

# **Queensland Building and Construction Commission (Rectification of Building Work) Amendment Regulation 2021**

Explanatory notes for Subordinate Legislation 2021 No.164

made under the

*Queensland Building and Construction Commission Act 1991*

## **General Outline**

### **Short title**

*Queensland Building and Construction Commission (Rectification of Building Work) Amendment Regulation 2021*

### **Authorising law**

Sections 72 and 116 of the *Queensland Building and Construction Commission Act 1991* (QBCC Act).

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

Section 116 of the QBCC Act provides for the making of regulations under the QBCC Act.

Section 72 of the QBCC Act is a key compliance and enforcement mechanism that enables the regulator, the Queensland Building and Construction Commission (QBCC), to direct a person to rectify defective or incomplete building works within the period stated in the direction.

From 1 October 1999, section 72 of the QBCC Act required a minimum period of 28 days to be stated in a direction to rectify, unless the QBCC was satisfied there was a significant hazard, or a substantial loss might otherwise be incurred.

In 2017, section 72 of the QBCC Act was amended to provide that a regulation may prescribe the period that must be stated in the direction as the period within which the recipient is to rectify the work. This amendment automatically commenced on 11 November 2019.

The minimum 28-day period is long established and well understood within the building and construction industry. In the absence of a prescribed period, QBCC has generally continued with its long-established practice of providing 35 days for a person to rectify building work, from the day the direction is issued.

This is to allow for a minimum 28-day period for the work to be completed, while accounting for the postage and receipt of directions.

To provide greater clarity and formalise this existing timeframe, the *Queensland Building and Construction Commission (Rectification of Building Work) Amendment Regulation 2021* (Amendment Regulation) prescribes that a period of 35 days must be stated in a direction issued by QBCC. A person given a direction will continue to have the ability, under section 72B of the QBCC Act, to apply to QBCC for an extension of the period of compliance with the direction.

## **Achievement of policy objectives**

In accordance with section 72 of the QBCC Act, the Amendment Regulation makes a minor amendment to the *Queensland Building and Construction Commission Regulation 2018* to prescribe that a period of 35 days must be stated in a direction.

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

The Amendment Regulation is consistent with the objectives of the authorising Act.

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

There are no inconsistencies with the policy objectives of other legislation.

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

The policy objectives can only be achieved by making the Amendment Regulation.

## **Benefits and costs of implementation**

The proposed amendment reflects current QBCC practice and a long established and well understood timeframe within the building and construction industry.

No additional costs are expected in implementing the Amendment Regulation.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with fundamental legislative principles.

## **Consultation**

The QBCC was consulted and is supportive of the Amendment Regulation being made.

The Office of Best Practice Regulation was not consulted in relation to the Amendment Regulation. In accordance with the Queensland Government Guide to Better Regulation, the Department of Energy and Public Works applied a self-assessable exclusion from undertaking further regulatory analysis as the Amendment Regulation is of a machinery nature.