

# **Building (Cladding) Amendment Regulation 2018**

Explanatory notes for Subordinate Legislation 2018 No.197

made under the

*Building Act 1975*

## **General Outline**

### **Short title**

*Building (Cladding) Amendment Regulation 2018*

### **Authorising law**

Section 261 of the *Building Act 1975*

### **Policy objectives and the reasons for them**

On 1 October 2018, the *Building and Other Legislation (Cladding) Amendment Regulation 2018* (Cladding Regulation) amended the *Building Regulation 2006* by introducing Part 4A to assist in determining the extent of the use of potentially combustible cladding on existing private buildings in Queensland and raise awareness with building owners of the risks associated with the potentially combustible cladding.

This aim of Part 4A is achieved by compelling owners of buildings considered 'in-scope' to complete an online checklist to identify which buildings are affected by combustible cladding. The checklist is a three-stage process, managed through an online system, for building owners to identify whether their building has combustible cladding:

- Part 1 - register and answer generic questions about the building to determine if the building is privately owned, if it is a class 2-9 building, its approximate size and the materials used on the outside of the building (where known).
- Part 2 - engage a building industry professional to answer technical questions such as whether the building is a Type A or Type B and to confirm if the material used on the outside is potentially combustible. Building owners are able to bypass this part and move straight to Part 3 where they are aware their building has combustible cladding.
- Part 3 - engage a fire engineer to prepare a building fire safety risk assessment. This will require testing of the cladding to determine its composition, identify the type of insulation material used, the percentage of the building covered by the cladding, whether existing fire safety measures will be able to cope with the identified higher risk, whether rectification is necessary (noting that rectification options will not be

provided) and identify any risk mitigation measures should occur (such as prohibiting smoking and barbecues on balconies).

The *Building (Cladding) Amendment Regulation 2018* (Amendment Regulation) seeks to support the effective implementation of Part 4A by assisting building owners meet their obligations and assisting the Queensland Building and Construction Commission (QBCC) in enforcing compliance.

## **Achievement of policy objectives**

The QBCC is responsible for the compliance and enforcement of Part 4A of the *Building Regulation 2006*. Feedback received from the QBCC and industry stakeholders has identified minor additional amendments to the *Building Regulation 2006* to support the implementation and utility of the cladding laws. These amendments will support the effectiveness of the laws by:

- allowing for existing agent agreements to be accepted as proof of agency for meeting obligations under Part 4A of the *Building Regulation 2006*
- providing for the QBCC to issue a notice directing the building owner to complete Part 2 of the cladding checklist if it is suspected the information provided in Part 1 was misleading (this will provide consistency as a similar provision exists for issuing a notice to complete Part 3 of the cladding checklist)
- clarifying that if one co-owner has complied with provisions within Part 4A then it is taken that all owners have complied (for circumstances where there are one or more owners)

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

The Amendment Regulation is consistent with the objects of the *Building Act 1975*.

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

The Amendment Regulation is consistent with the policy objectives of other legislation.

## **Alternative ways of achieving policy objectives**

The Amendment Regulation is the only means of introducing mechanisms to support the implementation and utility of Part 4A of the *Building Regulation 2006*.

## **Benefits and costs of implementation**

The Amendment Regulation will benefit the community by supporting the effectiveness of Part 4A of the *Building Regulation 2006*.

No additional costs will be incurred. It is anticipated that there will be savings to some building owners as they will be able to use existing agent agreements.

## **Consistency with fundamental legislative principles**

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

## **Consultation**

The Department of Housing and Public Works consulted with industry stakeholders regarding the proposals in the Amendment Regulation. The stakeholders consulted were:

- Strata Community Association (Qld);
- Property Council of Australia;
- Master Builders Association Queensland;
- Housing Industry Australia;
- Australian Institute of Architects;
- National Fire Industry Association;
- Engineers Australia;
- Building Products Innovation Council;
- United Fire Fighters Union;
- Australian Institute of Architects; and
- Construction, Forestry, Maritime, Mining and Energy Union.

The Queensland Productivity Commission has confirmed that a Regulatory Impact Statement is not required for the proposal as it does not appear to result in significant adverse impacts. This is on the basis that any costs associated with the proposals will be negligible, there is stakeholder support, will promote consistency and there is potential reduction of administrative burden for stakeholders.

All industry stakeholders support the proposals to enhance the utility of the combustible cladding checklist reforms introduced in the Cladding Regulation.