

Dam Safety—Authorised Officers

This fact sheet explains the role of 'Dam Safety authorised officers' (authorised officers) dealing with dam safety issues under the *Water Supply (Safety and Reliability) Act 2008* (the Act). It explains how authorised officers are appointed, briefly outlines their powers and obligations and lists the limitations of their powers.

The power to appoint authorised officers

Section 402 of the Act provides that the chief executive of the Department of Environment and Resource Management (the department) or the regulator may appoint authorised officers. The Director-General of the department is both the chief executive and the regulator under the Act.

Authorised officers are appointed by the General Manager, Office of the Water Supply Regulator (OWSR) as delegate of the Director-General.

Appointing an authorised officer

The appointer must be satisfied that the people appointed as authorised officers have the necessary expertise or experience to be authorised officers.

Term of appointment

Appointment as an authorised officer may be indefinite or for a specified term. An officer's appointment ends:

- at the end of the specified term

or

- if the appointment is revoked by the appointer

or

- when an event stated in the instrument of delegation occurs.

Identity cards must be issued

Section 404 of the Act requires the appointer to give an identity card to each appointed authorised officer. The identity card must:

- identify the person as an authorised officer under the Act
- contain a copy of the authorised officer's signature
- contain a recent photograph of the authorised officer
- state an expiry date.

If a person ceases to be an authorised officer

If a person ceases to be an authorised officer under the Act, the person must return their identity card to their appointer within 15 business days of their appointment ending, unless there is a reasonable excuse for not doing so. Failure to return an identity card is an offence for which a maximum penalty of 50 penalty units may be imposed.

Functions of an authorised officer

Under s. 400 of the Act, authorised officers have the following functions:

- collecting information for the purposes of the Act
- conducting investigations and inspections to monitor and enforce compliance with the Act, and parts of the *Sustainable Planning Act 2009* (SPA).

An authorised officer only has the function of monitoring and enforcing compliance with the SPA in relation to a development condition.

Development conditions monitored by authorised officers include conditions of development approvals imposed by the department under SPA and other conditions taken to be development conditions such as safety conditions imposed on referable dams under ss. 353 and 356 of the Act.

The powers of authorised officers

Authorised officers have various powers to help them carry out their functions, including power of entry and power to obtain information.

However, authorised officer powers are limited by the conditions of the officer's appointment and the appointer.

General powers of entry of authorised officers

Authorised officers are given powers under ss. 410(a) and 411(1) of the Act, to enter land, at any reasonable time:

- to find out if the SPA is being complied with in relation to a development condition
- to inspect a dam or a referable dam on the land, or any records about a referable dam
- to ascertain:
 - if there are factors likely to cause the failure of a dam or referable dam

- the impact that such failure would have

or

- if a failure impact assessment of the dam or referable dam should be requested.

In exercising the above powers, an authorised officer may enter and cross any land to access land on which a dam or a referable dam is located.

Authorised officers do not need to obtain consent to enter land for the above inspection purposes. Under the Act, 'land' does not include a dwelling place or a building or structure being used as a dwelling place, so an authorised officer does not have the power to enter a person's place of residence or house.

Obligations of authorised officers

Section 405 of the Act requires authorised officers to either:

- produce their identity card for the person's inspection before exercising the power

or

- have the identity card displayed so it is clearly visible to the person when exercising the power.

If it is not practicable for an officer to do this before exercising the power, the card must be produced for the person's inspection at the first reasonable opportunity.

If an authorised officer damages property

If authorised officers, or people acting under their direction, damage property, the officers must immediately give written notice of the details of the damage to the person who appears to be the owner of the property.

This requirement does not apply to damage an officer reasonably believes is trivial.

If the authorised officer believes the damage was caused by a latent defect in the property or by circumstances beyond the officer's control or the control of another person under the direction of that officer, the officer may state the belief in the notice. If it is not practicable to immediately give the owner the notice, the officer must leave it, where the damage happened, in a conspicuous position and in a reasonably secure way.

A person may claim compensation from the department for loss or expense incurred because of the exercise or purported exercise of powers in relation to entry of places and powers after entering a place. Compensation is paid if it is reasonable in the circumstances.

Further Information

For more information about dam safety issues, email the Office of the Water Supply Regulator at: <owsr.enquiries@derm.qld.gov.au>.

General information regarding dam safety in Queensland can be found on the department's website at: <www.derm.qld.gov.au/water>.

The Act, SPA and related regulations can be obtained from the Office of the Queensland Parliamentary Counsel website at: <www.legislation.qld.gov.au>.

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**For general enquiries contact the
Queensland Government call centre 13 13 04
or visit www.derm.qld.gov.au**