



Queensland

# Queensland Building Services Authority Amendment Regulation (No. 1) 2012

**Explanatory Notes for SL 2012 No. 166**

made under the

*Queensland Building Services Authority Act 1991*

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## General outline

### Short title

*Queensland Building Services Authority Amendment Regulation (No. 1) 2012.*

### Authorising Law

The regulation is made under the following provision:

- Sections 9A, 99 and 116 and Schedule 2 of the *Queensland Building Services Authority Act 1991* (QBSA Act).

### Policy objectives and the reasons for them

The policy objectives of the Regulation are to:

- Remove unnecessary licensing requirements for licensed electrical contractors who:
  - install or undertake to install solar panels, or
  - contract to install solar hot water systems.

- Provide additional particulars to be included in the licensee register established under the QBSA Act to better inform consumers, subcontractors and suppliers in their decisions about entering into contractual relations with a licensed building contractor; and
- Approve amendments to the *Financial Requirements for Licensing* policy (FRL policy) made by the Queensland Building Services Board (QBS Board) on 19 July 2012 to insert a financial requirement for licensed building contractors in relation to payment of judgment debts.

### **Achievement of policy objectives**

The Regulation achieves the policy objectives by amending the *Queensland Building Services Authority Regulation 2003* (QBSA Regulation).

The Regulation amends section 5 of the QBSA Regulation to allow the holder of an unrestricted electrical contractor's licence (an electrical contractor) under the *Electrical Safety Act 2002* to:

- carry out, or undertake to carry out, the installation, repair or maintenance of a solar panel on a building without also having to hold a contractor's licence under the QBSA Act.
- to contract to install, repair or maintain a solar hot water system without also having a contractor's licence under the QBSA Act, providing the building work aspects of the work are subcontracted to be carried out by an appropriately licensed contractor under the QBSA Act.

The Regulation repeals and inserts a new section 33 of the QBSA Regulation. Section 33 prescribes the particulars to be included in the licensee register. The new provision requires additional particulars to be inserted in the licensee register. The additional particulars are that the licensee register must include:

- a licensee's allowable annual turnover category under the FRL policy, and
- if the licensee is a company, the name of any other licensed company for which the nominee, a licensed director or a licensed secretary is, or has been in the last 10 years, a nominee, licensed director or licensed secretary.

Section 9A of the QBSA Act requires that to have effect a policy of the QBS Board must be approved by regulation and published in the Government Gazette. The Regulation amends Schedule 1A (*Board's policies approved under section 9A of the Act*) of the QBSA Regulation to approve amendments to the FRL policy made by the QBS Board on 19 July 2012. The amendments to the FRL policy insert a new financial requirement relating to the licensing obligations of building contractors to satisfy their judgement debts in respect of contracted building work or goods or services supplied for contracted building work.

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

The Regulation is consistent with the objects of the QBSA Act.

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

The Regulation is not inconsistent with the policy objectives of other legislation.

### **Benefits and costs of implementation**

The Regulation does not impose an appreciable cost on business, government or the community.

### **Consistency with fundamental legislative principles**

The Regulation is consistent with fundamental legislative principles.

### **Consultation**

The QBS Board has been consulted. The QBS Board consists of members representing building contractors, trade contractors, the insurance and accounting professions, building and construction unions and consumers.

The Department of the Premier and Cabinet, Department of Queensland Treasury and Trade and the Electrical Safety Office (Department of Justice and Attorney General) were consulted in the development of those provisions in the Regulation relevant to their portfolio responsibilities. The changes to the FRL policy approved by the Regulation were developed in consultation with Crown Law.

No objections or concerns were identified during the consultation.

### **Notes on Provisions**

Clause 1 cites the short title of the Regulation.

Clause 2 states that the Regulation amends the QBSA Regulation.

Clause 3 inserts section 5(1)(zv) and section 5(1)(zw) into the QBSA Regulation. The new sections prescribe circumstances where the installation, repair or maintenance of a solar hot water system or a solar panel is not building work for the purposes of section 42 (*Unlawful carrying out of building work*) of the QBSA Act.

Clause 4 omits and inserts a new section 33 (*Particulars in register - Act, s 99(2)(d)*) into the QBSA Regulation. The new section prescribes particulars which must be included on the licensee register.

Clause 5 amends Schedule 1A of the QBSA Regulation to approve amendments of the Queensland Building Services Board's policy named *Financial Requirements for Licensing*, made by the Board on 19 July 2012.

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### ENDNOTES

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

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