

Building in bushfire, landslip and flood hazard areas

provisions of the former Building Act 2000 and Building Regulations 2014

While the *Building Act 2016* is the current building legislation in Tasmania, laws relating to building in landslip hazard areas, bushfire prone areas and flood prone areas still apply under the former *Building Act 2000* and *Building Regulations 2014*. They continue to apply as “transitional” laws until all councils have adopted the new statewide planning schemes.

As an aid to the building industry, relevant sections of these laws relating to hazard are reproduced below.

Building Act 2000

Part 10 – Restrictions on buildings

Division 1 – Landslip areas

Section 148. Interpretation

In this Division -

A landslip area means an area of land declared under Part 9A of the *Mineral Resources Development Act 1995* to be an A landslip area;

B landslip area means an area of land declared under Part 9A of the *Mineral Resources Development Act 1995* to be a B landslip area;

building does not include part of a building;

insubstantial building means a building that has a total floor area not exceeding 25 square metres and is not more than one storey high;

landslip area means an area of land declared under Part 9A of the *Mineral Resources Development Act 1995* to be an A landslip area or a B landslip area.

Section 150. Effect of order in A landslip area

- (1) A person must not erect, alter or add to a building in an A landslip area except in accordance with subsection (2)

Penalty: Fine not exceeding 100 penalty units

- (2) The Minister, on the recommendation of a general manager, may permit a person to –
(a) erect, in an A landslip area –

- (i) a shed; or
- (ii) an insubstantial building; or
- (b) carry out building work, other than erections, in respect of a building in a A landslip area; or
- (c) erect a building within the boundaries of a wharf in an A landslip area.

Section 151. Effect of order in B landslip area

- (1) A person must not erect, alter or add to a building in a B landslip area except in accordance with the Building Regulations.

Penalty: Fine not exceeding 100 penalty units

- (2) A person must not store in a B landslip area –
 - (a) more than 10 000 litres of water; or
 - (b) any explosive, flammable liquid or other dangerous substance.

Penalty: Fine not exceeding 100 penalty units

Section 152. Activities prohibited in landslip areas

- (1) A person who erects, alters or adds to a building in a landslip area must not aggravate any existing landslip conditions.

Penalty: Fine not exceeding 100 penalty units

- (2) Except in accordance with the Building Regulations, a person must not, in a landslip area –
 - (a) excavate or deposit material; or
 - (b) use earthmoving or vibrating compaction equipment; or
 - (c) remove any vegetation.

Penalty: Fine not exceeding 100 penalty units

Section 154. Compensation not payable for certain damage to buildings erected in known landslip areas

- (1) In this section –
 - Act** means the *Mineral Resources Development Act 1995*
 - landslip order** means an order under section 161B(1) of the Act;
 - registered** means registered in accordance with section 161C of the Act;
 - revocation order** means an order under section 161D(1)(a) of the Act.
- (2) Once a landslip order declaring an area of land to be an A landslip area or B landslip area has been registered, no compensation or other relief is payable for any damage caused by earth movement to any building that is erected during the registration period in that area of land.
- (3) For the purposes of subsection (2), the registration period is the period that commences on the day on which the landslip order is registered and ends on the day on which a revocation order in respect of that landslip order is registered.

Section 159. Land subject to flooding

A person must not erect or place a building containing habitable rooms on land subject to flooding unless the floor level of each habitable room in the building is 300 millimetres or more above the prescribed designated flood level for that land.

Penalty: Fine not exceeding 100 penalty units

Building Regulations 2014

Sections of the *Building Regulations 2014* relating to bushfire, landslip and flood hazards are still law. To get a copy follow these steps:

1. Go to www.legislation.tas.gov.au
2. Search for 'building regulations 2014'
3. Click on the result "Building regulations 2014 (rescinded)"
4. Select "Legislative History"
5. On the history screen, select "Valid from 17/3/2016 – 31/12/2016". This will give you the right version.

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