

Building (Cladding) Amendment Regulation 2019

Explanatory notes for Subordinate Legislation 2019 No. 83

made under the

Building Act 1975

General Outline

Short title

Building (Cladding) Amendment Regulation 2019

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* amended the *Building Regulation 2006* (the Regulation) 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.

Part 4A of the Regulation sets out the three-part combustible cladding checklist which applies to specific building owners. The process is managed through an online system, where building owners can identify whether their building has combustible cladding:

- Part 1 - register and answer administrative questions about the building. This step had a compliance period date of 29 March 2019.
- 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 can bypass this part and move straight to Part 3A if aware their building has combustible cladding. Part 2 has a compliance period date of 29 May 2019.
- Part 3 - engage a fire engineer and complete a building fire safety risk assessment. This will require testing of the cladding. This step has two completion dates. A fire engineer to be engaged and registered by 27 August 2019 and the building fire safety risk assessment completed by 3 May 2021.

Most of building owners satisfied the requirements under Part 1 by the end of the compliance period, which gave these owners a shorter timeframe to comply with Part 2.

A significant number of requests for extensions to the Part 2 compliance period beyond 29 May 2019 have been received. In addition, submissions have been received outlining the difficulties building owners in a strata scheme have in meeting the Part 2 completion

date due to other legislative requirements which apply to bodies corporate. Submissions also noted that risk averse building industry professionals may opt to recommend a building be assessed under Part 3 to minimise risk if there is any ambiguity about the cladding product used.

Achievement of policy objectives

The *Building (Cladding) Amendment Regulation 2019* (the Amendment Regulation) achieves the policy objectives by extending the compliance period for Part 2 to the 31 July 2019 and Part 3A to the 31 October 2019. Extending the compliance period will support building owners to meet their obligations under Part 4A of the *Building Regulation 2006* (completing an assessment of the material on the external walls of their building).

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 competent completion of Part 2 and Part 3 of the Regulation.

Benefits and costs of implementation

The Amendment Regulation will benefit the community by providing additional time for affected building owners to complete Part 2 and Part 3A of the combustible cladding checklists.

Minimal costs will be incurred by Government in the implementation of the *Building (Cladding) Amendment Regulation 2019*

Consistency with fundamental legislative principles

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

Consultation

On 8 May 2019, the Ministerial Construction Council considered and endorsed a proposal) to increase compliance timeframes for Part 2 and Part 3A for two months.

In accordance with the Queensland Government Guide to Better Regulation, the Office of Best Practice Regulation was consulted in relation to the regulatory proposal and considered that no further regulatory impact analysis was required as the proposed

amendments are designed to reduce the burden of regulation and are unlikely to lead to significant adverse impacts.