

# **Building Industry Fairness (Security of Payment) Amendment Regulation 2025**

Explanatory notes for SL 2025 No. 65

made under the

*Building Industry Fairness (Security of Payment) Act 2017*

## **General Outline**

### **Short title**

*Building Industry Fairness (Security of Payment) Amendment Regulation 2025*

### **Authorising law**

Section 201 of the *Building Industry Fairness (Security of Payment) Act 2017*

### **Policy objectives and the reasons for them**

Queensland Treasury's Principles for Fees and Charges requires agencies to set fees and charges to accurately reflect the cost of providing their services and to ensure these fees and charges maintain their value over time. Where a regular comprehensive review of fees and charges is not cost effective or no specific indexation method has been otherwise approved, agencies are required to annually apply the Government Indexation Rate (GIR) to their fees and charges.

On 1 April 2025 (Decision No. 60), the Cabinet Budget Review Committee (CBRC) approved setting the government indexation rate at 3.4% for 2025-26 to 2028-29.

The fees under Schedule 2 of the *Building Industry Fairness (Security of Payment) Regulation 2018* (BIF Regulation) are charged based on the amount of the progress payment being claimed. The fees increase incrementally based on certain thresholds of payment claim amounts. The highest category of fee is a percentage of the payment claim amount, up to a maximum value.

The objective of the *Building Industry Fairness (Security of Payment) Amendment Regulation 2025* (Amendment Regulation) is to index the payment claim thresholds and percentage in the BIF Regulation by the GIR. This ensures the fees are not eroded over time and remain proportional to the payment claim amount.

The automated fee unit conversion approach could not be applied to the payment claim amounts and percentage, as they are not in themselves a fee. Rather, they enable the appropriate category to be selected for determining the applicable fee. As a result, the

thresholds and the percentage are required to be amended annually to reflect government indexation.

## **Achievement of policy objectives**

The Amendment Regulation will achieve its objective by amending the fee schedule in the BIF Regulation to increase the payment claim thresholds through sections 1(a) to 1(g) and percentage to reflect the GIR of 3.4 per cent.

In the case of section 1(h), the adjudication application fee is a dollar value calculated by multiplying the percentage specified by the payment claim amount. As the percentage is indexed to include the fee unit value, the fee is not required to be further multiplied by the prescribed 'fee units'. For example, if an adjudication application is made for a payment claim amount of \$1,300,000, the actual fee is \$1,032.44. Adjudication application fees are calculated this way up to the maximum dollar value equivalent of 6,073.80 fee units.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the policy objectives of the authorising law.

## **Inconsistency with policy objectives of other legislation**

No inconsistencies with the policy objectives of other legislation have been identified.

## **Benefits and costs of implementation**

An amendment to the BIF Regulation is required each year to increase the progress payment thresholds and percentage to reflect the applicable indexation rate. This imposes a minor administrative burden on the Department of Housing and Public Works but is the only way of achieving the indexation approach for the thresholds.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with fundamental legislative principles.

## **Consultation**

In accordance with the Queensland Government Better Regulation Policy, an Impact Analysis Statement (IAS) has been prepared and approved by the Director-General of the Department of Housing and Public Works and the Minister for Housing and Public Works and Minister for Youth. The IAS indicates that the proposal relates to standard fee variations, in line with the government endorsed indexation factor and is not subject to further regulatory impact analysis as the proposal is minor and machinery in nature.

As this was an administrative machinery of government amendment, external consultation was not required.