



# INFORMATION SHEET

BUILDING SERVICES

Ref: LEG 17-05  
Current at November 2017

## NEW LAWS REGARDING BUILDING PRODUCTS (QLD)

From 1 November new laws regarding non-conforming building products apply to all building projects in Queensland.

The laws create new obligations for people who make, sell and use building products to ensure the products are fit for purpose.

The Queensland Building and Construction Commission (QBCC) is responsible for enforcing the new laws.

### So what has changed?

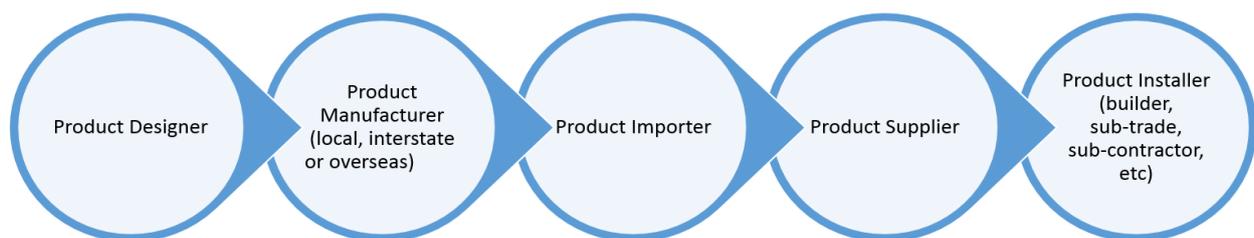
Under the new laws people in the 'chain of responsibility' are now able to be held accountable for building products that do not conform to the specified standards they purport to (being a non-conforming building product) or if they are not the right products for their intended purpose (being a non-compliant use of a building product in accordance with NCC, QDC, Plumbing Regulations, etc.).

The new laws also provide further investigative powers for the QBCC in relation to non-conforming building products and introduce additional Workplace Health and Safety reporting requirements for licensees.

### 'Chain of responsibility' - what does this mean?

This means that a number of people are responsible for verifying that building products supplied and used in Queensland buildings are fit for purpose. This includes product designers, product manufacturers, importers, suppliers and installers.

Below is an example of the chain of responsibility under the new laws. Note a person in the chain may fulfil more than one role.



### What is considered to be a building product?

A building product is considered under the new laws as any material or other thing associated with, or that could be associated with, a building or the construction of a building.

This includes plumbing products, products used in electrical and gas installations, in addition to what are more commonly termed building products.

Non-fixed appliances such as stoves, fridges, appliances, etc. are not captured.

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## Who is affected by the new laws?

The new laws directly affect businesses operating in Queensland. They also apply to businesses outside of Queensland (including overseas) that manufacture, supply or design building products that will be used in Queensland building work.

## What information is available?

The QBCC and Department of Housing & Works have produced the following material to assist in understanding the new laws:

- a Code of Practice to provide practical guidance on the application of the new laws
- A Frequently Asked Question information piece
- A Fact Sheet on the important changes to the law on non-conforming building products
- Dedicated information sheets, outlining the responsibilities for:
  - Building product designers, manufacturers, importers and suppliers
  - Installers (including builders and sub-contractors)
  - Plumbers
  - Homeowners.

While this material provides further information on some aspects on the new laws, there is limited guidance on the practical application of the laws and what these mean for HIA members.

HIA has also prepared a series of information sheets to assist members understand their responsibilities under the new laws this includes:

- Dedicated guidance outlining and clarifying the responsibilities for:
  - Building product designers, manufacturers, importers and suppliers
  - Installers (including builders and sub-contractors) and plumbers.
- Information on the new QBCC inspector powers & QBCC Workplace Health and Safety reporting obligations.

As more information is made available from the Queensland government, these sheets will be updated.

**HIA members can contact HIA's Building Services or Workplace Services staff for more information on 1300 650 620 or [hia\\_technical@hia.com.au](mailto:hia_technical@hia.com.au)**



# INFORMATION SHEET

BUILDING SERVICES

Ref: LEG 17-06  
Current at November 2017

## NEW LAWS REGARDING BUILDING PRODUCTS IN QUEENSLAND – RESPONSIBILITIES FOR MANUFACTURERS, IMPORTERS AND SUPPLIERS

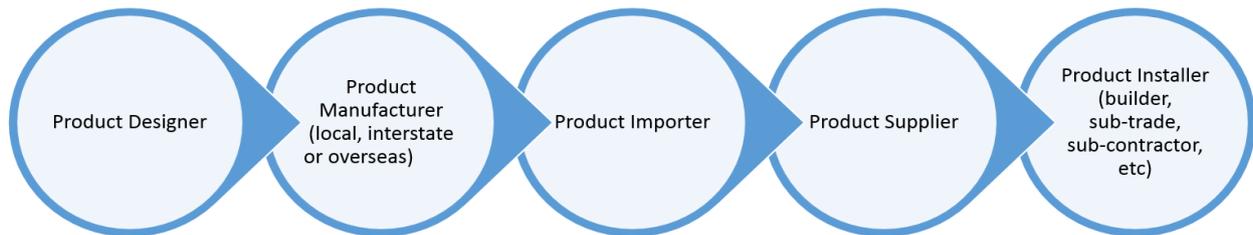
From 1 November new laws regarding non-conforming building products apply to all building projects in Queensland.

The laws create new obligations for people who design, make and sell building products to ensure the products are fit for purpose. This is introduced in the new laws through the concept of a 'chain of responsibility' for building products.

### What does this mean?

This means that a number of people are responsible for verifying that building products supplied and used in Queensland buildings are fit for purpose. This includes product designers, product manufacturers, importers, suppliers and installers.

Below is an example of the chain of responsibility under the new laws. Note a person in the chain may fulfil more than one role.



### So what has changed?

Under the new laws people in the 'chain of responsibility' are now able to be held accountable for building products that do not conform to the specified standards they purport to (being a non-conforming building product) or if they are not the right products for their intended purpose (being a non-compliant use of a building product in accordance with NCC, QDC, Plumbing Regulations, etc.).

### What are my responsibilities under the new laws?

*Product designers, manufacturers, importers and suppliers:*

- Product designers, manufacturers, importers and suppliers need to provide '**required information**' for their products. The required information needs to be available to the next person in the chain of responsibility.
- Product designers, manufacturers, importers and suppliers are accountable for the information they prepare and any claims of conformity or specified intended use(s) of their products.
- False or misleading claims of a products conformity or suitability for an intended use, can lead to substantial fines and other repercussions for the executive officer of the company.

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## **As a manufacturer/supplier/product importer how can I control how the product is used on site?**

Manufacturers and suppliers of building products have no control over what occurs on a building site.

However the new laws require that a manufacturer, importer and supplier must ensure 'as far as reasonably practicable' that when they give a product to another person in the supply chain, including the installer, that the required information either supplied (or is readily available) to that next person.

For a manufacturer, importer and supplier, the ways to minimise the misuse (non-compliant use) of a product is to provide good quality technical information.

This information could be provided either on or with the product and contain the following types of information:

- Scope of use of the product
- Intended use/application
- Any limitations and/or conditions on its use.

HIA has member information sheet on Product Technical Information on your building products that covers these aspects and can be found by clicking [here](#).

## **What products do the new laws apply to?**

It is unclear in the legislation what products will be directly captured under the new laws. The Act provides the Government the ability to prescribe a list of products in regulation but this has not occurred.

Given there are thousands of products that go into a single building, the notion that the laws apply to each and every product in a building is not realistic nor practical.

Further the suggestion that product designers, manufacturers, importers and suppliers need to have the new '**required information**' each and every product and that this is passed on to each person in the supply chain is also not realistic.

Given this uncertainty, HIA considers that the new laws should be treated in a similar manner to the NCC evidence of suitability provisions. These provisions exist so the builder, building certifier, designers, engineers and the like can be provided, upon request, with supporting evidence from the manufacturer, supplier, etc. to demonstrate that a product meets the relevant requirements of the NCC for a particular use.

Therefore the new laws, similar to the NCC evidence of suitability provisions, require some professional judgement by those responsible for building approvals and building work.

Exercising this judgement would likely see a request from builders and sub-contractors for the **required information** for products used for key aspects of the particular building work. The key aspects would likely be those items required to obtain a Form 21 (incl. Form 15, 16 and 17 where applicable) final inspection certificate.

## **Does the required information need to be physically passed on to the next person in the supply chain?**

No.

The information only needs to be readily available and this could mean in electronic form available on the company's website.

## **Does the required information need to be in a specific form or type?**

No.

The required information can be in various forms including a certificate, report, a product technical/data sheet, advertising material, packaging, labels or a mark, etc.

The key is to confirm that the required information provides sufficient detail and certainty about the standards the product meets and how the product should or should not be used.

### **What information is needed in the required information?**

**Required information** needs to communicate the following:

- The suitability of the product for its intended use,
- Demonstrate the product meets the relevant regulatory provision i.e. the NCC and/or a relevant Australian Standard, the QDC, or other standards,
- The conditions and circumstances in which the product can be used, e.g. internal wet areas in buildings.
- Instructions on how the product should be installed.
- Any limitations on the use of the product.

### **Can I rely on the information provided by someone further up the supply chain?**

Yes and No.

The new laws require that people in the chain of responsibility are responsible for the accuracy of their product information and representations about their products.

However, the laws place a duty on people in the chain of responsibility, when provided with information on the product from another person in the chain, that they 'satisfy' themselves 'as far as reasonably practicable' that the product is not a non-conforming or non-compliant building product.

HIA's advice on this matter is that similar to current building approval compliance requirements an installer (builder, trade contractor, or other) cannot be expected to be a product expert and should be able to rely on the information received from the manufacturer or supplier. However, caution needs to be exercised on what information is taken as acceptable.

### **Further information?**

The new legislation and Code of Practice can be found on the Queensland Department of Housing's website by clicking [here](#) .

The fact sheet, FAQ and other information pieces produced by the QBCC can be found by clicking [here](#) .

HIA has also prepared a series of information sheets to assist members understand their responsibilities under the new laws this includes:

- Dedicated guidance outlining and clarifying the responsibilities for installers (including builders and sub-contractors) and plumbers.
- Information on the new QBCC inspector powers & QBCC Workplace Health and Safety reporting obligations.

As more information is made available from the Queensland government, these sheets will be updated.

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# INFORMATION SHEET

BUILDING SERVICES

Ref: LEG 17-07  
Current at November 2017

## NEW LAWS REGARDING BUILDING PRODUCTS IN QUEENSLAND –

### RESPONSIBILITIES FOR BUILDERS, SUB-CONTRACTORS, INSTALLERS AND PLUMBERS

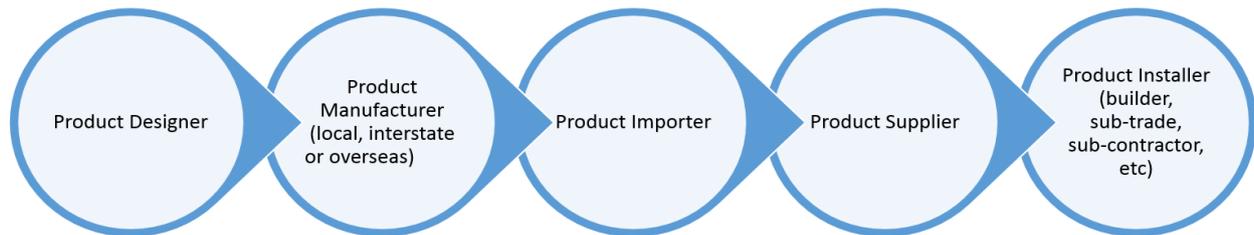
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#### What are my responsibilities under the new laws?

The new laws include 'installers' as a person in the chain of responsibility for a building product. 'Installers' therefore would include builders, trades and subcontractors, including plumbers. The responsibilities for each of these groups of people are:

##### *Builders, trades and sub-contractors:*

- Builders, trades and sub-contractors, have a responsibility to take reasonable steps to ensure that any product installed in a building is not a non-conforming building product or a non-compliant building product.
- This involves the installer taking reasonable steps to ensure the safety and suitability of the building products that they use.

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### *Plumbers:*

- Plumbers are also defined as installers so have the same responsibilities.
- The new laws further reinforce that certain products used in a plumbing and drainage installation must have WaterMark Certification, and where they don't and they are required to have this they are considered as a non-conforming building product and subject to the new laws.
- This should reduce the risk of plumbers being requested to install non-WaterMark products as part of a plumbing system, where these are directly sourced by the builder or homeowner.

### **What if I directly source the products myself rather than through a local supplier?**

If a builder, trades or sub-contractors are sourcing the products to be used in the building directly from a manufacturer, as opposed to going through a supplier, they take on additional responsibilities as part of the chain of responsibility.

This may include obtaining and preparing the required information and accountable for the information they prepare and any claims of conformity.

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