

# Queensland Building and Construction Commission (Calculation of Insurable Value) Amendment Regulation 2016

Explanatory notes for SL 2016 No. 222

made under the

*Queensland Building and Construction Commission Act 1991*

## General Outline

### Short title

*Queensland Building and Construction Commission (Calculation of Insurable Value) Amendment Regulation 2016*

### Authorising law

Sections 68D (5) and 116 of the *Queensland Building and Construction Commission Act 1991* (QBCC Act).

### Policy objectives and the reasons for them

The objective of the Queensland Building and Construction Commission (Calculation of Insurable Value) Amendment Regulation 2016 (Amendment Regulation) is to amend the Queensland Building and Construction Commission Regulation 2003 (QBCC Regulation) to change the way in which the notional pricing provisions of the Queensland Home Warranty Scheme (Scheme) apply to work relating to common property in multiple dwellings and duplexes.

The notional pricing provisions for work on common property in multiple dwellings and duplexes, set out in sections 26F and 26G of the QBCC Regulation, apply a method for calculating premiums which results in a higher premium and also a higher level of cover than for equivalent work on a single detached dwelling.

Amendments to the Scheme set out in the *Queensland Building and Construction Commission and Other Legislation Amendment Act 2014* (QBCCOLA Act) commenced on 28 October 2016. In particular, these amendments expanded the scope of the Scheme to include building work within the 'building envelope' of a residence or related roofed building as primary insurable work. Furthermore, the *Queensland Building and Construction Commission and Other Legislation Amendment Regulation (No. 2) 2016* (QBCCOLA Regulation), which also commenced on 28 October 2016, had the effect

that building work (valued over \$3,300) for the renovation, alteration, extension, improvement or repair of the 'building envelope' for a residence or related roofed building is also primary insurable work. Broadly, these amendments include building work, in or on the 'building envelope', as primary insurable work. This had the effect of including work such as painting a residence or related roofed building as primary insurable work.

Due to the expansion of the scope of the Scheme from 28 October 2016, newly covered work in or on the building envelope attracts notional pricing in certain circumstances. The intention of the Amendment Regulation is to exclude this newly covered work from the notional pricing provisions which apply to common property for multiple dwellings and duplexes.

These amendments are not, however, intended to affect the situation where the contracted work comprises work newly covered as well as work which was previously covered under the Scheme (as 'primary building work') if the conditions for notional pricing would have been satisfied prior to this Amendment Regulation. Notional pricing will continue to apply in such a case.

The Amendment Regulation will also correct a typographical error in the numbering of the division headings within part 4 of schedule 2C of the QBCC Regulation.

## **Achievement of policy objectives**

The Amendment Regulation introduces the definitions 'primary building work' and 'relevant work' which are based on previous section 11 of the QBCC Regulation. Broadly, this has the effect of setting out what was 'primary building work' covered by the Scheme prior to 28 October 2016. However, the new definitions:

1. make reference to a multiple dwelling or duplex, rather than a residence or related roofed building; and
2. only include work that is primary insurable work but specifically exclude painting (see previous section 11(3)(c) of the QBCC Regulation); and
3. are limited to work within the building envelope, or for the renovation, alteration, extension, improvement or repair of the building envelope or for roof guttering work, for the multiple dwelling or duplex.

Section 26HA(1) of the Amendment Regulation has the effect that the notional pricing provisions which relate to common property will only apply to 'primary building work'. This means that work for common property in or on the building envelope that was newly covered by the 28 October 2016 amendments will no longer be subject to notional pricing.

For the purposes of calculating the threshold amounts of \$5,000 and \$20,000 referred to in the notional pricing provisions, section 26HA(2) requires that work that is not primary building work be included.

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

The Amendment Regulation is consistent with the main objects of the QBCC Act and, in particular, with the objective of providing 'remedies for defective building work'. The Scheme will provide monetary assistance to consumers of residential construction work where the work is found to be defective.

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

The Amendment Regulation is consistent with the policy objectives of other State laws relating to required standards for residential construction work, for example, legislation, such as the *Building Act 1975*, which requires compliance with building codes and standards.

## **Benefits and costs of implementation**

It is anticipated that any costs incurred by the Queensland Building and Construction Commission (QBCC) in implementing the Amendment Regulation will be met through the QBCC's existing resources.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with fundamental legislative principles.

## **Consultation**

Strata Community Australia has been consulted and support the approach taken.