

# Queensland Building and Construction Commission (Transfer) Regulation 2014

Explanatory Notes for SL 2014 No. 258

Made under the

*Queensland Building and Construction Commission Act 1991*

## General Outline

### Short title

*Queensland Building and Construction Commission (Transfer) Regulation 2014.*

### Authorising law

Section 108AB of the *Queensland Building Construction and Commission Act 1991* (QBCC Act).

### Policy objectives and reasons for them

In May 2013, the Queensland Government's response to the recommendations of the Transport, Housing and Local Government Committee Report No. 14, *Inquiry into the Operation and Performance of the Queensland Building Services Authority 2012* was tabled in Parliament. The response included a Ten Point Action Plan to implement agreed recommendations. The Department of Housing and Public Works (the department) established an Implementation Committee tasked with consulting with key stakeholders and making recommendations to the Minister for Housing and Public Works on the implementation of the Government's response.

The first implementation stage, involving the establishment of the Queensland Building and Construction Commission (QBCC) as a replacement for the former Queensland Building Services Authority (QBSA) and the appointment of a Commissioner of the QBCC (QBCC commissioner), has been completed.

The *Professional Engineers and Other Legislation Amendment Bill 2014* (PEOLA) forms part of the second implementation stage of the Government's response to the inquiry. The PEOLA amends the *Queensland Building and Construction Commission Act 1991* (QBCC Act), the *Building Act 1975* (BA) and the *Plumbing and Drainage Act 2002* (PDA).

The amendments of the BA included in the PEOLA will transfer to the QBCC operational functions for pool safety (including functions for licensing, compliance and

disciplinary action relating to pool safety inspectors) that the Pool Safety Council (PSC) currently performs under the BA. They will also transfer to the QBCC operational functions relating pool safety that the Chief Executive and other officers of the department currently perform under the BA.

The amendments of the PDA included in the PEOLA will transfer to the QBCC operational functions for plumbing and drainage (including functions for licensing, compliance and disciplinary action relating to plumbers and drainers) that the Plumbing Industry Council (PIC) currently performs under the PDA. They will also transfer to the QBCC functions of an operational nature relating to plumbing and drainage that the Chief Executive and other officers of the department currently perform under the PDA.

Amendments in the PEOLA will insert new provisions into the QBCC Act allowing for the internal review of decisions of the QBCC. The PEOLA omits current provisions in the BA and PDA that allow for particular decisions under those Acts to be reviewed by the Queensland Civil and Administrative Tribunal (QCAT) and makes those decisions reviewable decisions under the new QBCC review provisions.

Provisions included in a number of regulations will complement the amendments in the PEOLA. Those regulations include the *Building and Other Legislation Amendment Regulation (No. 1) 2014*, the *Building (Transitional) Regulation 2014*, the *Plumbing and Drainage (Transitional) Regulation 2014* and the subject of these explanatory notes, namely the *Queensland Building and Construction Commission (Transfer) Regulation 2014* (the Transfer Regulation).

The reforms included in the PEOLA and the regulations mentioned above are expected to produce a range of benefits, including a reduction in red tape and the costs of administering the functions transferred to the QBCC.

This main objective of the Transfer Regulation is to provide for the transfer of particular employees of the department to the QBCC. The employees to be transferred are departmental employees performing the functions to be transferred to the QBCC.

## **Achievement of policy objectives**

The Transfer Regulation provides for the transfer to the QBCC of the departmental employees who carry out the operational functions mentioned above. It also:

- provides for the transfer to the QBCC of the liabilities of the State relating to each transferring employee's accrued rights to annual, sick, long service or other leave and superannuation;
- provides for the transfer to the QBCC of the departmental records relating to each transferring employee;
- requires a legal proceeding involving a transferring employee that is being, or may be, taken by or against the department to be continued or taken by or against the QBCC; and
- determines the particular industrial instrument that will apply to the transferred employees.

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

The Transfer Regulation is consistent with the objectives of the QBCC Act.

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

The Transfer Regulation is consistent with the policy objectives of other legislation, including the BA and the PDA.

## **Benefits and costs of implementation**

The Transfer Regulation forms part of a stage of related legislative reforms to the building and construction industry. As a result of the reforms, construction industry practitioners, including pool safety inspectors and plumbers, will have a 'one-stop-shop' for their licensing needs in the QBCC. Licensees will be able to apply to a single regulator for both their occupational and contractor licences. The community will also benefit from having a consistent and experienced arbiter of issues relating to the conduct of construction, pool safety and plumbing licensees.

The new provisions will also help to reduce the Government's administration costs. By co-locating and combining the licensing and compliance functions of the PSC, the PIC and the Chief Executive with similar functions of the QBCC, the QBCC will be able to identify and implement efficiencies in its administrative processes. It is anticipated that this will result in quicker and more convenient processing of applications and complaints.

The transfer of particular departmental employees to the QBCC under the Transfer Regulation will not result in any significant changes to their terms and conditions of employment, rights and entitlements.

## **Consistency with fundamental legislative principles**

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

## **Consultation**

When inquiring into the operation and performance of the former QBSA, the Transport, Housing and Local Government Committee consulted with key industry groups including home builders and building contractors, industry participants and relevant experts. The Committee widely advertised its inquiry and received and considered 109 submissions. It received a public briefing from eight witnesses representing industry and government organisations. It also held a public hearing at which it heard from 34 witnesses, including home owners and their representatives, builders, tradespeople and their representatives, academics, lawyers and officers from the former QBSA.

To assist in informing the Minister's response to Parliament, KPMG was engaged to undertake consultation with industry, licensees/builders, consumer groups and individual consumers in Brisbane, Gold Coast, Townsville and Rockhampton.

Consultation on the PEOLA was undertaken with the QBCC, the Department of the Premier and Cabinet, Queensland Treasury and Trade and the Department of Justice and Attorney-General. These agencies indicated their support for the proposed amendments included in the PEOLA and related provisions included in regulations.