

DRAFT SECOND READING SPEECH

HON GUY BARNETT MP

Occupational Licensing Amendment Bill 2026

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Honourable Speaker, I move that the Bill now be read a second time.

The *Occupational Licensing Amendment Bill 2026* delivers the Government's commitment to strengthen Tasmania's licensing laws, crack down on phoenix activity, and better protect Tasmanians who are building or buying a home.

The Bill also improves the regulator's ability to take timely and effective disciplinary action against licence holders. Together, these changes reinforce Tasmania's building regulatory framework and support safer, fairer outcomes for consumers, workers and industry.

Illegal phoenixing is a concerning problem in the construction sector, which relies heavily on subcontracting and trade credit. This practice occurs when a company is liquidated to avoid debts and liabilities, only for the same individuals to start a new entity and continue trading. The result is often incomplete work, unpaid subcontractors and lost wages for employees.

While Commonwealth corporations law targets phoenixing, it does not determine who may hold a building licence, as this is regulated under state occupational licensing laws. This may allow individuals involved in repeated insolvencies to re-enter the industry unchecked. Other states have acted to close this gap, and this Bill will do the same in Tasmania.

In our State, the *Occupational Licensing Act 2005* ('the Act') regulates licencing for those involved in electrical, gas fitting, plumbing and building services work.

Currently under the Act, before issuing a building services licence, the Administrator must be satisfied an applicant has the appropriate qualifications, experience and competence.

To assist in making this decision, the Administrator may require information about their capacity, competence and fitness, including whether they have a sound and stable financial background. While this process provides some scope to take insolvency or bankruptcy history into account, it may fail to capture indirect influence and lacks strong enforcement mechanisms.

The Bill closes these gaps by making prior insolvency or phoenix-type behaviours grounds for building licence refusal or disqualification, thereby directly affecting an individual's and company's ability to operate in the sector. This will protect

Tasmanians by helping to stop harmful operators before they cause further consumer and subcontractor losses.

A consultation draft of the Bill was released on 23 January 2026 for a four-week public and targeted consultation period. Consumer Building and Occupational Services, within the Department of Justice has also consulted directly with key industry stakeholders including peak building industry bodies, Master Builders Tasmania and Housing Industry Association of Tasmania and others. I thank them for their valuable input and their support for these important reforms.

I will now go through the amendments made by the Bill, starting with the reforms to address phoenixing.

A range of categories and classes of licensed building services are regulated under the Act and so the amendments provide the ability to ensure the scope of application of the new requirements is appropriate by applying them to 'prescribed building services licences'. The list of prescribed building licence classes will be included in regulations to commence with the Bill.

The Bill introduces the following key terms –

- A 'bankruptcy event' is where someone becomes bankrupt, or they apply to take the benefit from the laws for the relief of bankruptcy.
- An 'insolvency event' occurs when a liquidator, administrator or controller is appointed to the body corporate, it is wound up or ordered to be wound up.

The approach taken is similar to that taken in other jurisdictions and revolves around the concept of an 'excluded person' for the purposes of building services licencing.

A company is an excluded person if it has experienced an insolvency event within the last 3 years, or if a director, secretary or influential person for that company is an excluded person or permanently excluded person.

The concept 'influential person' is important as it captures individuals who work behind the scenes to control or substantially influence the conduct of the organisation, such as so-called 'shadow directors'.

The Bill also deals more seriously with those involved with multiple insolvencies by providing that individuals and companies may be declared to be permanently excluded if they are involved in two separate insolvency events within a 5-year period.

Honourable Speaker, I will now outline the main consequences of being an excluded person or permanently excluded person.

Excluded persons must not be granted a prescribed building services licence during the period of exclusion, which is three years from the relevant bankruptcy or insolvency event. Permanently excluded persons are not entitled to hold prescribed building services licences.

Existing licences can be cancelled if the licensee is an excluded person or permanently excluded person. The amendments also provide that excluded persons and permanently excluded persons must not manage, contract for or carry out building services work under the authority of a licence held by another person.

The new requirements also apply to excluded persons from other jurisdictions seeking registration in Tasmania by providing excluded persons and permanently excluded persons are disqualified from holding a prescribed building services licence under deemed registration.

In response to feedback received during consultation, the Bill now provides a pathway for an individual to avoid licence exclusion if they experienced a bankruptcy or insolvency event despite having taken all reasonable steps in the circumstances to avoid it. Such a person may apply to be declared a 'permitted person'.

I stress the amendments do not fully prevent a tradesperson who may be an excluded person from working in their recognised trade. Work can still be sought as an employee of licensed building services provider.

An excluded person can also continue to contract for some work that is "low risk work" under the Building Act – which is work that is neither permit work nor notifiable work, and is nominated as low-risk work by a competent person - and that is under the \$20 000 threshold where the *Residential Building Work Contracts and Dispute Resolution Act 2016* applies.

To further protect consumers and others in the building industry, a new section 371 allows the Administrator to publish the 'relevant details' of excluded persons and permanently excluded people on a public register.

Importantly, the amendments ensure procedural fairness is provided to applicants and licensees throughout the new processes.

Written notice and the opportunity to make submissions must be provided before the Administrator takes action under the new provisions, including deciding whether a person is an excluded or permanently excluded person, cancelling a licence on those grounds, and publishing relevant details on the register.

The Administrator's decisions are also subject to both internal review and appeal to the Tasmanian Civil and Administrative Appeals Tribunal.

A number of offences support the new requirements. For example, excluded persons and permanently excluded persons are not permitted to perform notifiable or permit building work under the *Building Act 2016*, or enter into residential building work contracts under the *Residential Building Work Contracts and Dispute Resolution Act 2016*.

In the interests of fairness and certainty, any application for a licence submitted prior to commencement will be assessed and determined based on the provisions prior to the commencement. In addition, bankruptcy and insolvency events will only be

relevant to new offences and refusal and cancellation of licences if they occurred after commencement.

The Administrator is also provided with more flexibility to deal with disciplinary matters more efficiently and effectively. Under the amendments, the Administrator will be able to consider a disciplinary matter without having to refer the matter to a disciplinary panel. However, the Administrator could still convene a panel and may still refer to any expert they see fit as part of an investigation. Importantly, anyone directly affected by a decision of the Administrator retains the right to appeal to TASCAT for a review of the decision.

Honourable Speaker, these important reforms will strengthen Tasmania's building licensing system.

The reforms in the Bill will improve confidence and fairness across the sector. Consumers are better protected from projects that fail mid-construction, subcontractors are less likely to be left unpaid for completed work, and employees gain greater certainty that wages and entitlements will not disappear with an insolvent business.

In short, these changes promote a more accountable industry, reduce the burden of repeated business failures, and help ensure that only financially responsible operators hold a building licence in Tasmania.

Honourable Speaker, I commend the Bill to the House.