

# Queensland Building Services Authority and Other Legislation Amendment Regulation (No. 1) 2013

## Explanatory Notes for SL 2013 No. 224

made under the

*Building Act 1975*  
*Domestic Building Contracts Act 2000*  
*Plumbing and Drainage Act 2002*  
*Public Service Act 2008*  
*Queensland Building Services Authority Act 1991*

## General Outline

### Short title

*Queensland Building Services Authority and Other Legislation Amendment Regulation (No. 1) 2013.*

### Authorising Law

The regulation is made under the following provisions:

- Section 261 of the *Building Act 1975*;
- Section 101 of the *Domestic Building Contracts Act 2000*;
- Section 145 of the *Plumbing and Drainage Act 2002*;
- Section 122 of the *Public Service Act 2008*;
- Section 116 of the *Queensland Building Services Authority Act 1991*.

### Policy objectives and the reasons for them

Following an inquiry by the Transport, Housing and Local Government Committee of the Queensland Parliament into the operation and performance of the Queensland Building Services Authority (QBSA), a report containing the Committee's recommendations was tabled in Parliament on 30 November 2012. On 29 May 2013 the Government's response to these recommendations was tabled in Parliament. The *Queensland Building Services Authority Amendment Act 2013* (Amendment Act) represents the first stage of the Government's response to the Parliamentary Committee's report.

The Amendment Act amends the *Queensland Building Services Authority Act 1991* to establish the Queensland Building and Construction Commission in place of the Queensland Building Services Authority (QBSA). The Amendment Act was passed by Parliament on 22 August 2013 and will commence on proclamation. As a result of the passage of the Amendment Act, consequential amendments are required to the following:

- *Building Regulation 2006*;
- *Building Fire Safety Regulation 2008*;
- *Domestic Building Contracts Regulation 2010*;
- *Public Service Regulation 2008*;
- *Queensland Building Services Authority Regulation 2003* (QBSA Regulation); and
- *Standard Plumbing and Drainage Regulation 2003*;

The policy objectives of the *Queensland Building Services Authority and Other Legislation Amendment Regulation (No. 1) 2013* (the Regulation) are to:

- support the operation of the *Queensland Building and Construction Commission Act 1991* (QBCC Act);

- make consequential amendments to the regulations set out above following commencement of the QBCC Act;
- clarify the existing exclusion from the definition of 'building work' in the QBSA Act for the construction, maintenance and repair of roads;
- exclude the laying of wet pour rubber from the definition of 'building work' in the Act on the basis that it was not intended that this type of work would fall within the scope of 'building work'.
- reduce red tape and the regulatory burden on industry by amending section 5 of the QBSA Regulation to exclude the installation of internal window shutters from being regulated under the Act. However, the proposed amendment does not extend to the installation of internal fire shutters, which will continue to be regulated under the Act and require a contractor's licence.

### **Achievement of policy objectives**

The Regulation achieves the policy objectives by making the necessary consequential amendments to the *Building Regulation 2006*, the *Building Fire Safety Regulation 2008* the *Domestic Building Contracts Regulation 2010*, the *Public Service Regulation 2008*, the *Standard Plumbing and Drainage Regulation 2003* and the QBSA Regulation.

The Regulation amends section 5 of the QBSA Regulation to:

- clarify that the construction, maintenance or repair of a road is not building work under the QBSA Act;
- exclude the laying of wet pour rubber from the definition of building work under the QBSA Act;
- exclude the installation, maintenance or repair of internal window shutters, other than fire shutters, from the definition of building work under the QBSA Act.

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

The Regulation is consistent with the objectives of the *Building Act 1975*, the *Domestic Building Contracts Act 2000*, the *Plumbing and Drainage Act 2002*, the *Public Service Act 2008* and the *Queensland Building Services Authority Act 1991*.

### **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, and is consistent with government policy.

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

The Regulation is consistent with fundamental legislative principles.

### **Consultation**

Consultation on the amendments has been undertaken with Queensland Building Services Board, which comprises members representing building contractors, trade contractors, the insurance and accounting professions, unions and consumers.

In relation to the amendments regarding roads, wet pour rubber and internal window shutters, consultation has been undertaken with industry stakeholders.

No objections have been raised to these amendments.

## **Notes on Provisions**

### **Part 1 Preliminary**

*Clause 1* provides the short title of the Regulation.

*Clause 2* provides for the commencement of the Regulation.

### **Part 2 Amendment of Building Regulation 2006**

*Clause 3* provides that Part 2 amends the *Building Regulation 2006*.

*Clause 4* amends section 16D (Prescribed minor repairs – Act, s 246BE) by replacing a reference to Queensland Building Services Authority with a reference to Queensland Building and Construction Commission.

*Clause 5* amends section 29 (Notifying BSA if notice for inspection not given) by replacing a reference to BSA with a reference to QBCC.

*Clause 6* amends section 35 (Consequences of builder not complying with obligation) by replacing a reference to BSA with a reference to QBCC.

*Clause 7* amends pt 7, div 1 heading (QBSA licensee certificates) by replacing a reference to QBSA with a reference to QBCC.

*Clause 8* amends section 42 (Application of div 1) by replacing a reference to QBSA with a reference to QBCC, and by replacing a reference to the *Queensland Building Services Authority Regulation 2003* with a reference to the *Queensland Building and Construction Commission Regulation 2003*.

*Clause 9* amends section 43 (QBSA licensee certificate if building development approval) by replacing a reference to QBSA with a reference to QBCC.

*Clause 10* amends section 44 (QBSA licensee certificate for self-assessable building work) by replacing a reference to QBSA with a reference to QBCC.

*Clause 11* amends section 45 (QBSA licensee must not give false or misleading certificate) by replacing a reference to QBSA with a reference to QBCC.

*Clause 12* amends section 49 (Optional acceptability by building certifier) by replacing a reference to QBSA with a reference to QBCC.

*Clause 13* amends section 50 (Optional acceptability by competent person (inspections)) by replacing a reference to QBSA with a reference to QBCC.

*Clause 14* amends schedule 4 (Dictionary) by replacing references to QBSA with references to QBCC and by replacing a reference to *Queensland Building Services Authority* with a reference to *Queensland Building and Construction Commission*.

### **Part 3 Amendment of Building Fire Safety Regulation 2008**

*Clause 15* provides that Part 3 amends the *Building Fire Safety Regulation 2008*.

*Clause 16* amends schedule 3 (Dictionary) by replacing a reference to the *Queensland Building Services Authority Regulation 2003* with a reference to the *Queensland Building and Construction Commission Regulation 2003*.

### **Part 4 Amendment of Domestic Building Contracts Regulation 2010**

*Clause 17* provides that Part 4 amends the *Domestic Building Contracts Regulation 2010*.

*Clause 18* amends section 3 (Prescribed matters – Act, s 27(2)(h)) by replacing a reference to QBSA Act with a reference to QBCC Act.

## **Part 5 Amendment of Public Service Regulation 2008**

*Clause 19* provides that Part 5 amends the *Public Service Regulation 2008*.

*Clause 20* amends schedule 1 (Public service offices, their heads and applied provisions and rulings) item 6 to insert references to the Queensland Building and Construction Commission, the Queensland Building and Construction Employing Office, the *Queensland Building and Construction Commission Act 1991* and the commissioner.

## **Part 6 Amendment of Queensland Building Services Authority Regulation 2003**

*Clause 21* provides that Part 6 amends the *Queensland Building Services Authority Regulation 2003*.

*Clause 22* amends section 1 (Short title) by replacing a reference to Queensland Building Services Authority with a reference to Queensland Building and Construction Commission.

*Clause 23* amends section 5 (Work that is not building work) by providing that the work stated in schedule 1AA is not building work.

*Clause 24* amends section 6B (Meaning of categories applying to licences) by inserting in the definition of *financial requirements policy* a reference to section 19 of the Act.

*Clause 25* amends section 11 (Meaning of primary building work) to omit a reference to 'roads'.

*Clause 26* amends section 12 (Meaning of associated building work) to provide references to work mentioned in schedule 1AA which, despite section 5, is building work that is associated building work if it is other building work.

*Clause 27* amends section 15 (Qualifications and experience for contractor's licence – Act, s 31) by replacing a reference to the authority with a reference to the commission.

*Clause 28* amends section 17 (Application for a licence – Act, s 33) by replacing a reference to the authority with a reference to the commission.

*Clause 29* amends section 18 (Applications for renewal of licence – Act, s 37B(2)) by replacing a reference to the authority with a reference to the commission.

*Clause 30* amends section 19 (Refund of licence fee) by replacing a reference to authority with a reference to commission.

*Clause 31* amends section 21 (Prescribed course – Act, s 43D, definition owner-builder course) by replacing a reference to the authority with a reference to the commission.

*Clause 32* amends section 22 (Warnings – Act, s 47) by replacing a reference to the QUEENSLAND BUILDING SERVICES AUTHORITY ACT 1991 with a reference to the QUEENSLAND BUILDING AND CONSTRUCTION COMMISSION ACT 1991.

*Clause 33* amends section 27 (Insurance information statement) by replacing a reference to authority with a reference to commission.

*Clause 34* amends section 32 (Warning that contract is a construction management trade contract – Act, s 67V) by replacing a reference to the *Queensland Building Services Authority Act 1991* with a reference to the *Queensland Building and Construction Commission Act 1991*.

*Clause 35* amends section 34A (Approval of board's policies – Act, s 9A) by replacing references to section 9A of the *Queensland Building Services Authority Act 1991* with references to section 19 of the *Queensland Building and Construction Commission Act 1991*.

Clause 36 inserts a new schedule 1AA which provides that the stated work is not building work:

- Schedule 1AA lists the work previously listed in section 5.
- Section 14 in Schedule 1AA clarifies the exemption in relation to the construction, maintenance or repair of a road.
- As a consequence of the clarification regarding roads, a minor amendment has been made to the exemption relating to Work for a water reticulation system, sewerage system or stormwater drain (section 11 of Schedule 1AA), and new exemptions inserted relating to Work for a public utility easement (section 12) and work on bikeways and footpaths (section 15).
- A new exemption has been inserted into section 29 of Schedule 1AA regarding internal window shutters other than fire shutters.
- A new exemption has been inserted (section 52 of Schedule 1AA) regarding the laying of wet pour rubber.

Clause 37 amends schedule 1 (Fees) by replacing a reference to the authority with a reference to the commission.

Clause 38 amends schedule 1A (Board's policies approved under section 9A of the Act) by replacing a reference to section 9A of the *Queensland Building Services Authority Act 1991* with a reference to section 19 of the *Queensland Building and Construction Commission Act 1991*.

Clause 39 amends schedule 2 (Classes of licences and licence requirements) by:

- replacing references to authority with references to commission;
- inserting into Part 14, section 3(2) a new definition of 'approved completed building inspectors course' which replaces a reference to authority with a reference to commission and replaces a reference to BSA with a reference to QBCC;
- replacing in Parts 18, 19, 20, 33, 44 and 45 the word 'commission' with the word 'commissioning' in order to avoid confusion with the term as it is defined in the Act.

Clause 40 amends schedule 2A by replacing references to authority with references to commission.

Clause 41 amends schedule 3 (Dictionary) by:

- replacing references to authority with references to commission;
- replacing in the definition of 'approved managerial qualification' a reference to BSA with a reference to QBCC;
- clarifying the definition of 'certify';
- clarifying the definition of 'supporting structure'.

## **Part 7 Amendment of Standard Plumbing and Drainage Regulation 2003**

Clause 42 provides that Part 7 amends the *Standard Plumbing and Drainage Regulation 2003*.

Clause 43 amends section 29B (Rectification notices for inspections under s 29A or the Act, s 87(8)) definitions of 'contractor's licence' and 'licensed contractor' by replacing references to the *Queensland Building Services Authority Act 1991* with references to the *Queensland Building and Construction Commission Act 1991*.