

Building (Approval of Amendment of QDC) Amendment Regulation 2020

Explanatory notes for Subordinate Legislation 2020 No. 261

made under the

Building Act 1975

General Outline

Short title

Building (Approval of Amendment of QDC) Amendment Regulation 2020.

Authorising law

Sections 13 and 261 of the *Building Act 1975*.

Policy objectives and the reasons for them

The objective of the *Building (Approval of Amendment of QDC) Amendment Regulation 2020* (Amendment Regulation) is to adopt the amended Queensland Development Code (QDC) Part 2.5 to make it clear that:

- where Expanded Polystyrene (EPS) is proposed to be retained on a building as part of a performance-based solution developed by a registered fire engineer, the EPS ban does not apply; and
- the EPS ban does not apply to any Class 2-9 buildings of Type C construction or to Class 1 and 10 buildings/structures.

On 18 October 2019 the *Building (Approval of Amendment of QDC) Amendment Regulation 2019* SL No 208, which amended the *Building Regulation 2006* (the Regulation), commenced along with the adoption of QDC Part 2.5. QDC Part 2.5 bans two materials from being used as external cladding on new buildings Aluminium Composite Panels (ACPs) of greater than 30 per cent polyethylene core by mass on any building and EPS product in any external wall insulation and finish (rendered) system on a Class 2-9 building of Type A or Type B construction.

Clause 6 of QDC Part 2.5 deals with cladding rectification work on existing buildings and permits the retention of ACPs of greater than 30 per cent polyethylene core by mass as part of an alternative (performance-based) solution developed by a registered fire engineer. This was included with the intent of supporting cost-effective rectification of buildings. A similar provision to allow retention of existing EPS product was not included in QDC Part 2.5.

Since QDC Part 2.5 commenced, a number of implementation issues have been raised. Several buildings registered in the combustible cladding checklist process, as well as a number of government owned buildings, have EPS cladding and these buildings may be able to be safely rectified with a performance-based solution involving the retention of EPS.

It was not intended that EPS removal and reinstallation for inspection or retention of the EPS as part of a performance-based solution be prohibited under QDC Part 2.5. Therefore, the QDC Part 2.5 has been amended to clarify that:

- where EPS is proposed to be retained on a building as part of a performance-based solution developed by a registered fire engineer, the EPS ban does not apply; and
- It is further intended to make explicit that the EPS ban does not apply to any Class 2-9 buildings of Type C construction or to Class 1 and 10 buildings/structures.

Achievement of policy objectives

The policy objectives will be achieved by amendment to the Regulation to adopt the amended QDC Part 2.5 published on 8 December 2020 and to take effect on 18 December 2020.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the main objects of the *Building Act 1975*, that is to regulate the carrying out of building work to ensure the maintenance of proper standards in the building industry and protect public safety.

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

The policy objectives can only be achieved by amendments to the Regulation. These issues cannot be addressed administratively or by other policy means.

Benefits and costs of implementation

The Amendment Regulation, which adopts the revised QDC Part 2.5, will support cost effective rectification of both privately and government owned buildings clad with EPS. The extent of savings will vary for each building owner dependant upon the amount of EPS used on a building, the amount of EPS to be retained and the requirements of the performance solution developed by a fire engineer.

The Amendment Regulation also benefits manufacturers and suppliers of related products by further clarifying the circumstances where the ban does not apply.

Minimal costs will be incurred by government in the implementation of the Amendment Regulation.

Industry is expected to benefit from the amended QDC Part 2.5 because it provides clarity and certainty about the application of QDC Part 2.5, particularly the retention of EPS when performing rectification work on a building with EPS.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles as outlined in the *Legislative Standards Act 1992*.

Consultation

The Board of Professional Engineers of Queensland, Master Builders Association Queensland, Housing Industry Association, Australian Institute of Building Surveyors, Royal Institution of Chartered Surveyors, Insulated Panel Council and National Fire Industry Association have been consulted and support or do not object to the proposals.

The Queensland Productivity Commission was consulted and advised that no further regulatory impact assessment is required under the Queensland Government Guide to Better Regulation as the amendments appear unlikely to result in significant adverse impacts.