

**Report to Parliament by the Minister for Housing and Public Works, Minister
for Digital Technology and Minister for Sport**

Compliance with section 56A(4) of the *Statutory Instruments Act 1992*

PURPOSE:

To inform Parliament in compliance with section 56A(4) of the *Statutory Instruments Act 1992* (SIA) that an extension regulation made under subsection 56A(2) of the SIA has preserved from expiry a number of pieces of subordinate legislation administered by the Minister for Housing and Public Works, Minister for Digital Technology and Minister for Sport for a further 12 months from 1 September 2018 to 31 August 2019.

LEGISLATIVE BASIS FOR REPORT:

Section 54(1)(b) of the SIA provides for the automatic expiry of subordinate legislation on 1 September first occurring after the 10 year anniversary of the day of its making unless a regulation is made under the SIA that exempts it from expiry.

Section 56A(1) of the SIA provides for a regulation to be made under that Act to exempt such subordinate legislation from expiry for a stated period of not more than one year after the subordinate legislation would otherwise expire. Such an exemption can be justified for a number of reasons, including that the Act under which the subordinate legislation is made is subject to review.

Sections 56A(2) and (3) of the SIA provide for the initial exemption period to be further extended by a regulation (extension regulation) for periods of not more than one year each, provided the Act under which the subordinate legislation is made is still subject to review. In these circumstances, section 56A(4) of the SIA requires that, within seven sitting days after the extension regulation is made, the responsible Minister for the subordinate legislation being exempted must table in the legislative assembly a report stating:

- *how the Act is subject to review and, where the Act is subject to review;*
 - *the extent to which the Act is being reviewed; and*
 - *when the Minister expects the review to end.*

BACKGROUND

On 23 August 2018 the *Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2018* (the Extension Regulation) was made by the Governor-in-Council. The Extension Regulation exempted the following pieces of subordinate legislation administered by the Minister for Housing and Public Works, Minister for Digital Technology and Minister for Sport from expiry for a further 12 months from 1 September 2018:

- *Architects Regulation 2003*
- *Building and Construction Industry Payments Regulation 2004*
- *Building Regulation 2006*
- *Plumbing and Drainage Regulation 2003*
- *Professional Engineers Regulation 2003*
- *Standard Plumbing and Drainage Regulation 2003*

INFORMATION REQUIRED BY SECTION 56A(4) OF THE SIA

Architects Regulation 2003

How the Act is being reviewed: The *Architects Regulation 2003* has previously been extended for five periods of 12 months following its initial expiry date of 1 September 2013.

The *Architects Act 2002* is being reviewed by the Department of Housing and Public Works and Government approval is being sought for a number of proposed amendments to the Act and Regulation. The further exemption from expiry until 31 August 2019 allows time for the associated approval and legislative processes to occur.

The extent to which the Act is being reviewed: The scope of the review covers the provisions in the *Architects Act 2002* and the *Architects Regulation 2003*.

When the Minister expects the review to end: The review and any associated legislative processes are expected to be completed in the second half of 2019.

Building and Construction Industry Payments Regulation 2004

How the Act is being reviewed: The *Building Industry Fairness (Security of Payment) Act 2017* (BIF Act) received assent on 10 November 2017 and, on commencement of the relevant provisions, provides for the repeal of the *Building and Construction Industry Payments Act 2004* and *Building and Construction Industry Payments Regulation 2004*. The exemption from expiry until 31 August 2019 was required as the date of repeal has not yet been fixed by proclamation.

The extent to which the Act is being reviewed: The BIF Act provides for a more level playing field for subcontractors through improvements to the progress payment claims process. The *Building and Construction Industry Payments Act 2004* will be repealed and its provisions placed into the BIF Act. New progress payment claims provisions will reduce opportunities for head contractors to delay payment and allow subcontractors to take action to resolve payment issues faster. Amendments also enhance the independence and operation of the Adjudication Registry within the Queensland Building and Construction Commission and streamline the adjudication process for greater ease of use.

When the Minister expects the review to end: The relevant provisions of the BIF Act, and consequently the repeal of the *Building and Construction Industry Payments Act 2004* and *Building and Construction Industry Payments Regulation 2004*, are anticipated to take effect in late 2018.

Building Regulation 2006

How the Act is being reviewed: The Building Confidence Report (Report) which was commissioned by the Building Minister's Forum undertook an assessment of the effectiveness of compliance and enforcement systems of the building and construction industry in Australia. The Report was delivered to the Building Ministers' Forum in July 2018. A review of the relevant provisions of the *Building Act 1975* and the *Building Regulation 2006* is being undertaken in response to the recommendations of the Report.

The extent to which the Act is being reviewed: The Department of Housing and Public Works is examining what legislative reform is necessary to respond to the Report. An exemption from expiry until 31 August 2019 will enable this examination to occur and for any necessary legislative reform to be progressed.

When the Minister expects the review to end: As it is anticipated that legislative reform will be required, the review is not expected to be completed until the end of 2020.

Plumbing and Drainage Regulation 2003 and Standard Plumbing and Drainage Regulation 2003

How the Act is being reviewed: The *Plumbing and Drainage Act 2018* (PDA 2018) was passed by Parliament and assented to on 11 September 2018. Upon commencement of the relevant provision by proclamation, the *Plumbing and Drainage Act 2002* (PDA 2002) and the *Plumbing and Drainage Regulation 2003* and the *Standard Plumbing and Drainage Regulation 2003* (the Plumbing Regulations) will be repealed.

The extent to which the Act is being reviewed: A comprehensive review of the PDA 2002 and the Plumbing Regulations commenced in 2014. The scope of the review covered all of the provisions in the PDA 2002 and Plumbing Regulations, with a focus on promoting efficiencies, streamlining processes and reducing regulatory burden.

When the Minister expects the review to end: It is proposed to commence the PDA 2018 and associated subordinate legislation prior to expiry of the Plumbing Regulations on 31 August 2019.

Professional Engineers Regulation 2003

How the Act is being reviewed: The *Professional Engineers Regulation 2003* has previously been extended for five periods of 12 months following its initial expiry date of 1 September 2013.

The *Professional Engineers Act 2002* is being reviewed by the Department of Housing and Public Works and Government approval is being sought for a number of proposed amendments to the Act and Regulation.

The further exemption from expiry until 31 August 2019 allows time for the associated approval and legislative processes to occur.

The extent to which the Act is being reviewed: The scope of the review covers the provisions in the *Professional Engineers Act 2002* and the *Professional Engineers Regulation 2003*.

When the Minister expects the review to end: The review and any associated legislative processes are expected to be completed in the second half of 2019.