A. | 15 |
| <i>water risk management plan</i> see section 61A. | 16 |

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| Clause 7 | Amendment of sch 2 (Dictionary) | 17 |
| (1) | Schedule 2, definition <i>approved provider</i> — | 18 |
| | <i>omit.</i> | 19 |
| (2) | Schedule 2— | 20 |
| | <i>insert—</i> | 21 |
| | <i>approved provider</i> — | 22 |
| | (a) for chapter 2A, see section 61A; and | 23 |
| | (b) for chapter 5, see section 158. | 24 |
| | <i>cooling tower</i> , for chapter 2A, see section 61A. | 25 |
| | <i>hazard</i> , for chapter 2A, see section 61A. | 26 |
| | <i>hazardous event</i> , for chapter 2A, see section 61A. | 27 |
| | <i>hazard source</i> , for chapter 2A, see section 61A. | 28 |
| | <i>health service chief executive</i> , for chapter 2A, see | 29 |
| | section 61A. | 30 |

<i>Legionella</i> , for chapter 2A, see section 61A.	1
<i>prescribed facility</i> , for chapter 2A, see section 61A.	2 3
<i>prescribed test</i> , for chapter 2A, see section 61A.	4
<i>residential aged care facility</i> , for chapter 2A, see section 61A.	5 6
<i>residential care</i> , for chapter 2A, see section 61A.	7
<i>responsible person</i> , for chapter 2A, see section 61A.	8 9
<i>State aged care facility</i> , for chapter 2A, see section 61A.	10 11
<i>water distribution system</i> , for chapter 2A, see section 61A.	12 13
<i>water risk management plan</i> , for chapter 2A, see section 61A.	14 15

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