

FACT SHEET

Residential Building (Miscellaneous Consumer Protection Amendments) Bill 2022

The Residential Building (Miscellaneous Consumer Protection Amendments) Bill 2022 (the Bill) amends Tasmania's building regulatory framework to strengthen consumer protections, increase accountability of certain statutory office holders, and provide for streamlined dispute resolution for residential building work.

The Bill will amend the *Building Act 2016* (the Building Act), the *Building Regulations 2016* (the Building Regulations), the *Occupational Licensing Act 2005* (the Occupational Licensing Act), the *Occupational Licensing (Building Services Work) Regulations 2016*, the *Residential Building Work Contracts and Dispute Resolution Act 2016* (the Residential Building Work Act) and the *Tasmanian Civil and Administrative Tribunal Act 2020* (the TASCAT Act).

The Bill focuses on the three key themes of: enhancing the dispute resolution framework; better addressing defective building work; and improving the accountability of statutory office holders.

In relation to dispute resolution, the Bill provides:

- That residential building work disputes between consumers and building contractors under the Residential Building Work Act will be within the original jurisdiction of the recently established Tasmanian Civil and Administrative Tribunal (TASCAT) following mediation. This aligns Tasmania with other jurisdictions and provides consumers with a more timely and cost effective dispute resolution pathway.
- TASCAT has significant order making powers, including orders for:
 - the payment of monies, including for damages and restitution;
 - the payment of monies for the completion of residential building work;
 - the completion or rectification of residential building work;
 - varying or voiding terms of contract that are unjust or unconscionable; and
 - any order TASCAT considers fair or reasonable.
- To facilitate this new jurisdiction of the TASCAT, a new Civil and Consumer Stream will be established under the General Division of TASCAT.

For addressing defective work, the Bill:

- Amends the Building Act to introduce a new compliance order called a 'Defective Work Order'. This order can be issued by the building surveyor or, in certain circumstances, the Director of Building Control, where defective work is identified within 24 months post-completion.
- Amends the Building Regulations to provide an additional two mandatory notification stages. These stages are for waterproofing of wet areas; and penetrations of fire-rated construction for building classes 2 to 9. This amendment to the Building Regulations is consistent with recommendations from the Building Confidence Report, to ensure buildings are inspected at key stages to reduce the risk of defects post-construction.

Lastly, to provide for greater accountability of statutory office holders, the Bill:

- Amends the Building Act and Occupational Licensing Act to consolidate all the council, general manager and permit authority functions under the Building Act to be the responsibility of the council as a body corporate. To facilitate this, councils will be required to hold the relevant licence as a permit authority, under existing provisions of the Occupational Licensing Act. This addresses a key issue regarding the appropriateness of the regulator taking disciplinary action where the permit authority may have failed to exercise their powers or functions.
- Amends the Building Act to provide for the Minister responsible for administration of that Act to direct a permit authority to exercise any of their functions under the Building Act, if the Minister is satisfied that a permit authority has not satisfactorily performed its functions. This will resolve situations where councils decline to take prompt and appropriate action to protect consumers, residents or the public.

The Bill will commence upon a date to be proclaimed.