

TASMANIA

**BUILDING AMENDMENT REGULATIONS (No. 2)
2017**

STATUTORY RULES 2017, No. 104

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**BUILDING AMENDMENT REGULATIONS (No. 2)
2017**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Building Act 2016*.

Dated 19 December 2017.

C. WARNER
Governor

By Her Excellency's Command,

GUY BARNETT
Minister for Building and Construction

1. Short title

These regulations may be cited as the *Building Amendment Regulations (No. 2) 2017*.

2. Commencement

These regulations take effect on the day on which their making is notified in the *Gazette*.

3. Principal Regulations

In these regulations, the *Building Regulations 2016** are referred to as the Principal Regulations.

4. Regulation 3 amended (Interpretation)

Regulation 3(1) of the Principal Regulations is amended as follows:

- (a) by omitting the definition of *food premises* and substituting the following definition:

food premises includes a food business within the meaning of the *Food Act 2003*;

- (b) by inserting the following definition after the definition of *heating appliance*:

high risk building product means one of the following products:

- (a) an aluminium composite panel, containing a polyethylene (PE) core, which is to be used as a building cladding on –
- (i) a class 2, 3 or 9 building of 2 or more storeys; or

*S.R. 2016, No. 110

- (ii) a class 5, 6, 7 or 8 building of 3 or more storeys;
- (b) a polystyrene product used in an external insulation and finish system on –
 - (i) a class 2, 3 or 9 building of 2 or more storeys; or
 - (ii) a class 5, 6, 7 or 8 building of 3 or more storeys;

5. Regulation 8 amended (Director of Building Control may make determinations)

Regulation 8 of the Principal Regulations is amended by inserting after paragraph (i) the following paragraphs:

- (ia) whether a product or material is a high risk building product for the purposes of the Act;
- (ib) the accreditation, installation and use requirements for high risk building products;

6. Regulation 9 amended (Reporting authorities)

Regulation 9 of the Principal Regulations is amended by omitting paragraph (a) and substituting the following paragraph:

- (a) in relation to the operational suitability of fire safety requirements, the Chief Officer;

7. Regulation 24A inserted

After regulation 24 of the Principal Regulations, the following regulation is inserted in Division 1:

24A. Completion of certain low-risk building work

- (1) This regulation applies to low-risk building work that is determined by the Director of Building Control to require notification on completion.
- (2) Within a specified period after completing low-risk building work to which this regulation applies, the responsible person for the low-risk building work must notify the relevant permit authority of the following information:
 - (a) the name of the owner of the premises, and the address of the premises, where the work was performed;

- (b) the name and address of the person who performed the work and, if the person is a licensed builder, his or her licence number;
- (c) information on any notification given under Part 15 of the Act in respect of defective work discovered as part of the preparation, or performance, of the low-risk building work;
- (d) if the low-risk building work is performed by a licensed builder, evidence that the licensed builder has certified that it complies with all relevant Acts, the National Construction Code and other relevant codes and standards;
- (e) as-constructed plans of the work if specified as being necessary in the circumstances.

Penalty: Fine not exceeding 20 penalty units.

8. Regulations 26A and 26B inserted

After regulation 26 of the Principal Regulations, the following regulations are inserted in Division 1:

26A. Report of Chief Officer for certificates of likely compliance (notifiable building work)

- (1) For the purposes of section 98(1)(g) of the Act, a report from the Chief Officer is a prescribed matter to be taken into account in relation to a certificate of likely compliance (notifiable building work) if the notifiable building work proposed to be performed under that certificate involves –
 - (a) the addition, alteration or removal of fire safety requirements; or
 - (b) the non-provision of fire safety requirements in circumstances where those fire safety requirements may be required to be provided.
- (2) Subregulation (1) does not apply in respect of work relating to fire safety requirements that is determined by the Director of Building Control to be minor in nature.
- (3) A building surveyor who receives an application for a certificate of likely compliance (notifiable building work) in respect of which a report is required under subregulation (1) is to submit to the Chief Officer within the specified period –
 - (a) a written request, in an approved form, for the report; and

- (b) any relevant drawings, specifications or other documents that relate to the relevant work.
- (4) On receipt of a written request under subregulation (3) in respect of proposed notifiable building work, the Chief Officer is to prepare a report, in an approved form, that –
- (a) states, in the opinion of the Chief Officer, whether or not each deemed-to-satisfy solution that –
 - (i) is to be used as part of the proposed work; and
 - (ii) relates to the operational suitability of fire safety requirements –

is satisfactory to meet the relevant performance requirements of the National Construction Code; and
 - (b) may state, in the opinion of the Chief Officer, whether or not each performance solution that –
 - (i) is to be used as part of the proposed work; and
 - (ii) relates to the operational suitability of fire safety requirements –

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- is satisfactory to meet the relevant performance requirements of the National Construction Code; and
- (c) states whether an evacuation plan is required under the *General Fire Regulations 2010* in respect of the proposed notifiable building work or the premises where the work is to be performed; and
 - (d) specifies all additional documents or information sought by the Chief Officer, as part of preparing the report, from the relevant building surveyor or responsible person; and
 - (e) includes copies of all additional documents or information obtained by the Chief Officer, as part of preparing the report, from the relevant building surveyor or responsible person.
- (5) For the purposes of this regulation, a variation of an application for a certificate of likely compliance (notifiable building work) to which subregulation (1) applies is an application to which this regulation applies, including a variation as a result of a report provided by the Chief Officer under this regulation.

26B. Report of environmental health officer for certificates of likely compliance (notifiable building work)

- (1) For the purposes of section 98(1)(g) of the Act, a report from an environmental health officer is a prescribed matter to be taken into account in relation to a certificate of likely compliance (notifiable building work) if the notifiable building work proposed to be performed under that certificate is to be performed in respect of food premises or proposed food premises.
- (2) Subregulation (1) does not apply in respect of notifiable building work that is determined by the Director of Building Control to be minor in nature.
- (3) A building surveyor who receives an application for a certificate of likely compliance (notifiable building work) in respect of which a report is required under subregulation (1) is to submit to the environmental health officer within the specified period –
 - (a) a written request, in an approved form, for the report; and
 - (b) details of the nature of the foods intended to be prepared, and the types of manufacturing processes intended to be undertaken, on the premises; and

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- (c) if the application for a certificate of likely compliance (notifiable building work) included a copy of a Food Premises Verification Analysis, 3 copies of the Analysis; and
 - (d) any relevant drawings, specifications or other documents that relate to the relevant work.
- (4) On receipt of a written request under subregulation (3) in respect of proposed notifiable building work, the environmental health officer is to prepare a report, in an approved form, that –
 - (a) states, in the opinion of the environmental health officer, whether or not each deemed-to-satisfy solution to be used as part of the proposed work is satisfactory to meet the relevant performance requirements of the National Construction Code; and
 - (b) may state, in the opinion of the environmental health officer, whether or not each performance solution to be used as part of the proposed work is satisfactory to meet the relevant performance requirements of the National Construction Code; and

- (c) specifies all additional documents or information sought by the environmental health officer, as part of preparing the report, from the relevant building surveyor or responsible person; and
 - (d) includes copies of all additional documents or information obtained by the environmental health officer, as part of preparing the report, from the relevant building surveyor or responsible person.
- (5) If an environmental health officer intends to recommend in a report under this regulation, in respect of a certificate of likely compliance (notifiable building work) that a food premises deemed-to-satisfy provision of the National Construction Code be altered in respect of the proposed building work, the environmental health officer –
 - (a) if a Food Premises Verification Analysis has not been submitted as part of the application, must undertake a Food Premises Verification Analysis; and
 - (b) is to attach 2 copies of the Analysis to the report.
- (6) For the purposes of section 98(3)(c) of the Act, notifiable building work that

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requires a report of an environmental health officer by virtue of this regulation does not comply with the Act if the relevant environmental health officer has stated in that report that the proposed notifiable building work may result in a food safety risk of public significance.

9. Regulation 27 amended (Required report from Chief Officer for certificates of likely compliance (permit building work))

Regulation 27 of the Principal Regulations is amended as follows:

(a) by inserting the following subregulation after subregulation (1):

(1A) Subregulation (1) does not apply in respect of proposed permit building work that is determined by the Director of Building Control to be minor in nature.

(b) by omitting paragraph (a) from subregulation (4) and substituting the following paragraphs:

(a) states, in the opinion of the Chief Officer, whether or not the operational suitability of each deemed-to-satisfy solution that –

(i) is to be used as part of the proposed work; and

- (ii) relates to the provision or non-provision of fire safety requirements –

is satisfactory to meet the relevant performance requirements of the National Construction Code; and

- (ab) may state, in the opinion of the Chief Officer, whether or not the operational suitability of each performance solution that –

- (i) is to be used as part of the proposed work; and

- (ii) relates to the provision or non-provision of fire safety requirements –

is satisfactory to meet the relevant performance requirements of the National Construction Code; and

10. Regulation 28 amended (Required report from environmental health officer for certificates of likely compliance (permit building work))

Regulation 28 of the Principal Regulations is amended as follows:

- (a) by inserting the following subregulation after subregulation (1):

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- (1A) Subregulation (1) does not apply in respect of proposed permit building work that is determined by the Director of Building Control to be minor in nature.
- (b) by omitting paragraph (a) from subregulation (3) and substituting the following paragraphs:
 - (a) states, in the opinion of the environmental health officer, whether or not each deemed-to-satisfy solution to be used as part of the proposed work is satisfactory to meet the relevant performance requirements of the National Construction Code; and
 - (ab) may state, in the opinion of the environmental health officer, whether or not each performance solution to be used as part of the proposed work is satisfactory to meet the relevant performance requirements of the National Construction Code; and

11. Regulation 30A inserted

After regulation 30 of the Principal Regulations, the following regulation is inserted in Division 1:

30A. High risk building products

- (1) A person must not use a high risk building product as part of building work unless the product is accredited for that use under section 18 of the Act.

Penalty: In the case of –

- (a) a natural person, a fine not exceeding 75 penalty units; or
 - (b) a body corporate, a fine not exceeding 150 penalty units.
- (2) For the avoidance of doubt, a high risk building product is not accredited for the purposes of subregulation (1) solely on the basis that the product complies with –
- (a) the assessment methods specified for the product in Part A0.5 of the National Construction Code; or
 - (b) the performance requirements, or deemed-to-satisfy provisions, of the National Construction Code in respect of product.

12. Regulation 37 amended (Installation of on-site wastewater management systems)

Regulation 37(4) of the Principal Regulations is amended by omitting “that treats trade waste so that the waste, or end-product of the system,”

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and substituting “so that the waste or end product, of the system”.

13. Regulation 65 amended (Occupancy permit required)

Regulation 65 of the Principal Regulations is amended by omitting paragraph (g) and substituting the following paragraph:

- (g) Class 7 buildings, other than a Class 7b building that was constructed as low-risk work and is a specified farm shed;

14. Regulation 67 amended (Required report for occupancy permit)

Regulation 67 of the Principal Regulations is amended as follows:

- (a) by omitting paragraph (a) from subregulation (5) and substituting the following paragraph:
 - (a) as to the operation suitability of the fire safety requirements installed in the building to which the report relates; and
- (b) by inserting the following subregulation after subregulation (5):
 - (5A) A required report by the Chief Officer under this regulation may also include a statement as to whether or not the fire safety

requirements installed in the building to which the report relates are sufficient for the proposed occupation of the building.

15. Regulation 75 amended (Maintenance of automatic control devices)

Regulation 75 of the Principal Regulations is amended as follows:

- (a) by omitting from subregulation (1) “plumbing work” and substituting “a plumbing installation installed as part of permit plumbing work”;
- (b) by inserting in subregulation (2) “to which subregulation (1) applies” after “similar device,”.

16. Regulation 76A inserted

After regulation 76 of the Principal Regulations, the following regulation is inserted in Part 7:

76A. Records of maintenance to be kept

- (1) The owner of premises must keep any records in relation to the maintenance of the premises, specified for section 206(5)(a) of the Act –
 - (a) for a period of not less than 10 years after the record was made; and

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- (b) in a location other than the premises to which the record relates.

Penalty: Fine not exceeding 50 penalty units.

- (2) The owner of premises must keep a copy of any records in relation to the maintenance of the premises, specified for section 206(5)(a) of the Act, on the premises to which the record relates.

Penalty: Fine not exceeding 50 penalty units.

17. Regulation 85A inserted

After regulation 85 of the Principal Regulations, the following regulation is inserted in Part 9:

85A. Fees

- (1) In this regulation –

GST has the same meaning as in the *New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

- (2) The fee for an application for the accreditation of a product under section 18 of the Act is the sum of –
- (a) the fee specified in Schedule 5A in relation to the product; and

(b) the reasonable costs of any expert advice, required by the Director of Building Control to determine the application, incurred in respect of the application.

(3) The fees specified in Schedule 5A are inclusive of GST.

18. Schedule 5 amended (Infringement Notice Offences)

Schedule 5 to the Principal Regulations is amended as follows:

(a) by inserting after item 142 the following:

142 A.	Regulation 30A(1)	2	-
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(b) by inserting after item 183 the following:

183 A.	Regulation 76A	2	-
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19. Schedule 5A inserted

After Schedule 5 to the Principal Regulations, the following Schedule is inserted:

SCHEDULE 5A – FEES

	Matter	Regulation 85A Fee units
1.	Application fee for accreditation of –	

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	Matter	Fee units
	(a) a plumbing product, or plumbing system, other than an on-site wastewater management system;	483
	(b) an on-site wastewater management system;	964
	(c) a high risk building product that is –	
	(i) an aluminium composite panel, containing a polyethylene (PE) core, which is to be used as a building cladding; or	1 290
	(ii) a polystyrene product used in an external insulation and finish system	1 290

20. Schedule 6 amended (Savings and transitional provisions)

Clause 3 of Schedule 6 to the Principal Regulations is amended by omitting subclause (3) and substituting the following subclause:

- (3) For the purposes of the provisions of the *Building Regulations 2014* that remain in force by virtue of subclause (2) –

building work in a bushfire-prone area means –

- (a) the erection, re-erection or construction of a new building; and
- (b) an addition to, or alteration of, an existing building; and
- (c) a change in the class of a building from a non-residential class of building to a residential class –

but does not include the following:
 - (d) any work where the BAL has been assessed as BAL-Low unless the building use is a vulnerable use;
 - (e) demolition or removal of a building, or part of a building, unless that work would expose a habitable building to a higher bushfire attack level from embers or radiant heat;
 - (f) erection of a non-habitable building (Class 10a) that is separated from a habitable building by 6 metres or more;
 - (g) erection of a structure (Class 10b);

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- (h) internal building work;
- (i) a change of use of a building unless –
 - (i) the change of use is for a building that is classed as a vulnerable use; or
 - (ii) the new use is classed as a hazardous use that requires planning approval, as hazardous chemicals or explosives will be stored on the site;
- (j) a change in the class of a building that requires a building permit for new work (but not for a vulnerable use, or a hazardous use that requires planning approval).

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 27 December 2017.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations amend the *Building Regulations 2016* by –

- (a) imposing additional requirements in respect of building materials and products that are considered high risk; and
- (b) specifying –
 - (i) notification requirements for completion of specified low-risk building work; and
 - (ii) reporting requirements for certain notifiable work; and
- (c) imposing fees payable in respect of the accreditation of products under the *Building Act 2016*; and
- (d) making other minor miscellaneous amendments.