

Queensland Building and Construction Commission and Other Legislation Amendment Regulation 2021

Explanatory notes for Subordinate Legislation 2021 No.37

made under the

Queensland Building and Construction Commission Act 1991

General Outline

Short title

Queensland Building and Construction Commission and Other Legislation Amendment Regulation 2021

Authorising law

Section 116 of the *Queensland Building and Construction Commission Act 1991* (QBCC Act)

Policy objectives and the reasons for them

On 1 May 2021, a new modernised and effective fire protection licensing framework will commence in Queensland. This will strengthen the building and construction industry and further protect Queenslanders.

The objective of the Amendment Regulation is to facilitate a seamless transition to the new fire protection licensing framework. Recent industry feedback has indicated minor amendments would improve the operation of the new framework.

Providing high quality fire protection standards is crucial to ensuring the safety of occupants within buildings, evidenced by events such as the fire spread at Melbourne's Lacrosse and Spencer Street buildings and tragic loss of life at London's Grenfell Tower fire. The national Building Confidence Report also highlighted the need for a strong regulatory framework for fire safety, including mandatory registration of fire safety practitioners and greater oversight of the installation and certification of fire safety systems.

Achievement of policy objectives

The Amendment Regulation makes minor technical and consequential amendments to provide for a successful implementation of the new fire protection licensing framework. To achieve this, amendments are made to the following regulations:

- *Building Industry Fairness (Security of Payment) and Other Legislation Amendment Regulation 2020* (SoP Regulation)
- *Queensland Building and Construction Commission and Other Legislation (Fire Protection Licensing) Amendment Regulation 2020* (Fire Protection Regulation).

The amendments do not represent significant policy changes and are necessary to clarify definitions and improve transitional arrangements. Specifically, the amendments to the SoP Regulation will:

- expand existing exclusions from fire protection work to specifically exclude the certification of battery-operated smoke alarms in a class 1a or 2 building to clarify a licence is not required for this work
- extend the current contractor licensing exemption for electrical mechanic licensees and electrical contractors under the *Electrical Safety Act 2002* (ESA) who inspect and test emergency lighting systems to also provide an occupational licensing exemption for this work
- ensure that mechanical services licensees can continue to undertake work in relation to fire damper assemblies that form part of air-conditioning, air-handling and mechanical ventilation systems without the need for a fire protection licence
- clarify an existing subcontractor licensing exemption to ensure the QBCC can continue to regulate this work during transitional period.

Further, the amendments to the Fire Protection Regulation will:

- provide an additional transitional period for existing fire hydrants and hose reels inspect and test licensees to allow them sufficient time to consider further training or seek recognition of prior learning
- provide an option for electrical mechanics who can demonstrate they have sufficient relevant experience to obtain a new licence for extra low voltage fire alarm systems with no upskilling required (noting there is also a licensing exemption for employees who are electrical mechanics)
- simplify the upskilling requirements for existing fire detection and alarm systems contractor licensees who also hold an electric mechanic licence
- clarify definitions relevant to carrying out an annual survey and issuing a certificate for fire protection equipment to ensure relevant licensees can conduct all annual survey activities but only a certify licensee may issue a certificate
- allow pending licence applications submitted to the Queensland Building and Construction Commission (QBCC), but not decided, prior to 1 May 2021 to rely on qualifications that were in effect at the time of lodgement
- broaden the existing transitional provision for employees of appropriately licensed contractors in newly regulated areas of fire protection work to capture those working for professionals outside of the QBCC Act, such as engineers

- provide flexibility for the QBCC to accept other qualifications that are at least equivalent (e.g. where a course has been amended or superseded as a result of national training package reviews) to meet upskilling requirements
- provide a transitional provision to ensure any pending applications for the existing Fire Safety Professional licence are treated the same as existing licensees.

Together, these amendments will improve the transition to the new fire protection licensing framework.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the main objects of the QBCC Act, that is to regulate the carrying out of building, plumbing and drainage 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 through the Amendment Regulation. These issues cannot be addressed administratively or by other policy means.

Benefits and costs of implementation

Implementation of the Amendment Regulation is anticipated to minimise impacts in transitioning to the new fire protection licensing framework as it will provide additional clarity to occupational and contractor licensees and the QBCC. The Amendment Regulation will also provide more support to certain industry participants such as electrical mechanics in transitioning to the new framework.

Consistency with fundamental legislative principles

The Amendment Regulation has sufficient regard to the institution of Parliament, is consistent with the policy objectives of the authorising law and only contains matters appropriate to subordinate legislation. Therefore, the Amendment Regulation is consistent with fundamental legislative principles as outlined in the *Legislative Standards Act 1992*.

Consultation

Public and industry consultation on a new fire protection licensing framework has occurred since 2015, including work undertaken by the Ministerial Construction Council (MCC) Subcommittee on Fire Protection Licensing and Compliance, a previous Fire Protection Working Group and consultation as part of the *Queensland Building Plan 2017*.

The MCC Subcommittee and relevant bodies have been consulted on the Amendment Regulation, including representatives from the National Fire Industry Association, Housing Industry Association, Master Plumbers' Association of Queensland, Master Builders Queensland, Master Electricians Queensland, the Plumbing and Pipe Trades Employee Union Queensland, Queensland Fire and Emergency Services and the QBCC. The Electrical Trades Union has also been consulted.

Feedback from these stakeholders has been reflected in the Amendment Regulation. As a result, overall support was received for the Amendment Regulation.

Further regulatory impact assessment was not required as the Amendment Regulation seeks to improve the transition to the new fire protection licensing framework and it is reasonably clear there will be no significant adverse impacts.