

## FACT SHEET

### *Building Legislation (Miscellaneous Amendments) Bill 2018*

The *Building Legislation (Miscellaneous Amendments) Bill 2018* amends the following six items of legislation 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*;
- *Urban Drainage (General) Regulations 2016*.

The Bill makes the following amendments to the *Building Act 2016*:

- Extends the range of subjects on which the Director of Building Control may make a Determination.
- Amends the definition of “owner” of premises:
  - to address the situation where an occupier or tenant has entered a building work contract. They are now deemed to be an “owner” for fulfilling their responsibilities under that contract. Otherwise, an occupier could walk away and leave the landlord to be directly responsible for fixing defects with the contracted work; and
  - to clarify that occupiers or tenants can have a contractual responsibility for the maintenance of any essential building services in the building they lease or occupy.
- Provides that if substantial progress had been made on the design of work prior to a building regulations change, that design may be assessed against the law prior to that change occurring.
- Excludes “like for like” repair work of buildings from the operation of section 53 of the Act, that would otherwise require a further upgrading of a building where any new work goes over a specific threshold. This addresses the issue when extensive repairs are required to return a building to its former condition following events such as floods, fires or wind damage.
- Provides clarity that Function Control Authorities are to be notified of proposed building work on premises they license, including private hospitals, schools, or primary produce processing facilities. In assessing an application for a Certification of Likely Compliance, the building surveyor is to consider any recommendations received from an Authority.
- Clarification that any extensions to an approval for work must be made before the current approval expires; however the Director of Building Control may make a Determination that special circumstances may apply, where an expired approval may still be accepted by the permit authority.

- Addresses the problem where the responsible person for work either is unable to, or will not, issue their Standard of Work Certificate to the owner, thereby preventing them obtaining a Certificate of Completion of that work. Examples are where the builder has died, disappeared or they refuse to give a certificate due to a dispute with the owner over payment.
- Clarification that owners need only make one application to the permit authority for all required steps needed before they can be issued with a plumbing permit.
- Allows for the permit authority to approve a schedule of maintenance that only relates to plumbing installations on the premises.
- Any references to a “prescribed fee” are omitted, as fees come under the *Local Government Act 1993*.
- Reporting Authorities are granted appeal rights against certain decisions by building surveyors.

The Bill makes the following amendments to the *Occupational Licensing Act 2005*:

- Provides a power for the Administrator of Occupational Licensing to make a determination concerning owner builder work. That includes the types of buildings or building work that require an application for an owner builder permit.
- Inserts relevant matters that the Administrator is to have taken into consideration, when a decision is made to refuse a licence application.
- Clarifies that an organisation, managing building work, does not also have to hold an “entity licence” under s.37C, where a director, partner, or employee already has a building services provider licence issued under s.22A.
- Repeals the Act’s provisions for demerit points.
- Clarifies that “demolition work” is also prescribed work that requires a licence.

The *Building Regulations 2016* is amended to:

- Provide that temporary swimming pools and their safety barriers, are structures that may need a temporary occupancy permit before their erection.
- Allow the Director of Building Control to make a determination regarding processes for the rectification of defective or non-compliant work.

The *Occupational Licensing (Building Services Work) Regulations 2016* is amended to:

- Clarify the number of owner builder permits that are permitted to be applied for in a ten year period, and when that period starts.
- Remove the monetary limit for Low Risk work of \$20,000. Instead the Director will specify the types of Low Risk Work that must be constructed by a licensed builder.

The *Residential Building Work Contracts and Dispute Resolution Regulations 2016* is amended to correct certain references to sections of the principal Act.

The *Urban Drainage (General) Regulations 2016* is amended to insert a reference to the *Building Act 2016*.