



Queensland

Queensland Building Services Authority Amendment Regulation (No. 2) 2008

Explanatory Notes for SL 2008 No. 347

made under the

Queensland Building Services Authority Act 1991

General Outline

Short title

Queensland Building Services Authority Amendment Regulation (No. 2) 2008.

Authorising Law

Sections 30, 30A, 30B, 30C, 37(2) and 116 of the *Queensland Building Services Authority Act 1991* (QBSA Act).

Objectives of the subordinate legislation

Context

The QBSA Act establishes a licensing system for contractors and supervisors who carry out or supervise building work, including fire protection work. The licensing system is administered by the Queensland Building Services Authority (BSA).

The QBSA Act was amended in October 2007 to expand the licensing system in the Act to provide for the occupational licensing of fire

protection workers. Under the amendments an individual must not personally carry out, or personally supervise, fire protection work unless the individual—

- holds a fire protection occupational licence; or
- holds a licence, registration or authorisation under the QBSA Act or another Act that allows the person to personally carry out or personally supervise the work.

The QBSA Act was also amended to expand the scope of fire protection work for which a licence or other authorisation is required. The expanded scope includes the development, approval and certification of fire emergency evacuation procedures, the provision of fire safety alternative solutions and other fire safety-related services.

The new licensing requirements for fire protection work will not become mandatory until two years after the date of proclamation of the amendments. The amendments will be proclaimed to commence at the same time as the commencement of the subject regulation.

The QBSA Act amendments provide that the classes of fire protection occupational licence, the technical qualifications to hold a licence and relevant licensing fees are to be prescribed by regulation. The relevant regulation is the *Queensland Building Services Authority Regulation 2003* (QBSA Regulation).

Objectives of the regulation

A key policy objective of the *Queensland Building Services Authority Amendment Regulation (No. 2) 2008* (the Regulation) is to amend the QBSA Regulation to prescribe classes of fire protection occupational licence, applicable technical qualifications and other licensing requirements that—

- ensure licence holders have the essential skills to competently carry out fire protection work authorised by their licence;
- draw on, as far as possible, accredited courses and competencies recognised under the Australian Qualifications Framework;
- best facilitate employment and career progression within the fire protection industry, including advancement to a contractor's and nominee supervisor's class of licence; and
- meet the operational and growth needs of the fire protection industry.

A second key policy objective of the Regulation is to properly fund the administration of fire protection occupational licensing administration by the BSA through the prescription of licensing fees.

How policy objectives will be achieved

The policy objectives of the Regulation are to be achieved by amending the QBSA Regulation to prescribe—

- classes of licence based, as far as practicable, on typical industry employment structures;
- technical qualifications for classes of fire protection licence that provide the holder of the licence with the essential skill level to competently perform the types of fire protection work authorised under their licence;
- licensing fees based on the cost to the BSA of properly administering the fire protection occupational licensing system; and
- other matters necessary to facilitate the implementation of a fire protection occupational licensing system, including the alignment of contractor licensing with the fire protection occupational licensing system.

Consistency with authorising law

The proposed regulation is consistent with the authorising law.

Possible alternative approaches

Technical qualifications

The possibility of introducing technical qualification at a standard below that required to competently perform fire protection work was canvassed in the regulatory impact statement (RIS) for the Regulation released in May 2008. Justifications for this option include those based on reducing barriers to entry into the industry, as well as minimising training costs to employers and new entrants.

This alternate option is not considered viable or appropriate. The option is contrary to the purpose of introducing occupational licensing for fire

protection workers, as well as the general policy underpinning licensing in the QBSA Act. Most importantly, the implementation of such an option is likely to result in persons and property being harmed which is a totally unacceptable cost.

Fees

The option of not charging fees for fire protection occupational licence applications and renewals was also explored in the RIS for the Regulation. Under this option the cost to the BSA of administering occupational licensing of fire protection workers would be borne by other licence holders, or alternately funded by a reduction in BSA services to industry and consumers.

Neither of these funding alternatives was considered appropriate or fair to non-fire protection work related licensees or consumers. It is also noted that the introduction of fire protection licensing has always been premised on the intent that it would be a user-pays system.

Benefits and costs of implementing legislation

Technical qualifications

The critical benefit of setting licensing technical qualifications at a standard that allows the holder of the licence to competently perform the work under their licence is that the community, industry and fire fighters are better protected in the event of a building fire.

In the absence of a fire taking place, it is most difficult for ordinary consumers of fire protection services to identify defective fire protection work. Further, where defective fire protection work is carried out and a fire occurs, the potential costs are particularly high and may include not only damage to property and the environment, but more significantly injury to persons and loss of life.

Given the unique nature of fire protection work and its impact on health and safety, it is imperative that a proactive approach to licensing be taken with a high emphasis on ensuring the work is performed correctly from the outset. The best way to achieve this is to ensure that the persons carrying out the work have the requisite skills.

The introduction of a fire protection occupational licensing system, which requires all practitioners to hold the critical skills to perform their work, is Queensland's best chance of minimising the harm caused by building fires.

Consultation has been undertaken with industry representatives about the effects of introducing occupational licensing on the fire protection industry as a whole, including the costs associated with obtaining technical qualifications. The view that has been expressed is that its introduction will increase the professionalism of the industry. It is also considered that it will attract better entrants to join the industry.

The main cost of the Regulation is the cost of training to new entrants and employers.

These costs will vary depending on the circumstances. Relevant factors include the demand for and length of the course, cost of study materials, availability of government subsidies, the mode of study, credit given for previous study and other issues.

The cost of obtaining relevant qualifications is likely in most instances to be less for existing workers with industry experience. Under the Regulation, these persons may complete their qualifications through recognition of prior learning programs with a registered training organisation. The option also exists in a number of licensing classes for existing workers to obtain technical qualifications for licensing through an accreditation process with the Fire Protection Industry Board. The ability to meet technical qualifications through this accreditation process represents a substantial cost saving to the applicant.

Based on industry estimates, it is expected that the cost of fire protection services to the consumer will increase by 2–5% as a consequence of introducing occupational licensing for fire protection workers.

Fees

The BSA is a self-funded Queensland statutory authority. The licensing and compliance functions of the BSA are primarily funded by the charging of licensing fees. The BSA does not receive funding from consolidated revenue.

The Regulation prescribes a licence application fee of \$85 and an annual licence fee of \$85. Alternately, the licensee can opt to renew their licence every three years at a discounted rate of approximately 15%. Consistent with Government policy, fees will be adjusted annually in line with changes in the movement of the Consumer Price Index.

The proposed fees have been set based on a user-pays system. The reason for this is to ensure that services provided by the BSA to other licensees

and consumers are not detrimentally impacted by the introduction of the new occupational licensing system.

The proposed fees are sufficient to cover the reasonable cost of services provided to occupational licence holders, including the processing and assessment of licence applications, compliance activities and the ongoing provision of licensee education initiatives.

Fundamental Legislative Principles

The amendment regulation accords with fundamental legislative principles as provided for under the *Legislative Standards Act 1992*.

Consultation

The classes of licence and respective technical qualifications to hold a fire protection occupational licence were developed with the assistance of an industry working party comprising of experienced representatives of the fire protection industry and other stakeholders.

Further consultation was undertaken on these and other policy matters relevant to the QBSA Regulation, through the release of a RIS. The RIS was released for public consultation from 9 May 2008 to 10 June 2008. 130 submissions were received.

Further consultation was conducted with government and industry representatives about issues raised in submissions received.

In response to issues raised through the RIS process, changes were made to upgrade the technical qualifications for the 'inspect and test' category of a *Sprinkler and suppression system* licence to require that new entrants hold a current Plumbers and Drainers Board licence. This change was made following the receipt of 115 submissions expressing safety and other concerns if a lower qualification were to be prescribed.

Other changes made as a result of consultation on the RIS were of a less substantive nature. They included the recognition in the Regulation of alternate qualifications for selected licence classes, which will have the effect of substantially reducing costs to industry during the implementation period.

Alternatives to the subordinate legislation

The policy objectives can only be achieved by legislative amendment.

Estimated Cost for Government Implementation

The implementation of the Regulation will not impose an additional cost on Government agencies, other than the BSA.

The cost of operating the licensing system for the BSA in the first two years of operation is estimated at \$637,700. This cost will not impose an additional financial burden on the BSA as it is to be fully funded through the charging of licensing fees.

Notes on Provisions

Section 1 states the short title of the Regulation.

Section 2 provides for the commencement of provisions contained in this regulation.

Section 3 states that the Regulation amends the QBSA Regulation.

Section 4 amends section 5(1)(r) of the QBSA Regulation to provide that the inspection and testing of fire detection, alarm, warning and communication systems is not building work if performed by a person who holds an electrical mechanic's licence under the *Electrical Safety Act 2002*.

Section 4 also inserts a new section 5(1)(zo) into the QBSA Regulation. The new section provides that specified types of fire protection work are not building work if performed by a person who holds an electrical mechanic's licence under the *Electrical Safety Act 2002*.

Section 4 also inserts a new section 5(1)(zp) into the QBSA Regulation. The new section provides that work within the scope of a *Fire Safety Professional* licence is not building work if performed by a registered professional engineer who is authorised to provide alternate solutions in relation to fire safety under the *Professional Engineers Act 2002*.

Section 5 makes a minor grammatical amendment to section 13(1)(b) of the QBSA Regulation. The amendment is of a technical drafting nature and is not intended to represent a policy change.

Section 6 amends section 14B of the QBSA Regulation to provide that a site supervisor's licence is not available for a licence class mentioned in Schedule 2, Parts 21 to 30B. A site supervisor's licence is not required for these classes of licence because section 30C of the QBSA Act, as amended by the *Queensland Building Services and other Legislation Amendment Act 2007*, allows the holder of a fire protection occupational licence to personally supervise fire protection work.

Section 7 inserts a new section 14C into the QBSA Regulation. Section 14C states, for section 30C(3) of the QBSA Act as amended by the *Queensland Building Services and other Legislation Amendment Act 2007*, the fire protection occupational licences are divided into classes specified in Schedule 2A to the QBSA Regulation.

Section 8 amends section 15(2) of the QBSA Regulation to ensure that the provision continues to apply to all classes of contractor fire protection licence.

Section 9 inserts a new section 16B into the QBSA Regulation. Section 16B provides, for section 32AB of the QBSA Act as amended by the *Queensland Building Services and other Legislation Amendment Act 2007*, the technical qualifications to hold a fire protection occupational licence are stated in Schedule 2A of the QBSA Regulation.

Section 10 amends section 17 of the QBSA Regulation to omit the word 'annual'. This amendment is necessary as occupational licensees may elect to renew their licence on an annual or three yearly basis.

Section 11 inserts a new section 17A into the QBSA Regulation. Section 17A prescribes that, for section 37(2)(b) of the QBSA Act, site supervisor's and fire protection occupational licences may be renewed for a period of three years.

Section 12 amends the heading of section 18 of the QBSA Regulation. Section 12 also amends section 18 by omitting the word 'annual' as occupational licences may be renewed for either a single or three year period.

Section 13 amends section 19 of the QBSA Regulation to omit the word 'annual' as occupational licences may be renewed on an annual or three yearly basis. Section 19(2) of the QBSA Regulation provides for the refund

of annual licence fees. Section 13 amends section 19(2) of the QBSA Regulation to enable a refund of licence fees paid on a three yearly basis.

Section 14 inserts a new section 27A into the QBSA Regulation. Section 27A provides, for section 42C(2) of the QBSA Act as amended by the *Queensland Building Services and other Legislation Amendment Act 2007*, that the prescribed types of fire protection work and technical qualifications are those mentioned in Schedule 2B of the QBSA Regulation. Schedule 2B is a new schedule inserted into the QBSA Regulation by this regulation.

Section 15 inserts a new Part 7, Division 4 into the QBSA Regulation. Part 7 provides for transitional provisions relevant to this regulation.

Section 15 inserts a new section 47 into the QBSA Regulation. The new section inserts definitions for Part 7, Division 4.

Section 15 inserts a new section 48 into the QBSA Regulation. The policy intent of the new section is to ensure that a condition or endorsement on a licensee's licence that exists immediately before the commencement of this regulation continues to exist after the commencement of this regulation.

Section 15 inserts a new section 49 into the QBSA Regulation. Under the new section a licensee who holds a contractor's or nominee supervisor's licence of a class listed in column 1 of the section is taken to hold the corresponding licence of the relevant class listed in column 2 of the section.

Section 15 inserts a new section 50 into the QBSA Regulation. The new section specifies, for section 30(4) of the QBSA Act, the classes of contractor's licence that may be held and renewed after the commencement of this regulation ("continuing classes"). The new section further states that for a licence of a continuing class the provisions of Schedule 2 of the QBSA Regulation applicable to the licence prior to the commencement of this regulation, are taken to continue to apply.

Section 15 inserts a new section 51 into the QBSA Regulation. The new section specifies the classes of nominee supervisors' licence that may be held and renewed after the commencement of this regulation ("continuing classes"). The new section further states that for a licence of a continuing class the provisions of Schedule 2 of the QBSA Regulation applicable to the licence prior to the commencement of this regulation, are taken to continue to apply.

Section 15 inserts a new section 52 into the QBSA Regulation. The new section provides transitional technical qualifications for the fire protection

occupational licence class of *Sprinkler and suppression systems (reticulated water based) – inspect and test*. The transitional qualifications apply to persons employed in the fire protection industry prior to 1 January 2009 where their duties included the inspection and testing of sprinkler and suppression systems (reticulated water based).

Section 15 inserts a new section 53 into the QBSA Regulation. The section applies to a person if—

- The person is enrolled in a course before 1 January 2009;
- The course, if completed, would satisfy the technical requirements for a licence mentioned in column 1 of section 49; and
- The person successfully completes the course before 1 January 2011.

If the above criteria applies, the person is taken to satisfy the technical requirements for the licence, or licences, of the corresponding class mentioned in column 2 of the table in section 49.

The policy intent behind the new section 53 is to ensure that persons enrolled in courses prior to 1 January 2009 (“existing courses”) which would have met the technical qualifications to hold a contractor’s or nominee supervisor’s licence listed in column 1 of the table in section 49, are not prejudiced by the making of this regulation.

Section 16 amends Schedule 1 (*Fees*) of the QBSA Regulation to insert the application fee and licence fees for a fire protection occupational licence. Section 16 also amends the licence fee for a site supervisor’s licence to provide a reduced fee if the licensee chooses to renew their licence for a period of 3 years.

Section 17 amends the scope of work of a Part 16 (*Carpentry*) licence in Schedule 2 to clarify that the holder of the licence may install and maintain fire doors and fire shutters. Section 17 also amends the scope of work of a Part 36 (*Joinery*) licence in Schedule 2 to allow the holder of the licence to manufacture, assemble and fit components for a fire door or fire shutter.

Section 17 omits the contractor’s and nominee supervisor’s licence classes mentioned in parts 21 to 30 of Schedule 2 (*Classes of licences and licence requirements*) of the QBSA Regulation. The omitted classes are fire protection work related. These licence classes have been replaced with revised classes of licence which align, as far as practicable, with the classes of fire protection occupational licence provided for in schedule 2A of the QBSA Regulation, as amended by this regulation.

Section 17 inserts new Parts 21 to 30B into Schedule 2. These Parts provide for the new classes of fire protection licence for contractors and nominee supervisors. The Parts prescribe the classes of licence, scopes of work, technical qualifications, managerial requirements, experience requirements and financial requirements for the new classes of licence for contractor's and nominee supervisor's engaged in fire protection work.

Section 18 inserts a new Schedule 2A (*Classes and requirements of fire protection occupational licences*) into the QBSA Regulation. Schedule 2A prescribes for sections 14C and 16B of the QBSA Regulation (as amended by this regulation) the classes of licence, scopes of work and technical qualifications for a fire protection occupational licence.

Section 18 also inserts a new Schedule 2B (*Fire protection work by employees*) into the QBSA Regulation. Schedule 2B prescribes the types of fire protection work and technical qualifications for section 42C(2) of the QBSA Act, as amended by the *Queensland Building Services and other Legislation Amendment Act 2007*.

Section 19 amends Schedule 3 (*Dictionary*) of the QBSA Regulation.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Housing.