

# Building and Other Legislation Amendment Regulation (No. 3) 2013

Explanatory notes for SL No. 257

made under the

*Building Act 1975*  
*Professional Engineers Act 2002*  
*Sustainable Planning Act 2009*

## General Outline

### Short title

*Building and Other Legislation Amendment Regulation (No.3) 2013*

### Authorising law

Section 261 of the *Building Act 1975*, section 144 of the *Professional Engineers Act 2002* and section 763 of the *Sustainable Planning Act 2009*.

### Policy objectives and the reasons for them

The policy objective of the *Building and Other Legislation Amendment Regulation (No. 3) 2013* (the Regulation) is to omit Queensland Development Code 5.4 - Child care centres (QDC 5.4), to approve the code of practice to provide guidance to registered professional engineers and to provide that an engineer who is appointed as an authorised person under an Instrument of Authority issued by the Civil Aviation Safety Authority has the necessary qualifications and competencies to be a registered professional engineer.

### Building Regulation 2006

The *Building Act 1975* (BA) provides that the Queensland Development Code (QDC) is the parts, or aspects of the parts, of the document called the 'Queensland Development Code' published by the Department of Housing and Public Works.

The QDC 5.4 currently applies to a small number of limited hours and other childcare centres which are covered by the *Child Care Act 2002* (CCA). All other childcare centres are covered by the National Construction Code (NCC) or the *Education and Care Services National Law (Queensland) Act 2011*. The NCC has only included standards for childcare centres since 1 May 2012.

On 12 September 2013, the *Education and Care Services Act 2013* (ECSA) was passed by the Queensland Legislative Assembly. Upon commencement the ECSA will repeal the CCA and establish a new regulatory framework for services currently regulated under the CCA.

The repeal of the CCA will remove the need for QDC 5.4.

## **Professional Engineers Act 2002**

### Code of Practice:

Section 108(1) of the *Professional Engineers Act 2002* (PEA) requires the Board of Professional Engineers of Queensland (the Board) to prepare a code of practice which provides guidance to registered professional engineers in relation to appropriate professional conduct and practice. Section 108(3) of the PEA states that a code of practice does not take effect until it is approved under a regulation.

Section 18A of the *Professional Engineers Regulation 2003* (the PE Regulation) approves the Code of Practice for registered professional engineers in Queensland which was made by the Board on 21 January 2008.

Section 108(5) of the PEA provides that the Board must review its code of practice at least once every 3 years. The code of practice has therefore been reviewed and amendments have been made as a result of that review and are reflected in the new version.

### New Area of Engineering:

Section 7A of the PEA provides that the areas of engineering are those for which there is an assessment scheme or those where the qualifications and competencies are prescribed under section 10(1)(b).

Section 10(1)(b) provides that an applicant is qualified for registration in an area of engineering if the applicant has the qualifications and competencies prescribed under a regulation for the area of engineering. This provision allows there to be areas of engineering in addition to those provided for by an assessment scheme.

The Civil Aviation Safety Authority (CASA) is an independent statutory authority established under the *Civil Aviation Act 1988* (Cth) whose primary function is to conduct the safety regulation of civil air operations in Australia and the operation of Australian aircraft overseas. CASA authorises engineers through an Instrument of Authority to carry out certain design approval functions. These are:

- approval of a design of a modification or repair
- approval of aircraft components for use as replacements
- approval for use of aircraft materials
- making a finding of compliance with the applicable airworthiness standards and approval of type design data
- approval of minor changes in type design.

To be eligible for appointment as an authorised person under an Instrument of Authority from CASA the applicant must satisfy CASA's stringent assessment process which is considered to be as rigorous as that undertaken by Engineers Australia which is an assessment entity under the PEA.

Currently, an engineer who is an authorised person under an Instrument of Authority issued by CASA will pay for assessment by CASA and then, if providing professional engineering services in Queensland, will be required to be assessed by Engineers Australia as an aerospace engineer at an additional cost.

It is considered an unnecessary and costly burden to require an engineer who is an authorised person under an Instrument of Authority issued by CASA to also undergo the Engineers Australia assessment process. The Regulation therefore amends the PE Regulation so that an engineer who is appointed as an authorised person under an Instrument of Authority issued by CASA has the necessary qualifications and competencies to be registered by the Board as a registered professional engineer in the area of aeronautical engineering.

### **Sustainable Planning Regulation 2009**

Amendments are also required to the *Sustainable Planning Regulation 2009* to remove reference to QDC 5.4 for building work assessable against the BA.

## **Achievement of policy objectives**

The Regulation repeals the QDC 5.4 - Child care centres and makes consequential amendments to the *Sustainable Planning Regulation 2009*. The Regulation also amends the PE Regulation to approve a new code of practice for professional engineers in Queensland and to provide that an engineer who is appointed as an authorised person under an Instrument of Authority issued by the Civil Aviation Safety Authority has the necessary qualifications and competencies to be a registered professional engineer.

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

The Regulation is consistent with the objectives of the *Building Act 1975*, *Professional Engineers Act 2002* and *Sustainable Planning Act 2009*.

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

The Regulation is consistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The repeal of QDC 5.4 will remove unnecessary regulation and ensure that there is no confusion about building laws that apply to child care centres.

The introduction of a new area of engineering for engineers who are appointed as an authorised person under an Instrument of Authority issued by CASA will result in a reduction of registration costs and registration requirements for eligible engineers.

## Consistency with fundamental legislative principles

The Regulation has been drafted with regard to the fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*. The Regulation is consistent with those principles.

## Consultation

The Office for Early Childhood Education and Care, Department of Education, Training and Employment and the Department of State Development, Infrastructure and Planning has been consulted and is supportive of the proposal to omit the QDC 5.4.

In developing the new code of practice, the Board consulted with a wide range of stakeholders from the engineering profession and universities including:

- Engineers Australia
- National Engineers Registration Board
- Australasian Institute of Mining and Metallurgy
- Consult Australia
- The Warren Centre, Sydney University.
- the Electrical Trades Union and the Public Sector Union
- all Queensland universities that are engaged in the education of students in the profession of engineering.

All stakeholders consulted were supportive of the new code of practice.

The Board consulted with the relevant engineers and CASA and there is support for the proposal to introduce a new area of engineering for engineers who are appointed as an authorised person under an Instrument of Authority issued by CASA.