



REFORM OF THE QBCC ACT

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Allana Agnew, an Associate in our Litigation and Insolvency team, attended a Discussion Evening held by the Building Dispute Practitioners Society in August 2014. Presenting at the Discussion Evening was the new Chairman of the Board and Commissioner of the Queensland Building and Construction Commission (“QBCC”), Steve Griffin, who spoke to attendees about the proposed reforms to the QBCC and to the Act that governs it.

The amendments to the QBCC Act (“**Amending Bill**”) were introduced to Parliament on 7 August 2014. Below are some of the key amendments proposed in the Amending Bill.

LICENSING AND FINANCIAL REPORTING REQUIREMENTS

The renewal process is being simplified and streamlined by the Amending Bill so that:

- Licences will be renewed every three years rather than 12 months, and
- Licensees will no longer be required to provide financial reports to the QBCC when renewing their licences.

The Commissioner indicated that the requirement to provide financial reports was a significant cost saving amendment for both licensees and the QBCC. However, he mentioned that the QBCC may go direct to other sources to find out whether or not licensees are in fact compliant by, for example, accessing Australian Taxation Office information.

The QBCC has amended its policy on financial requirements, commencing on 1 October 2014. That policy provides a number of changes to the previous policy, including:

- early dispute resolution for homeowners and builders by way of mediation with the QBCC acting as mediator. This avoids the current situation where contracts must be terminated or completed before the QBCC will provide assistance. Mediation will occur within 28 days of either party applying to the QBCC; and
- the introduction of an internal review process in the QBCC, before a QCAT review occurs.

STATUTORY INSURANCE SCHEME

Not to be missed are the proposed amendments to the Home Warranty Scheme. In particular, there will no longer be any stay of a decision of the QBCC while a review is being sought in QCAT. The QBCC will, notwithstanding any review proceeding, proceed to accept tenders and undertake rectification work. The Commissioner considers this change to be a ‘win’ for families who will no longer have to wait for a house with defective building work to be rectified.

We would argue the “win” for families is at the expense of builders, who may have legitimate grounds to oppose a rectification order but who will lose the opportunity to rectify where the QCAT does not accept those grounds. To give an example, we have seen instances of three different QBCC inspectors inspecting one alleged defect at different times and all reaching different conclusions

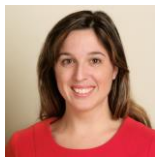
about the defect, with one inspector supporting the builder's position that there was no defect. In those circumstances, it would be reasonable for a builder to oppose a rectification order where the order is made on the basis of a single report inconsistent with other findings.

EXPECTED START DATE

The above matters are not exhaustive of the amendments to be introduced if the Amending Bill is passed by Parliament. The Commissioner seemed

hopeful the Amending Bill would pass through Parliament and commence between October and November 2014.

FOR MORE INFORMATION, PLEASE CONTACT:



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