

Addressing Defective Work

Within the Residential Building

(Miscellaneous Consumer Protection Amendments) Bill 2022

The Residential Building (Miscellaneous Consumer Protection Amendments) Bill 2022 will update and amend key Acts within Tasmania's Building Regulatory Framework to provide additional protections for owners undertaking residential building work. The Bill focuses on three priority areas, including dispute resolution, addressing defective building work, and accountability of statutory office holders.

This Infosheet provides information on the Defective Work provisions of the Bill, which can be found at Parts 2, 3 and 4 of the Bill.

Addressing Defective Work

Under Tasmania's Building Regulatory Framework, the *Building Act 2016* (the Building Act) provides the processes and mechanisms for the design, approval, construction, completion and maintenance of all building, plumbing and demolition work carried out in this state.

If, during construction, work is identified which does not comply with the requirements of the Building Act, the relevant approval authority, including the building surveyor or the council permit authority, is to issue notifications of a requirement to comply. This can be done through the issuing of inspection directions or building notices. If notifications are not complied with, orders may be issued which then require the person responsible to rectify the defective work.

However, if defective work is discovered after the project is completed, there are currently limited opportunities for the work to be rectified.

New 'Defective Work Orders'

The Bill will amend the Building Act to provide for a new type of compliance order called a 'Defective Work Order'.

If, within 24 months of work being completed, the relevant building surveyor or the Director of Building Control certify work as defective, the relevant building surveyor is to issue a Defective Work Order to the person responsible for the work. The responsible person will then need to rectify this work at their cost to remedy the defect and make the building work compliant with the approval which was originally issued.

If the relevant building surveyor is no longer a building surveyor, the Director of Building Control may issue the Defective Work Order.

Mandatory Notification Stages for Inspections

Under the Building Act, the responsible builder must notify the relevant building surveyor when they reach certain mandatory notification stages. This notification informs the building surveyor that they can now inspect the work to ensure that the work is safe and compliant, allowing the builder to proceed. Alternatively, if the work is not compliant, the building surveyor is to direct the builder to carry out work to make sure it does comply.

Currently, there are four mandatory notification stages, which are:

- Covering the foundations of the work;
- Pouring structural concrete;
- Cladding or building in the structural framework; and
- Completion of the building work.

The Bill amends the Building Regulations 2016 to include two additional mandatory stages, which are:

- Waterproofing of wet areas; and
- Penetrations of fire-rated construction (on building classes 2-9).

These new mandatory notification stages are consistent with the recommendations of the Building Confidence Report (the Shergold Weir Report), and will ensure that buildings are checked and inspected at key stages to reduce the risk of defects and structural issues post-construction.

Failure to comply with Orders

The Bill will amend the *Occupational Licensing Act 2005* to provide that a failure for licensed persons to comply with orders made under the *Building Act 2016*, settlements reached under the *Residential Building Contracts and Dispute Resolution Act 2016*, or orders made by the TASCAT, may be considered as proper cause for disciplinary action.

How to Have Your Say

For full details on how to Have Your Say in relation to this Bill, [click here](https://www.justice.tas.gov.au/community-consultation) or visit: <https://www.justice.tas.gov.au/community-consultation>.

Submissions close **5 August 2022**.

Contact

Postal Address, PO Box 56, ROSNY PARK TAS 7018
Phone: 1300 654 499
Email: cbos.info@justice.tas.gov.au Visit: cbos.tas.gov.au