

Queensland Building and Construction Commission Amendment Regulation (No. 1) 2015

Explanatory notes for SL No. 138

made under the

Queensland Building and Construction Commission Act 1991

General Outline

Short title

The *Queensland Building and Construction Commission Amendment Regulation (No. 1) 2015*.

Authorising law

Sections 19 and 116 of the *Queensland Building and Construction Commission Act 1991* (the Act).

Policy objectives and the reasons for them

The Queensland Building and Construction Board (QBC Board) is established under section 10 of the Act. A function of the QBC Board is to make and review policies governing the administration of the Act and section 19 of the Act provides that the QBC Board may make a policy governing the administration of the Act.

On 28 August 2015, the QBC Board made a new 'Minimum Financial Requirements' (MFR) policy. For the policy to have effect, section 19(3) of the Act requires that it be approved by regulation.

The new policy replaces the MFR policy made by the QBC Board on 20 June 2014.

The new policy contains changes intended to provide additional protections to minimise the incidence of contractors in the building industry becoming insolvent. These changes include:

- a requirement that a licensee make a report to the Queensland Building and Construction Commission (Commission) if its Net Tangible Asset (NTA) position ever decreases by more than 30% from its NTA position as last reported to the Commission;

- a new provision that will ensure that licensees required by law to provide an audit report or review report to the Australian Securities and Investments Commission (ASIC) or the Australian Stock Exchange (ASX) provide a copy of that report to the Commission within 30 days of providing it to ASIC or the ASX. This will ensure that the Commission receives this important financial and audit information about licensees routinely;
- new provisions clarifying the format of the financial reporting required of a licensee when the Commission has concerns that the licensee's financial circumstances may not satisfy the requirements of the policy; and
- a new provision placing more stringent disclosure requirements on accountants where they provide a licensee's financial information to the Commission based on qualified audited financial statements.

Achievement of policy objectives

The regulation will achieve the objectives by amending the *Queensland Building and Construction Commission Regulation 2003* to approve the new MFR policy of the QBC Board and by stipulating transitional arrangements for the application of the new MFR policy.

Consistency with policy objectives of authorising law

The regulation is consistent with its authorising Act.

Inconsistency with policy objectives of other legislation

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

Alternative ways of achieving policy objectives

The regulation is the only effective means of achieving the policy objectives.

Benefits and costs of implementation

The regulation does not impose any appreciable costs on government or the community.

Consistency with fundamental legislative principles

The regulation is consistent with the fundamental legislative principles set out in the *Legislative Standards Act 1992*.

Consultation

The Commission consulted its Industry Reference Group and Consumer Reference Group respectively about the proposed new policy. These groups consist of major industry and consumer stakeholders such as the Master Builders Association, Australian Institute of

Building Surveyors, Queensland Law Society, Insurance Council of Australia, Queensland Consumers Association and the Housing Industry Association.

All parties consulted supported the proposed new policy.