

Queensland Building and Construction Commission Regulation 2018

Explanatory notes for Subordinate Legislation 2018 No. 138

made under the

Building Act 1975

Electrical Safety Act 2002

Queensland Building and Construction Commission Act 1991

State Penalties Enforcement Act 1999

General Outline

Short title

Queensland Building and Construction Commission Regulation 2018

Authorising law

Section 261 of the *Building Act 1975*

Section 210 of the *Electrical Safety Act 2002*

Section 116 of the *Queensland Building and Construction Commission Act 1991*

Section 165(2) of the *State Penalties Enforcement Act 1999*

Policy objectives and the reasons for them

The policy objective of the *Queensland Building and Construction Commission Regulation 2018* is to remake the *Queensland Building and Construction Commission Regulation 2003* which expires on 31 August 2018, under the provisions of section 54 of the *Statutory Instruments Act 1992*.

Section 54 of the *Statutory Instruments Act 1992* states subordinate legislation expires on 1 September first occurring after the tenth anniversary of the day of its making, unless it is sooner repealed or expires, or a regulation is made exempting it from expiry.

The *Queensland Building and Construction Commission Regulation 2003* commenced in 2003 and has been exempted from expiry since 2013 as the *Queensland Building and Construction Commission Act 1991* (QBCC Act) was undergoing review as part of the then *Building Industry Fairness (Security of Payment) Bill 2017* [now the *Building Industry Fairness (Security of Payment) Act 2017* (BIF Act)]. The BIF Act received Assent on 10 November 2017. The exemption from expiry ends on 31 August 2018 and it is proposed to remake the *Queensland Building and Construction Commission Regulation 2003* before it expires.

Accordingly, the *Queensland Building and Construction Commission Regulation 2018* will continue to support the objectives of the QBCC Act, which includes regulating the building industry to ensure the maintenance of proper standards in the building industry and to achieve a reasonable balance between the interests of building contractors and consumers.

To that end, the *Queensland Building and Construction Commission Regulation 2018* will continue to prescribe, among other things:

- licence classes, including scopes of work and qualification requirements;
- matters for owner-builder permits;
- statutory insurance scheme;
- demerit offences and demerit points;
- matters for domestic building contracts;
- fees; and
- work that is not building work.

Achievement of policy objectives

The *Queensland Building and Construction Commission Regulation 2018* will commence on 1 September 2018 and is proposed to be made in the same form as the *Queensland Building and Construction Commission Regulation 2003*, except for amendments needed to:

- make administrative updates, such as to update references; renumber sections and schedules; correct errors; update drafting style or to remove redundant transitional provisions; and
- make consequential amendments to other regulations to substitute references to the *Queensland Building and Construction Commission Regulation 2003* with references to the *Queensland Building and Construction Commission Regulation 2018*.

The *Queensland Building and Construction Commission Regulation 2018* will also make consequential amendments to the *State Penalties Enforcement Regulation 2014*. The BIF Act amended the *Plumbing and Drainage Act 2002*, the *Building Act 1975* and the QBCC Act to consolidate provisions for investigators into Part 9 of the Act. Investigators under all these Acts are now appointed under Section 104B of the Act. Consequential amendments to the *State Penalties Enforcement Regulation 2014* are therefore needed to omit references to provisions of the *Plumbing and Drainage Act 2002* which were repealed by the consolidation, and to update references to the Queensland Building and Construction Commission as the administering authority and to authorised persons appointed under Section 104B of the QBCC Act.

Consistency with policy objectives of authorising law

The *Queensland Building and Construction Commission Regulation 2018* is consistent with the policy objectives of the QBCC Act to regulate the building industry.

Inconsistency with policy objectives of other legislation

The *Queensland Building and Construction Commission Regulation 2018* is not inconsistent with the policy objectives of other legislation in Queensland.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by making the *Queensland Building and Construction Commission Regulation 2018* to replace the *Queensland Building and Construction Commission Regulation 2003* before it expires on 31 August 2018.

Benefits and costs of implementation

The State Government is not expected to incur additional costs in implementing the *Queensland Building and Construction Commission Regulation 2018*.

Consistency with fundamental legislative principles

The *Queensland Building and Construction Commission Regulation 2018* has sufficient regard to the rights and liberties of individuals and the institution of Parliament and is not inconsistent with the fundamental legislative principles under the *Legislative Standards Act 1992*.

Consultation

The Queensland Productivity Commission was consulted and determined that the proposed amendments were unlikely to result in adverse impacts on stakeholders, and that further regulatory impact analysis was not required.