

Building and Other Legislation Amendment Regulation 2025

Explanatory notes for Subordinate Legislation 2025 No. 12

made under the

Building Act 1975

Plumbing and Drainage Act 2018

Queensland Building and Construction Commission Act 1991

General Outline

Short title

Building and Other Legislation Amendment Regulation 2025

Authorising law

Sections 13, 163 and 261 of the *Building Act 1975* (Building Act)

Section 157 of the *Plumbing and Drainage Act 2018*

Sections 30, 30A, 30B, 30C, 31, 32, 32AA, 32AB and 116 of the *Queensland Building and Construction Commission Act 1991*

Policy objectives and the reasons for them

The *Building and Other Legislation Amendment Regulation 2025* (BOLA Regulation) amends legislation to enhance confidence and productivity in the building and construction industry by reducing regulatory burden while maintaining necessary regulatory safeguards.

This is to be achieved through amendments across a range of building and construction regulations. The policy objectives of the BOLA Regulation are to:

- extend time limited provisions to recognise continuing constraints in the insurance industry and enable private building certifiers to hold professional indemnity insurance (PII) with cladding exclusions under the *Building Regulation 2021* (BR 2021)
- extend exemptions for certain narrow lots and certain pre-built dwellings from the Modern Homes standards accessibility provisions under the BR 2021
- extend an existing fee waiver (where the fee for an occupational licence is waived for holders of an associated contractor's licence) to all relevant licensees under the *Plumbing and Drainage Regulation 2019* (PDR 2019).

- reduce regulatory burden associated with the Minimum Financial Requirements by removing annual reporting for smaller, lower risk licensees (under the *Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018* (MFR Regulation 2018))
- extend the commencement of transitional passive fire protection licensing requirements under the *Queensland Building and Construction Commission Regulation 2018* (QBCC Regulation 2018)
- extend the transitional timeframes for all remaining fire protection licensing upskilling requirements.

Building Regulation 2021 – Professional indemnity insurance

Replacement of *Building Regulation 2006* (BR 2006) with *Building Regulation 2021* (BR 2021)

The BR 2006 expired on 31 August 2021 and the BR2021 commenced on 1 September 2021. The new regulation replicated and updated the obligations and requirements under the BR 2006.

Professional indemnity insurance

The *Building Act 1975* (Building Act) establishes a licensing framework for building certifiers, including building certifiers who become private certifiers. Under the Act, an individual licensed as a building certifier may perform building certifying functions and particular additional certifying functions as a private certifier only if the Queensland Building and Construction Commission (QBCC) makes a private certification endorsement (PC endorsement) on the certifier's licence.

Under the Building Act, a PC endorsement may only be made on a building certifier's licence if the certifier has the insurance for private certification prescribed under a regulation. Further, under the Act, a PC endorsement may be continued for a building certifier's licence that is renewed only if the certifier has the insurance for private certification prescribed under a regulation.

Until August 2019, the PII prescribed for private certification under the BR 2006 was required to be free of exclusions. However, in recent years, the certification profession globally has experienced difficulties in obtaining affordable exclusion-free PII. The use of combustible external cladding has contributed to these issues.

To address these issues and support industry, in August 2019, the BR 2006 was amended to allow a private building certifier to hold PII with exclusions for particular cladding-related work, for an exemption period until 30 June 2021. In 2020, this exemption period was extended until 30 June 2022 and in 2021, the BR 2006 was repealed and replaced with the BR 2021.

In 2022, the challenges faced by building certifiers in acquiring compliant and affordable PII persisted, so the exemption period was extended under the BR 2021 until 30 June 2023.

A 2022 report prepared for the then Department of Energy and Public Works on PII arrangements for building certifiers in Queensland asserted that exclusion-free policies were unlikely to be attainable and affordable beyond 2023, so the exemption period was extended under the BR 2021 for a further two years until 30 June 2025.

The Department of Housing and Public Works engaged with the key stakeholders at the end of 2024 who indicated support for extending the current exemption period for a further two years from 1 July 2025 until 30 June 2027.

The two-year extension period will provide ongoing certainty about PII provisions for certifiers, ensuring sufficient building certifiers exist to support increased construction to address the housing crisis, by ensuring buildings are safe and comply with standards. The extension will also allow for the consideration of the outcomes and recommendations of the 2025 Queensland Productivity Commission review.

Building Regulation 2021 – Extension to the Modern Homes standards exemption (adoption of an amended Queensland Development Code part)

The Modern Homes standards were introduced into the National Construction Code in 2022 requiring new houses and units to be designed and constructed to increase accessibility for everyone including older people, people with disability and families with young children.

In Queensland, the accessibility requirements commenced on 1 October 2023.

The new requirements posed potential impacts on the supply of housing in particular circumstances. For example, housing supply across an entire development that included affected lots could be delayed and smaller off-site modular dwellings yet to be installed may no longer be able to be installed and certified.

To support the transition to the new requirements, Queensland introduced transitional measures including exemptions through a new Queensland Development Code Mandatory Part 4.5 – Liveable dwellings and grading to floor wastes (QDC MP 4.5).

Included in QDC MP 4.5 is an 18-month exemption (due to expire 31 March 2025) from the accessibility standards, provided strict criteria is met. The exemption applies to certain new dwellings on narrow lots with a frontage of 12.5 metres or less, and certain pre-built small dwellings in particular circumstances, being:

- if the lots were created prior to 1 October 2023 (and in other limited circumstances) or
- if a pre-built class 1a dwellings of 55m² or less in floor area by 1 October 2023 was completed at 1 October 2023, but not yet installed.

Housing affordability and supply remain significant pressures in 2025 and allowing the exemption to lapse could potentially impact developments with affected lots as well as create material hardship for certain consumers that are yet to have a relevant pre-built dwelling installed.

The BOLA Regulation extends time limited exemptions for certain narrow lots and certain pre-built dwellings from the Modern Homes standards accessibility provisions to remove regulatory burden and support housing supply.

A further extension to the current time limited exemptions by 18 months is required, so that the exemptions end 30 September 2026, to avoid regulatory burden on industry and consumers.

Plumbing and Drainage Regulation 2019 – Occupational licence fee waiver

The *Queensland Building and Construction Commission Regulation 2018* (QBCC Regulation) prescribes the licence classes, eligibility requirements and fees payable for licences issued under the *Queensland Building and Construction Commission Act 1991* (QBCC Act).

The *Plumbing and Drainage Regulation 2019* (PD Regulation) prescribes the eligibility requirements and fees payable for licences (occupational licences) issued under the *Plumbing and Drainage Act 2018* (PD Act).

Tradespeople who perform regulated plumbing and drainage work and are contractors, must hold a relevant occupational licence issued under the PD Act concurrently with an associated contractor licence under the QBCC Act (QBCCA licence) to perform their work.

In 2019, an occupational licence fee waiver was established through the *Plumbing and Drainage (Occupational Licence Fee) Amendment Regulation 2019*.

The occupational licence fee waiver is prescribed in section 119 of the PD Regulation which provides that if a person holds both a QBCCA licence and associated occupational licence, set out in Schedule 9 of the PD Regulation, no fee is payable for the associated occupational licence.

On 1 May 2021, a new fire protection licensing framework commenced in Queensland which reduced the number of fire protection licence types and classes. Consequential amendments were made to Schedule 9 of the PD Regulation,, to link restricted water plumber—fire protection occupational licences, with associated fire protection QBCCA licences under the new fire protection licensing framework, so that the occupational licence fee waiver would apply.

However, some types of associated QBCCA licences were not captured, preventing some licensees from receiving an occupational licence fee waiver.

The BOLA Regulation proposes amendments which aim to ensure that the occupational licence fee waiver is equitably applied to all relevant licensees.

Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018 – Removing annual financial reporting requirements for individual self-certifying 1 and 2 contractor licensees

The *Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018* (the MFR Regulation) prescribes minimum financial requirements for contractor licensees. This includes annual reporting requirements, where certain financial information must be provided to the QBCC.

Under the MFR Regulation, licensees are assigned a category based on the maximum revenue they can earn in a financial year. The lowest categories are self-certifying (SC) categories which include SC1, for licensees with a maximum revenue of up to \$200,000, and SC2, for licensees with a maximum revenue of between \$200,001 and \$800,000.

Section 9 of the MFR Regulation prescribes the financial information that a contractor licensee must provide to the QBCC annually. For a category SC1 or SC2 category licensee, this is a declaration, in the approved form, about the licensee's revenue and net tangible assets.

Section 9A of the MFR Regulation prescribes that a licensee must, on or before the licensee's annual reporting day, give the commission the licensee's financial information for the most recent reporting year ending before the annual reporting day.

Consultation indicated that individual SC licensees are low risk in terms of potential financial impacts on consumers and other licensees or workers. It was also advised that historically there is limited regulatory action taken against individual SC licensees in relation to their annual reporting obligations. As a result, the QBCC collects and collates a large amount of information that is not proving to be of significant regulatory benefit.

The BOLA Regulation proposes amendments which aim to reduce the regulatory and administrative burden on approximately 50,000 individual SC category licensees, by removing the requirement for annual financial reporting to the QBCC.

Queensland Building and Construction Commission Regulation 2018 – Fire protection licensing

High quality fire protection standards are crucial to ensuring the safety of building occupants. Significant consequences can occur when fire protection work is substandard or incorrectly installed, maintained, or tested, evidenced by the 2014 Melbourne Lacrosse apartment fire and the tragic 2017 Grenfell Tower fire in London.

Queensland's fire protection licensing framework has been in place for many years. On 1 May 2021, a revised industry-led fire protection licensing framework commenced through changes to the QBCC Regulation 2018.

Passive fire protection

Changes that commenced on 1 May 2021 included:

- Creating a single 'fire protection – passive stream' licence
- Expanding the definition of 'fire protection equipment' to capture all elements of passive fire protection work – the definition now includes fire or smoke walls, fire collars, fire penetration joint and ceiling (i.e. newly regulated passive fire protection work).

Transitional arrangements were provided to support existing licensees and unlicensed workers who would require a licence (i.e. for newly regulated work) to ensure a smooth transition to the revised framework.

These transitional arrangements included that from 1 May 2025:

- Licensed builders will need a relevant fire protection licence to continue personally carrying out the work and generally directly or indirectly causing the work to be carried out or providing building work services
- Certain unlicensed workers (i.e. those carrying out relevant work for an appropriately licensed contractor prior to 1 May 2021 and who are continuing to carry out this work for an appropriately licensed contractor) will need to obtain an occupational licence to carry out this work.

The BOLA Regulation makes minor amendments to these existing transitional arrangements. Recent industry feedback has indicated that amendments are required to ensure a smooth transition to the revised framework.

All remaining upskilling requirements

Changes that commenced on 1 May 2021 included:

- reducing the number of fire protection licence types and classes
- updating qualifications to obtain a fire protection licence
- simplifying the scopes of work for each fire protection licence type.

There were three major transitional arrangements for former fire protection licence holders (i.e. those who held a fire protection licence class prior to 1 May 2021):

- 1) most licence holders were automatically moved onto the new licence classes with no additional training or further action required
- 2) some licensees need or needed to get additional qualifications to ensure that their skills are up to date and in line with contemporary fire protection practices. Specific deadlines were provided for upskilling requirements
- 3) the remaining licences were made 'continuing licence classes', meaning that licensees may continue to hold and renew their licence under the former framework as long as they satisfy all renewal requirements. However, these licences are no longer issued to new applicants.

In relation to the transitional cohort under point 2 above (i.e. those that were required to get additional qualifications as part of upskilling requirements), there are six licences which are still in a transitional period.

Most of these licences (i.e. four) have a transitional timeframe of 1 May 2025 to complete the additional qualifications. The other two licences have a transitional timeframe of 1 May 2027.

Similar to the requirements for passive fire protection above, the BOLA Regulation makes minor amendments to extend the current transitional timeframes to meet these remaining fire protection upskilling requirements to 1 May 2030.

Achievement of policy objectives

Building Regulation 2021 – Professional indemnity insurance

The BOLA Regulation achieves the key policy objectives by amending provisions in the BR 2021 dealing with the PII exemption to extend the current PII exemption period until 30 June 2027.

Additionally, by amending transitional provisions in the BR 2021 to ensure that if the PII exemption applies for a private certifier and their licence is in force on 30 June 2027, the exemption will continue to apply for the certifier after that date until the end of the 1-year period after the licence was granted or last renewed, unless the licence is earlier cancelled, suspended, amended or surrendered.

Building Regulation 2021 – Extension to the Modern Homes standards exemption (adoption of an amended Queensland Development Code part)

The exemption from compliance with the Modern Homes standards under the QDC MP 4.5 is extended by revising the exemption period in the QDC MP 4.5 and giving effect to the revised QDC part in Schedule 7 of the BR 2021.

The BOLA Regulation achieves the policy objective by extending the exemption period to 30 September 2025, which will relieve regulatory burden on industry, consumers and address housing affordability and supply pressures.

Plumbing and Drainage Regulation 2019 – Occupational licence fee waiver

The BOLA Regulation achieves the policy objective by amending the PD Regulation to ensure all relevant plumbing and drainage occupational licensees receive a fee waiver for an occupational licence where they also hold an associated QBCC contractor licence.

Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018 – Removing annual financial reporting requirements for individual self-certifying 1 and 2 contractor licensees

The BOLA Regulation achieves the policy objective by amending the MFR Regulation to remove annual financial reporting requirements for individual self-certifying 1 and 2 contractor licensees, by removing their requirements for an annual reporting day and not specifying financial information for those licensees.

This will mean approximately 50,000 licensees will no longer have the regulatory and administrative burden of annual reporting to the QBCC.

Queensland Building and Construction Commission Regulation 2018 –Fire protection licensing

The policy objectives will be achieved by amending the QBCC Regulation to extend the transitional period for licensed builders and certain unlicensed workers until 1 May 2030. It will also provide more time for certain licensees to meet upskilling requirements, with remaining fire protection licensees provided until 1 May 2030.

Extending this transitional period does not represent a policy change but is considered necessary to support industry and assist the ongoing implementation of the revised framework.

Consistency with policy objectives of authorising law

The BOLA Regulation is consistent with the policy objectives of the Building Act, PD Act and QBCC Act.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The BOLA Regulation will reduce regulatory burden on industry licensees, businesses, and consumers by:

- providing certainty and confidence for private certifiers, and the broader industry, that PII insurance requirements will remain stable for the near future
- alleviating costs and delays associated with compliance with the Modern Homes standards in limited circumstances by allowing affected lots and affected dwellings to be delivered to market
- supporting industry transition to the revised fire protection licensing framework
- reducing regulatory burden for industry by removing annual financial reporting requirements for certain QBCC licensees, providing fee waivers for more plumbing occupational licensees, and extending the existing exemption for certifier PII insurance.

Consistency with fundamental legislative principles

The BOLA Regulation has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament. It is made in accordance with the power and policy objectives of the Building Act, PD Act, QBCC Act 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

Detail regarding consultation in respect to particular amendments, is outlined below.

Amendments to the Building Regulation 2021 – Professional indemnity insurance

Key stakeholders including representatives of the Australian Institute of Building Surveyors, Royal Institution of Chartered Surveyors, Housing Industry Association, Master Builders Queensland and the QBCC were consulted on, and support, the proposed amendments.

Amendments to the Building Regulation 2021 – Extension to the Modern Homes standards exemption (adoption of an amended Queensland Development Code part)

Targeted industry consultation was undertaken on the proposed amendment to the QDC with key industry stakeholders, who did not raise any concerns with the proposed extension, noting its limited scope. These stakeholders included:

- Local Government Association of Queensland,
- Master Builders Association Queensland,
- Housing Industry Association,
- Urban Development Institute of Australia, and
- Margaret Ward, Australian Network for Universal Housing.

Amendments to the Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018 - Removing annual financial reporting requirements for individual self-certifying 1 and 2 contractor licensees

Targeted consultation was undertaken on the proposed amendments to remove annual financial reporting requirements for individual self-certifying 1 and 2 contractor licensees with the QBCC. No concerns were raised.

Amendments to the Queensland Building and Construction Commission Regulation 2018 – Fire protection licensing

Changes to the fire protection licensing framework in 2021 were industry-led and developed by a committee of representatives from fire protection, plumbing, building, electrical and engineering sectors.

Building industry stakeholders including the Association of Wall and Ceiling Industries (the peak body covering passive fire protection employers), the Construction, Forestry, Maritime, Mining and Energy Union, Master Builders Queensland (head contractor perspective), Master Plumbers' Association of Queensland (with plumbers also able to undertake fire protection work) and other key industry stakeholders were consulted about the transitional requirements for fire protection licensing.