Queensland Building and Construction Commission and Other Legislation (Fire Protection Licensing) Amendment Regulation 2020

Explanatory notes for Subordinate Legislation 2020 No. 223

made under the

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

General Outline

Short title

Queensland Building and Construction Commission and Other Legislation (Fire Protection Licensing) Amendment Regulation 2020

Authorising law

Section 157 of the *Plumbing and Drainage Act 2018* (PD Act)
Section 116 of the *Queensland Building and Construction Commission Act 1991* (QBCC Act)

Policy objectives and the reasons for them

The objective of the Amendment Regulation is to provide a modernised and effective fire protection licensing framework that will strengthen the building and construction industry and further protect Queenslanders.

The Queensland Building Plan has committed the Queensland Government to investigate the rationalisation of the fire protection licensing framework, aligning licences with modern qualifications and prescribed standards.

Under the QBCC Act and PD Act, almost all fire protection work for a building or part of a building undertaken in Queensland requires a licence issued by the Queensland Building and Construction Commission (QBCC).

Regulated fire protection work includes:

- installing, restoring, repairing or maintaining fire protection equipment;
- preparing certificates, statements or records relating to the installation, restoration, repair or maintenance of fire protection equipment or stating

whether fire protection equipment meets a standard, requirement or specification;
- designing fire protection equipment; and
- inspecting or investigating to ensure compliance with the *Building Act 1975* or the Building Code of Australia in relation to fire safety.

The existing fire protection licensing framework has been in place for a long period of time. It is a complex model with many licence classes (including multiple subclasses) that relate to fire protection work with many licensees holding multiple licences. In addition, industry has raised concerns that the framework does not reflect contemporary industrial practices, creates duplication and redundant licences for individuals and companies to apply, and does not address gaps between licence requirements and genuine practices in the industry.

Providing high quality fire protection standards is crucial to ensuring the safety of occupants within buildings; evidenced by tragic events such as the fire spread at Melbourne's Lacrosse and Spencer Street buildings and loss of life at London's Grenfell Tower fire. The national 'Building Confidence' report highlighted the need for a strong regulatory framework for fire safety, including mandatory registration of fire safety practitioners and greater oversight of the installation and certification of fire safety systems.

Since 2015, consultation has occurred with industry stakeholders, including the fire protection, building, plumbing and insurance sectors and the Fire Protection Working Group (FPWG), which consisted of key stakeholders from the fire protection and building industry and the QBCC. In 2017, the Queensland Building Plan committed the Queensland Government to investigating the rationalisation of the fire protection framework. There was general agreement that the current fire protection licensing framework does not reflect contemporary industrial practices and creates unnecessary duplication in cost and complexity of licence applications for individuals and companies.

On 8 May 2019, the Ministerial Construction Council (MCC) established a Subcommittee on Fire Protection Licensing and Compliance (the Subcommittee), comprised of key industry and government stakeholders, to finalise the work of the FPWG and provide recommendations regarding a new fire protection licensing framework. The Subcommittee subsequently developed a proposed rationalised and modernised fire protection licensing framework.

Achievement of policy objectives

The Amendment Regulation introduces the new fire protection licensing framework under the Queensland Building and Construction Commission Regulation 2018 (QBCC Regulation), including amendments to classes of licence, scopes of work, key definitions and technical qualifications to address gaps between licence requirements, safety standards and current practices within industry. It streamlines the existing 25 fire protection licence classes (with 57 subclasses) to 12 fire protection licence classes (with 40 subclasses). This rationalisation is intended to reduce administrative burden

for both industry and the QBCC, while maintaining high standards of competency within the building and construction industry.

The Amendment Regulation also repeals the existing part 32 (contractor) and part 11 (occupational)—emergency procedures licence, as industry has advised that these licences no longer serve a necessary purpose. The fire safety professional licences will be retained with a revised scope of work that better reflects current industry practices.

Under the new fire protection licensing framework, there will be five licensing streams covering portables, passive, special hazards, water based and electrical fire protection. These streams allow licences with similar functions and types of work to be grouped together for simplicity.

Similar to the present framework, the new licences introduced under the Amendment Regulation are divided into subclasses based on the key definitions of 'certify', 'inspect and test', 'install' and 'maintain'. These key definitions have been revised to better reflect the new framework and the types of activities a licensee may perform under their scope of work.

The Amendment Regulation introduces several new licence classes which are proposed to address identified licensing gaps, such as two new design licences under the water-based and electrical streams. This addresses industry feedback that the design of certain fire protection elements, such as commercial sprinklers and fire detection systems, require regulation and minimum qualifications.

To address high building defect rates, the Amendment Regulation also includes three new licences under the passive fire protection stream for the installation or maintenance of aspects such as fire doors and shutters; fire collars, fire rated penetrations and fire rated joint sealings; and fire and smoke walls and ceilings. As the certification of fire dampers is not included in any of the current fire protection licences, the Amendment Regulation also includes this element under the passive fire protection stream to allow for greater oversight.

Industry has also raised that existing technical qualification requirements do not adequately reflect skills needed to undertake the scope of work for certain fire protection licences. The new fire protection licensing framework therefore includes higher qualifications that will provide a trade-based qualification to upskill current and new licensees, with transitional arrangements to minimise any impacts on existing licensees. Examples of amended qualification requirements include:

- upgrading the technical qualifications for fire detection alarm and warning systems licences;
- developing a specialised technical qualification for electrical fire protection installation and maintenance work; and
- including a number of units of competency for contractor licences covering business management and procedures, and work health and safety.

Consequential amendments are required to the Plumbing and Drainage Regulation 2019 (PD Regulation) to reflect the changes to the names of the fire protection licences under the QBCC Regulation.

Consequential amendments to the Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018 (MFR Regulation) are also needed to exempt the two new contractor design licence classes from the minimum financial requirements (MFR). This is consistent with existing exemptions, where licensees who hold another design licence under the QBCC Regulation are exempt from the MFR now provided they hold the required professional indemnity insurance.

The Amendment Regulation will commence on 1 May 2021 to allow sufficient time for industry and the regulator to prepare and enable a seamless transition to the new fire protection licensing framework.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the main objects of the QBCC Act and PD Act, that is to regulate the carrying out of building, plumbing and drainage work to ensure the maintenance of proper standards in the building industry and protect public safety.

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by amendments to the QBCC Regulation, MFR Regulation and the PD Regulation. These issues cannot be addressed administratively or by other policy means.

Benefits and costs of implementation

The Amendment Regulation will provide clarity to occupational and contractor licensees and increase their accountability in performing fire protection work.

A significant financial burden is not expected for existing or new fire protection licensees and transitional arrangements are designed to minimise any impacts for current licensees. Where possible, existing licensees will be transitioned to the applicable new licence with either no or some upskilling required within a specified period of time. However, where there are significant changes in qualifications or scopes of work, existing licences will be grandfathered. In many cases, there is also an option for licensees to access subsidised courses and have their experience and qualifications assessed through the recognition of prior learning (RPL) process.

Consistent with the current framework, it is anticipated that the implementation of the Amendment Regulation will have minimal cost impacts, as regulation and compliance activities undertaken by the QBCC will continue to be funded by licensing fees. While there will be some resource impacts on the QBCC in transitioning to a new fire protection licensing framework, fewer numbers of fire protection licence classes will result in a lower ongoing administrative burden for the QBCC and will enable a focus

on increasing capacity to manage other regulatory and business functions. In terms of licensing costs for applicants, QBCC licence and application fees relevant to the new fire protection licensing framework are also consistent with existing fire protection licensing fees.

There are new aspects of fire protection work, such as the new 'design' sub-classes for two streams, that will be regulated. This addresses industry feedback that these aspects require regulation and minimum qualifications to achieve appropriate standards of safety. Applicants will need to meet qualification requirements to be eligible for these new licences or scopes of work, which may mean undertaking additional training. The cost of undertaking this training will vary depending on an individual's existing skills, qualifications and experience.

Overall, a streamlined licensing model is expected to reduce costs for the QBCC, industry and households through lower regulatory and business costs as a result of fewer fire protection licences and a more modernised and effective licensing framework.

Consistency with fundamental legislative principles

The Amendment Regulation will generally reduce the regulatory burden on the building and construction industry through streamlining the regulation of licensees undertaking fire protection work. The regulatory burden is also offset by balancing the rights and liberties of existing licensees, the need to provide consumer protection and the right to life and safety for building occupants.

The Amendment Regulation has sufficient regard to the institution of Parliament, is consistent with the policy objectives of the authorising law and only contains matters appropriate to subordinate legislation. Therefore, the Amendment Regulation is consistent with fundamental legislative principles as outlined in the *Legislative Standards Act 1992*.

Consultation

The FPWG provided input into earlier work on a streamlined and modernised fire protection licensing framework. The FPWG was comprised of the QBCC, Master Plumbers Association Queensland (MPAQ), Australian Institute of Building Surveyors (AIBS), National Fire Industry Association (NFIA), Fire Protection Association Australia, Queensland Fire and Emergency Services (QFES), Insurance Council of Australia and Association of Wall and Ceiling Industries (AWCI). Broad public consultation also occurred during the development of the Queensland Building Plan and there was support for investigating a rationalised fire protection licensing framework.

The MCC Subcommittee built on this earlier work and refined the new model. The MCC Subcommittee is comprised of key industry stakeholders and technical experts representing various sectors of the building and construction industry including the NFIA (Chair), QBCC, Master Builders Queensland, Housing Industry Association, AWCI, MPAQ, Plumbers Union Queensland, Services Trades Queensland, QFES,

AIBS, Master Electricians Australia, Engineers Australia and Air Conditioning and Mechanical Contractors' Association. The MCC Subcommittee and the broader MCC endorsed the proposed fire protection licensing framework, as outlined in the Amendment Regulation.

MCC Subcommittee members were also consulted on the technical details of the Amendment Regulation and their feedback was reflected wherever possible, other than some particular aspects that were outside the scope of the agreed licensing framework.

The Board of Professional Engineers of Queensland, the Board of Architects of Queensland and the QBCC have been consulted and support the new framework.

The Queensland Productivity Commission was consulted and advised that no further regulatory impact assessment is required under the Queensland Government Guide to Better Regulation as the amendments appear unlikely to result in significant adverse impacts.