

DRAFT SECOND READING SPEECH

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Building Legislation (Miscellaneous Amendments) Bill 2018

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Madam Speaker, the *Building Legislation (Miscellaneous Amendments) Bill 2018* contains non-controversial and minor amendments that update and clarify the following six Acts and Regulations that form part of the Tasmanian Building Framework:

- *Building Act 2016*;
- *Occupational Licensing Act 2005*;
- *Building Regulations 2016*;
- *Occupational Licensing (Building Services Work) Regulations 2016*;
- *Residential Building Work Contracts and Dispute Resolution Regulations 2016*; and
- *Urban Drainage (General) Regulations 2016*.

The building framework was thoroughly reviewed between 2014 and 2016, resulting in the introduction of nation-leading reforms on 1 January 2017, which make it faster, fairer, simpler and cheaper to build in Tasmania.

The reforms have reduced unnecessary red tape and ensure that the level of regulatory oversight for building work matches the risk to public health and safety.

Since the commencement of the reforms, the Director of Building Control has regularly consulted with stakeholders who deal with the legislative framework on a daily basis, including owners, licensees, practitioners, building surveyors, industry associations and Local Councils.

Accordingly, this amendment Bill is the result of the Government continuing to engage with its stakeholders to streamline processes and to clarify any existing legislative requirements that are unclear.

These amendments also strengthen the current approval arrangements and avoid unintended delays.

I will now outline the reasons for the amendments to the *Building Act 2016*.

The Bill amends the definition of “owner” under section 4(1) of the Act, to clarify that where an occupier or tenant of a building has contractually entered into an arrangement for building work, they are deemed to be the “owner” in relation to any defective work that arises as a result.

This will prevent property owners being held responsible for incomplete or defective work undertaken by a tenant or occupier of a premises who is responsible for the work being carried out.

The Bill amends the relevant provisions of the Act to allow for designs that are substantially complete to still be approved following a change to the law, to prevent costly and unnecessary amendments of designs.

There have been occasions where an owner has paid an architect or engineer for plans that meet the current building regulations, only to have them rejected at the final approval stage simply because a requirement, standard or determination was updated or changed during that time.

Whether it is a change to the National Construction Code, regulation requirement or a Determination made by the Director of Building Control, which are updated as required, if there had been substantial progress made on design prior to change coming into effect, the Bill allows for building surveyors to assess the design as compliant.

A further change relates to the flooding and widespread damage to buildings in Hobart on 11 May this year.

Following this event, a very sensible suggestion was made by industry that “like for like” repairs and replacement of damaged components should be excluded from the type of work that requires an owner to upgrade the building to current Building Code standards.

Upgrading the entire building in this scenario would be an unexpected impost on owners already hit with hefty repair costs.

The Bill addresses this issue by amending section 53 of the Act, allowing for repairs using similar components to return a building to its former condition in the event of flood, fire, wind or storm damage, without the need to upgrade the building in its entirety.

The *Building Act 2016* introduced a requirement for the responsible builder or plumber to issue the owner with a 'Standard of Work Certificate', stating that all work is complete and compliant with the National Construction Code, which must be lodged with Council prior to obtaining the Certificate of Completion.

However, in the event that the responsible person is not able to, or refuses to, issue a Standard of Work Certificate, including if the responsible person for the work has died, disappeared or refuses to supply the certificate due to a dispute, owners are prevented from obtaining the Certificate of Completion, which is the important final step needed to legally finish the construction.

The changes will allow owners to apply to have the completed work inspected by the building surveyor in order to obtain the Certificate of Completion and finalise the construction process.

The Bill also clarifies arrangements in the Act regarding extensions of approvals granted to perform work.

Under the current arrangements, owners or builders requiring extra time to complete a project need to apply for an extension to the council or building surveyor, before their permit or certificate expires.

To provide greater flexibility and prevent unnecessary costs, the Director of Building Control now has the ability to make a determination as to when an expired permit can be extended, rather than requiring applicants to re-apply and pay for a new building or plumbing permit for work that is already underway.

The amendment also ensures that if an application for extension has been made, the permit will not expire before a renewal of the approval has been granted.

The Bill rectifies an omission in the *Building Act 2016*, by adding clarity on the role of Function Control Authorities that license and regulate certain commercial premises, such as schools, hospitals, primary produce processing and liquor stores.

The amendments reinstate the provisions relating to function control authorities under the previous legislation, regarding their functions and interactions with building surveyors, including the ability to comment on proposed building designs.

The Bill also makes a number of minor administrative amendments, including the removal the unnecessary references to “prescribed fees” of which there are none under the Building Act (rather fees for services provided by councils are regulated under the *Local Government Act 1993*), and clarify the references to the Supreme and Magistrates Courts in relation to court orders, to remove any ambiguity and improve the operation of the Act.

Madam Speaker, there are a number of changes made to the *Occupational Licensing Act 2005*.

When the Occupational Licensing Act was amended in 2016 as part of the building reforms, the rights of owner builders to construct their own home were preserved.

However the only type of building that can be constructed under an owner builder permit is a Class I building, which is a house.

Further feedback to the Director of Building Control by owner builders has highlighted that there is some uncertainty as to whether outbuildings associated with a dwelling could be included on the same owner builder permit issued for that dwelling.

The Bill provides for the Administrator of Occupational Licensing to make a detailed Determination as to the specific types of buildings or building work that require an owner builder permit, and the particular types of Low Risk Work that must be constructed by a licensed builder.

This will provide greater clarity as to what work owners can and cannot undertake.

By allowing the Director to make a determination on this matter, the much needed clarity can be provided in a consistent manner with the rest of the Act.

Madam Speaker, I can assure you that there is no intent to allow owner builders to construct commercial buildings, or change the number of owner builder projects can undertake in a ten year period.

The removal of the monetary value limit of \$20,000 for Low Risk Work also removes the ambiguity around whether owners and competent persons are able to undertake minor “like for like” repairs for work that costs more than this amount.

A further change is the result of advice received from the Solicitor-General’s Office regarding the operation of section 37B of the Act. Further clarity is accordingly being added to provide

the Administrator with clearer guidance as to which circumstances are taken into account before a licence application may be refused.

This Bill amends all similar licence application provisions in the Occupational Licensing Act, to provide for greater certainty and consistency in licensing decision making.

In response to feedback received from industry, minor amendments have also been made to clarify the entity licensing provisions.

These amendments have been made to avoid unnecessary licensing duplications and costs for companies, partnerships or councils, where an individual carrying out the prescribed work already holds the necessary licence.

The remainder of the changes in this Bill are to correct minor errors, update references to legislation or to clarify definitions of the terms used.

Madam Speaker, these improvements to our nation-leading building reforms reflects this Government's on-going commitment to meeting the needs of the building industry, local government and building owners.

I commend the Bill to the House.