

Queensland Building and Construction Commission and Another Regulation Amendment Regulation (No.1) 2014

Explanatory Notes for SL 2014 No. 309

made under the

Professional Engineers Act 2002

Queensland Building and Construction Commission Act 1991

General Outline

Short Title

Queensland Building and Construction Commission and Another Regulation Amendment Regulation (No.1) 2014

Authorising law

Section 144 of the *Professional Engineers Act 2002* (PE Act)

Section 39 and 116 *Queensland Building and Construction Commission Act 1991* (QBCC Act)

Policy objectives and the reasons for them

Amendments to the Queensland Building and Construction Commission Regulation 2003

Three Year Licence Fees:

The *Queensland Building and Construction Commission and Other Legislation Amendment Act 2014* (Amendment Act) inserts a new section 37 into the QBCC Act which allows an applicant for a contractor's licence, a nominee supervisor's licence, a site supervisor's licence or a fire protection occupational licence to choose to renew their licence for a period of either 1 or 3 years. It is therefore proposed to amend the *Queensland Building and Construction Commission Regulation 2003* (QBCC Regulation) to prescribe fees for circumstances where contractors and nominee supervisors choose to renew their licences for three years.

The current fees for 3 year renewal options for site supervisors and fire protection occupational licences provides a 15% discount for licensees who take up the 3 year licence renewal options and this discount will also apply for contractors and nominee supervisors.

Fee for Restoration of Licence:

The Amendment Act inserts a new section 39 into the QBCC Act which provides that a licensee may request that the Queensland Building and Construction Commission (QBCC) restore a licence and requires the QBCC to restore the licence if the request is made within 3 months of the licence being cancelled and is accompanied by the prescribed fee.

This regulation therefore amends Schedule 1 of the QBCC Regulation to introduce a new fee for the restoration of a licence. This will mean that the total cost to restore a licence will be the cost of the renewal plus the new restoration fee.

Insurance of building work carried out on residential parks:

Under the QBCC Act, the QBCC administers a statutory insurance scheme for residential construction work (Scheme). The Scheme covers homeowners for loss suffered in the event of a contractor failing to complete a contract for residential construction work or carrying out defective residential construction work. Residential construction work is defined in the QBCC Regulation and includes the construction of a residence and other prescribed building work for a residence.

The QBCC Regulation excludes a manufactured home from the definition of "residence". A manufactured home is defined in the QBCC Regulation by reference to the definition of the term in the *Manufactured Homes (Residential Parks) Act 2003*, which provides that a manufactured home is a structure, other than a caravan or tent, that has the character of a dwelling house, is designed to be able to be moved from one position to another and is not permanently attached to land.

This regulation amends the QBCC Regulation to remove ambiguity as to the types of work on a residential park that are to be insured under the Scheme. The ambiguity has arisen due to changes in construction methods over the years resulting in some residential buildings on residential parks being the subject of uncertainty from a technical construction perspective as to whether they satisfy the legislative definition of a "manufactured home".

Under the Amendment Act all manufactured homes are to be insured as a residence under the Scheme. It is acknowledged that the amendment in this regulation is inconsistent with this long term policy position to be implemented by the Amendment Act. However, given that the relevant amendment to the QBCC Act has not yet commenced, this regulation amendment is considered appropriate given the immediate need to address the operational, business and consumer protection uncertainty that the current regulation provisions are causing to industry, consumers and the regulator.

The amendment in this regulation means that, until the commencement of the relevant provisions of the Amendment Act, all building work on a residential park under the *Manufactured Homes (Residential Parks) Act 2003* will not be classified as residential construction work and will therefore not be insurable under the Scheme.

Amendments to the Professional Engineers Regulation 2003

Previously the PE Act only provided for the registration of practising professional engineers. However, following its amendment on 10 November 2014, the PE Act now provides for the registration of non-practising professional engineers.

The new category of registration allows retired engineers and engineers on maternity leave or other career breaks to maintain their registration and title and not be subject to the continuing registration requirements in respect of continuing professional development. Non-practising professional engineers are not entitled to offer or provide professional engineering services.

This regulation amends the *Professional Engineers Regulation 2003* (PE Regulation) to include a new registration fee for non-practising professional engineers.

Achievement of policy objectives

The policy objective is achieved by the QBCC Regulation and PE Regulation being amended to implement the policy objectives mentioned above.

Consistency with policy objectives of authorising law

The regulation is consistent with the policy objectives of the authorising law.

Inconsistency with policy objectives of other legislation

The regulation is not inconsistent with any policy objectives of any other legislation.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by making the regulation.

Benefits and costs of implementation

There are no direct financial impacts on the State arising from the proposed regulation.

Consistency with fundamental legislative principles

The regulation is consistent with fundamental legislative principles.

Consultation

Consultation was conducted with relevant stakeholders prior to the passage of the Amendment Act. All interested stakeholders had the opportunity to make submissions during that process.

The QBCC consulted with its Industry Reference Group (IRG) and Consumer Reference Group (CRG), which contains representatives from key stakeholder organisations, on the proposed fee for the restoration of a licence. The IRG and CRG support the new fee.