

Queensland Building and Construction Commission (Mechanical Services Licences) and Other Legislation Amendment Regulation 2019

Explanatory notes for Subordinate Legislation 2019 No. 213

made under the

Queensland Building and Construction Commission Act 1991
Plumbing and Drainage Act 2018

General Outline

Short title

*Queensland Building and Construction Commission (Mechanical Services Licences)
and Other Legislation Amendment Regulation 2019*

Authorising law

Sections 30(2), 30A(3), 30B(3), new 30D(3), new 42CA and 116 of the *Queensland Building and Construction Commission Act 1991* (QBCC Act) and sections 183 (new section 30D in the QBCC Act), 186 (new section 42CA in the QBCC Act), 188, 196(k) (definition of mechanical services work) and 157 of the *Plumbing and Drainage Act 2018* (PD Act).

Policy objectives and the reasons for them

The policy objectives of the *Queensland Building and Construction Commission (Mechanical Services Licences) and Other Legislation Amendment Regulation 2019* (amendment regulation) are to:

- prescribe the technical details of the mechanical services;
- prescribe the fees applicable to the mechanical services licence; and
- prescribe certain work that is not mechanical services work.

Achievement of policy objectives

The policy objectives are achieved by prescribing for sections 30(2), 30A(3), 30B(3), 30D(3) and 116 of the QBCC Act and 183 of the PD Act, the following licence classes, associated scopes of work, and experience, managerial and technical qualification requirements for the mechanical services licence classes:

Contractor, nominee supervisor and site supervisor licence classes

- Mechanical services – medical gas
- Mechanical services –air conditioning and refrigeration (unlimited design)

- Mechanical services - air conditioning and refrigeration (limited design)
- Mechanical services – plumbing.

Occupational licence classes

- Mechanical services – medical gas
- Mechanical services – air conditioning and refrigeration
- Mechanical services – plumbing.

Further by prescribing for section:

- 186 (new 42CA) when an individual can personally carry out mechanical services work without holding a licence;
- 188 prescribing the value of work that may be performed by a permittee; and
- 196(k), work that is not included within the meaning of ‘mechanical services work’.

The amendment regulation also provides transitional provisions to enable industry to seamlessly transition to the mechanical services licence. The transitional provisions apply a staged approach to when individuals are required to hold a licence.

The following transitional arrangements have been incorporated into the amendment regulation:

- From 1 January 2020, all new entrants (individuals completing an apprenticeship after 31 December 2019), contractors and nominee supervisors should hold a mechanical service licence before performing this work;
- These individuals or companies will have a six-month period to finalise their licence applications, in which time they will be exempt from prosecution for the offence of performing unlicensed mechanical services work under the QBCC Act;
- Individuals, other than nominee supervisors and new entrants, employed by a suitably licensed contractor, can continue to perform unlicensed mechanical services work until 1 January 2022; and
- From 1 January 2022, all individuals or companies performing mechanical services work, unless exempt by law, will be required to hold a mechanical services licence for the scope of work being performed.

The amendment regulation recognises existing licensed and unlicensed individuals and companies performing mechanical services work by providing flexibility in how they may meet the licensing requirements.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the objectives of the:

- QBCC Act, which includes regulating the building industry to ensure the maintenance of proper standards in the industry; and
- PD Act, which includes establishing a licensing scheme to ensure all plumbing or drainage work, other than unregulated work, is carried out by persons who are qualified to carry out the work and reducing the risks to public health and safety.

Inconsistency with policy objectives of other legislation

The amendment regulation is consistent with the policy objectives of other legislation. It is also consistent with other State laws that regulate the carrying out of building work in a way that reduces risks to public health and safety.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by making the amendment regulation.

Benefits and costs of implementation

Regulating mechanical services work through the Queensland Building and Construction Commission (QBCC) provides a consistent regulatory framework across the building and construction industry, maintains professional standards within industry and delivers consumer protection.

The costs to implement the amendment regulation are consistent with other licences regulated by the QBCC. The costs of regulation will be funded by revenue raised from licensing fees and compliance activities and is anticipated to provide a cost-neutral result.

Implementation of the amendment regulation is not expected to incur additional costs for government departments.

QBCC licence and application fees for a mechanical services occupational licence will be the same as existing QBCC fees for fire protection occupational licence classes (for 2019-20, this is \$121.65 application fee, \$121.65 for a one-year licence, and \$310.20 for a three-year licence). Licence and application fees for a mechanical services contractor licence will vary depending on the licensee's licence category prescribed under Minimum Financial Requirements.

Workers will need to meet technical qualification requirements to be eligible for a licence, which for some may mean undertaking gap training or a full apprenticeship (noting that apprentices are exempt from the requirement to hold a licence). The cost of undertaking training will vary depending on an individual's existing skills, qualification and experience.

Consistency with fundamental legislative principles

The mechanical services licence imposes a regulatory burden on the building and construction industry. However, the amendment regulation minimises the impact of the regulatory burden by balancing the rights and liberties of existing workers and the need to provide consumer protection.

The amendment regulation:

- has sufficient regard to the institution of parliament and only contains matters appropriate to subordinate legislation; and
- is consistent with fundamental legislative principles.

Consultation

The policy objectives reflected in the amendment regulation have been informed and refined in partnership with industry and the community.

The introduction of a mechanical services licence was first raised with industry in 2017 as part of the Queensland Building Plan (QBP) consultation process. This included 15 state-wide public consultation sessions as a part of the QBP consultation, which were attended by over 1100 participants representing industry stakeholders, including peak bodies, licensees, local governments and consumers.

Feedback on the QBP, along with input from peak industry bodies, helped to develop a revised licensing model for Queensland, which was the subject of a draft regulation tabled in Queensland Parliament in October 2017. This draft regulation, which lapsed when Parliament was dissolved in late 2017, formed the basis of a regulatory impact statement (RIS) process undertaken between 6 June 2019 – 5 July 2019.

The Consultation RIS sought feedback about the adequacy and workability of the proposed technical aspects of the mechanical services licence, implementation considerations for industry and noted mechanical services licensing arrangements in other Australian jurisdictions.

The following peak bodies were consulted and assisted in refining the policy presented in the Consultation RIS and reflected in the amendment regulation:

- Air Conditioning and Mechanical Contractors Association of Queensland
- Australian Manufacturing Workers Union
- Australian Refrigeration Association
- Australian Refrigeration Council
- Australian Refrigeration Mechanics Association
- Construction Skills Queensland
- Master Builders Queensland
- Master Electricians Australia
- Master Plumbers Association of Queensland
- Plumbing Union Queensland
- Queensland Building and Construction Commission
- Service Trades Council
- Services Trades Queensland
- TAFE Queensland.

The Queensland Productivity Commission was consulted throughout the RIS process.

Feedback on the Consultation RIS and from peak bodies indicated broad support for the mechanical services licensing framework and resulted in refinements to some technical aspects, namely:

- clarification to the scope of work for the mechanical services – plumbing licence relating to working with refrigerants;
- the creation of a single occupational licence for refrigeration and air-conditioning work which excludes design elements;
- addition of incidental work to the scopes of work for all licence classes;
- the introduction of experience requirements for contractor and nominee supervisor licence classes;
- inclusion of a definition for ‘refrigerant gas’; and
- creation of transitional provisions for pending licence applications, reviewable decisions not decided, and to permit existing licensees to obtain a mechanical services licence with their existing licence and six months experience in mechanical services work.