

Fact Sheet

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Changes to the Building Regulations 2016

In response to your feedback, we've made some changes to the *Building Regulations 2016*, which will apply from 27 December 2017.

These may affect:

- Building and plumbing practitioners,
- Councils,
- Reporting Authorities, and
- Building owners.

Summary of key changes

- (a) High risk building products must be accredited by the Director of Building Control for use in Tasmania. High risk building product definition is currently limited to Aluminium Composite Panels with a polyethylene core or polystyrene sheeting used as building cladding on buildings over 2 storeys)
 - (b) We've clarified the types of low risk building work where you need to notify the council permit authority after completion;
 - (c) We have clarified these requirements: -
 - the roles and functions of Reporting Authorities such as the Tasmania Fire Service and the council's environmental health officer
 - keeping of maintenance records on essential building services
 - that alterations or additions to buildings in bushfire-prone areas don't always require a permit – the details are in the [Director's Determination](#)
 - providing that an Occupancy Permit is not required for farm sheds with an occupancy of no more than two persons.
- More details about these changes are on the following pages.

Where can I see the amendments?

- You'll be able to see the new version of the Regulations at www.legislation.tas.gov.au from the day of commencement of the changes (27/12/2017)
- You can buy a printed copy from Mercury Walch Printers by phoning 1800 030 940 or (03) 6232 2100, or email: sales@mercurywalch.com.au

Details of the Building Regulations amendments:

High Risk Building Product accreditation and application fee

Issue background

- The primary purpose of the amendment is to address future issues with fire safety in buildings where external cladding products using Aluminium Composite Panels or polystyrene sheeting may be used.
- This is part of the Tasmanian Government's response to London's Grenfell Tower fire in June 2017. The national Building Minister's Forum met following that incident and all Australian jurisdictions agreed on a range of measures to maintain public confidence in the building work approvals system and fire safety in buildings.

Government regulatory response

Section 18 of the *Building Act 2016* already allows the Director of Building Control to accredit certain building products. The amendment regulations build on this power to: -

- Define types of High Risk Building Products that need accreditation for use on commercial or public buildings, or high-rise accommodation buildings.
- Enable the Director to make a [Determination on high risk building product accreditation](#) application process and impose conditions on the use of these products.
- Using non-accredited products is prohibited and a new offence is created for non-compliance.
- Allows the Director to charge a fee for accreditation applications.

Scope of the “High Risk Building Products” provisions

“high risk building product” means:

- a) An aluminium composite panel containing a polyethylene (PE) core, which is to be:
 - i. used on a class 2, 3 or 9 building of 2 or more storeys; or
 - ii. used on a class 5, 6, 7, or 8 building of 3 or more storeys.
- b) A polystyrene cladding product, which is to be:
 - i. used on a class 2, 3 or 9 building of 2 or more storeys; or
 - ii. used on a class 5, 6, 7, or 8 building of 3 or more storeys.

What type of buildings are affected?

“Class” refers to the classification system used in the NCC. Buildings affected by these amendment regulations include all of the following: -

- Class 2 buildings (if 2 or more storeys) which are separate residential apartments, one above the other

- Class 3 (if 2 or more storeys) which are accommodation buildings such as an hotel, motel, hostel
- Class 5 (if 3 or more storeys) are offices
- Class 6 (if 3 or more storeys) are retail shops
- Class 7 (if 3 or more storeys) are warehouses or carparks
- Class 8 (if 3 or more storeys) are factories
- Class 9 (if 2 or more storeys) include schools, health care, aged care, or assembly buildings such as a cinema.

Which products are prescribed as “High Risk”?

1. Aluminium Composite Panels (ACP) refers to a sandwich panel made of three layers: A low-density non-aluminium core and a thin layer of aluminium bonded to each side of that core. Cores containing polyethylene are potentially highly flammable.
 - Some designers have favoured ACP used as cladding or building facades of commercial buildings because of its attractive appearance, easy application and low maintenance. Its use in Tasmania has been mainly limited to projects in major urban centres during the past decade.
 - Similar panels that contain a core of fire resistant materials are not affected by these regulations.
2. Polystyrene foam sheeting as external cladding on multi-storey residential apartments is also a fire safety concern. Its use on single dwellings is not affected by this change.
3. These products are only considered high risk when used in building of 2 or more storeys.

Effect on the National Construction Code (NCC) provisions

- To strengthen the operation of the product accreditation system, a High Risk Building Product can only be used if the Director has issued a Certificate of Accreditation for it.
- Any other methods in the NCC of meeting that Code’s Performance Requirements are rendered inoperative by these regulations.

Are there alternatives to using “High Risk” products?

A wide range of other traditional external cladding products (including glass, steel or masonry) can be used on these same classes of commercial buildings. They do not raise fire safety concerns and all comply with the National Construction Code.

Accreditation fee

The regulations provide for a new accreditation application fee payable by applicants (such as building product manufacturers or their distributors) to receive an accreditation certificate.

- A fee of nearly \$2,000 will be required for an application for accreditation of High Risk building products.
- Assessment of building products is a complex technical activity, involving expert assessment. The regulations therefore provide for payment of a fee for using an “expert panel” of persons that may appointed by the Director to assist in assessment of products.

Accreditation of on-site wastewater management systems has been performed for 23 years and the Department had to meet these costs. The amended regulations now allow for charging a fee for accreditation of plumbing products or systems.

Accreditation of High Risk Products Process

The accreditation process is spelled out in a new [Director's Determination - Building Product Accreditation - High Risk Building Products Dec 2017 \(pdf, 145.6 KB\)](#).

See a list of all Determinations at <http://www.justice.tas.gov.au/building/publications>.

Amendments affecting the roles of Reporting Authorities

The amendment regulations clarify the roles of Reporting Authorities (RA) in relation to Notifiable Building Work that were left unclear by the new Building Act and *Building Regulations 2016*. They referred only to reporting of Building Permit work. Therefore two key changes are:

1. to clarify that types of Notifiable Work may also require a notification to the Reporting Authority and a Report given; and
2. in relation to designs relying on Performance Solutions (formerly known as alternative solutions) reporting authorities have discretion as to whether they respond with a Report.

Changes affecting Environmental Health Officer (EHO) as a Reporting Authority

1. The definition of Food Premises is amended –
 - only work on a food business licensed under the Food Act, needs to be reported to the EHO
 - work on a Primary Produce Facility (such as seafood-processing plant, a dairy, an eggs, meat and poultry, seed sprouts etc.) instead needs to be notified to the DPIPWWE that is a Function Control Authority under the Building Act for those types of premises. See details at <http://dpipwe.tas.gov.au/biosecurity-tasmania/product-integrity/food-safety>
2. Building work affecting food premises that is categorised as Notifiable Building work is to be reported to the EHO.
3. The EHO is to Report on work that adopts the deemed-to-satisfy approach to compliance with the National Construction Code. For designs incorporating performance solutions (formerly called “alternative solutions”) the EHO has discretion whether to respond with a Report, as this type of building solution may be outside their area of expertise.

4. The Director may make a Determination as to what is “minor building work” on food premises, not requiring a Report from the EHO. This Determination will be developed with input from stakeholders including environmental health professionals.

Changes affecting Chief Officer (CO) Tasmania Fire Service as a Reporting Authority

1. Building Work affecting fire safety requirements that is categorised as Notifiable Building work is to be reported to the CO.
2. Where the CO provides a Report on proposed work affecting fire safety requirements, it may be restricted to reporting on matters affecting operational requirements to fight fires or safely evacuate persons from buildings. The CO is not obliged to comment on other fire safety requirements, but may do so if considered necessary.
3. The CO is to Report on work that adopts the deemed-to-satisfy approach to compliance with the NCC. For designs incorporating performance solutions (formerly called “alternative solutions”) the CO has a discretion whether to respond with a Report, as commenting on this type of building solution may be outside the area of expertise of TFS officers.
4. The Director may make a Determination as to what is “minor building work” affecting fire safety requirements, not requiring a Report from the CO. This Determination will be developed with input with stakeholders, including the TFS.

Clauses of the *Building Amendment Regulations (No. 2) 2017*

Amended regulation number	Subject of the amended regulation	Explanation of the change:
3	Interpretation	Definition of “Food Premises” (reported on by the EHO) now only applies to premises that are a food business under the <i>Food Act 2003</i>
3	Interpretation	Definition of High Risk Building Products inserted (cladding of either Aluminium Composite Panels with a polyethylene core, or polystyrene sheeting, and the classes of the buildings where their use is restricted)
8	Director’s Determination (cladding products)	Power inserted to make a Determination regarding High Risk Building Products
9	Reporting Authorities	Clarifies the functions of the Chief Officer of the Tasmania Fire Service when acting as a Reporting Authority
24A (new)	Completion of Low Risk Work	Prescribes what information is to be provided to a permit authority after the completion of specified Low Risk Work (the types are specified in the Director's Determination - Categories of Building and Demolition Work)
26A (new)	Report from Chief Officer (notifiable building work)	Circumstances when the Chief Officer (CO) of the Tasmania Fire Service is to be notified of new notifiable building work that impacts on fire safety requirements
26B	Report from Environmental Health Officer (notifiable building work)	Circumstances when the local council’s environmental health officer (EHO) is to be notified of new notifiable building work that impacts on food premises

Amended regulation number	Subject of the amended regulation	Explanation of the change:
27	Report from Chief Officer (permit building work) – compliance with the National Construction Code of fire safety requirements	Clarifies that the CO: <ul style="list-style-type: none"> • is to report whether a deemed-to-satisfy provision adopted as a building solution is satisfactory; or • may report whether a performance solution, adopted as a building solution, is satisfactory; and Provides for the Director of Building Control to make a Determination as to types of minor building work that do not require a request for a Report from the CO in relation to fire safety requirements
28	Report from Environmental Health Officer (permit building work)	Clarifies that the EHO: <ul style="list-style-type: none"> • is to report whether a deemed-to-satisfy provision adopted as a building solution is satisfactory; or • may report whether a performance solution, adopted as a building solution, is satisfactory; and Provides for the Director of Building Control to make a Determination as to types of minor building work that do not require a request for a Report from the EHO in relation to food premises
30A (new)	High Risk Building Products	Creates an offence for using a non-accredited High Risk Building Product
37(4)	Installation of on-site wastewater management systems	Any system that requires the removal, through a habitable room of the waste end product, requires approval of the permit authority
65	Occupancy Permit	Clarifies that an occupancy permit is not required for a farm shed (with a maximum occupancy of two persons)
67	Required Report from CO –occupancy stage	Clarifies that the CO of TFS may Report at the occupancy permit stage, regarding the operational suitability of fire safety requirements installed in the building
75	Maintenance of automatic control devices (plumbing installations)	Clarifies that the mandatory maintenance of automatic control devices is only required where one is installed as part of “high risk plumbing work”

Amended regulation number	Subject of the amended regulation	Explanation of the change:
76A (new)	Maintenance of essential building services – keeping of records	Owner is to keep records of maintenance performed on the essential building services for at least ten years, and either the original records, or a copy, are to be kept off-site
85A (new)	Fees for the accreditation of building or plumbing products or systems	Power inserted for the Director to charge a fee for accreditation of products or systems
Schedule 5	Infringement penalties	Two new offences inserted in the infringement penalty list
Schedule 5A (new)	Fees schedule	New Schedule inserted of the fees for accreditation of building or plumbing products or systems. The fees are expressed in Fee Units: <ul style="list-style-type: none"> • 483 FU = \$748.65 • 964 FU = \$1495.75 • 1290 FU = \$1999.50
Schedule 6	Transitional and Savings (to amend the definition of “Building Work in a Bushfire-Prone area” in the <i>Building Regulations 2014</i> , that is still in force as law)	By removal of the word “permit” in clause (b), it allows the application of the bushfire-prone area regulations to certain alterations or additions of existing buildings that could be Low Risk or Notifiable Work. This provides consistency with the intent of the current Director’s Determinations applying to building work in Bushfire-Prone Areas

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