

Module	<b>BUILDING AND CONSTRUCTION</b>
Jurisdictions	<b>CTH, NSW, VIC, SA, TAS, WA, NT, QLD, ACT</b>
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## Module Scope

Does the organisation have policies and procedures in place to meet its obligations when performing building and construction work?

If the organisation is carrying out building work, does it have processes and procedures in place to ensure that it is correctly licensed for the type of work being carried out?

Does the organisation have an online checklist to identify which buildings are affected by combustible cladding?

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## Module Application

The BUILDING AND CONSTRUCTION module informs the organisation operating in the Australian construction industry of their legislated legal obligations. The module also demonstrates effective practical advice and assistance to the organisation to implement procedures and processes that will ensure compliance and regulatory accountability throughout all levels of the organisation.

The BUILDING AND CONSTRUCTION module advises organisations operating in the construction industry of the processes and procedures they need to implement to ensure compliance with all legal and regulatory obligations. Core legal and regulatory obligations are based on considerations of the broad questions determining;

- › Decision making;
- › Accountability;
- › Stewardship;
- › Direction; and
- › Control.

To fulfil its purpose the module focuses on providing practical assistance to the construction organisation establishing and maintaining a robust foundational framework that determines;

- › How the systems and processes will function;
- › Who is the responsible decision maker;

- What matters are relevant to the decision-making process; and
- Whether the desired outcome has been achieved.

As organisations, their employees and authorised individuals are all expected to be familiar with the broad landscape of legal obligations to which they are subject as well as more specific obligations relevant to the particular sector they are operating in, the BUILDING AND CONSTRUCTION module should be subscribed by all organisations operating in the Australian construction industry, their employees and authorised individuals. The aim of the module is to equip the subscriber with knowledge of their obligations and the skills they require to establish relevant systems and processes to ensure compliance throughout the organisation.

The broad scope of the BUILDING AND CONSTRUCTION module is to provide answers to these questions;

- What are our legal obligations?
- From where are our legal obligations derived?
- How can we ensure that we are complying with our legal obligations?
- What are the consequences if we are not complying with our legal obligations?

The BUILDING AND CONSTRUCTION module covers all legislated legal obligations of Australian construction industry organisations and demonstrates practical assistance and guidance to ensure that these obligations are complied with through the implementation and maintenance of best practice processes throughout the organisation. The module also covers the role of the regulator as well as exemptions to the obligations, if applicable, and how they may or may not apply in particular circumstances.

The module fulfils this objective by comprehensively covering three areas;

- Legislation;
- Obligations; and
- Consequences.

1. The main legislative and regulatory landscape from which the primary legal obligations are derived;

- *Home Building Act 1989* (NSW);
- *Home Building Contracts Act 1991* (WA);
- *Building Act 1993* (NT);
- *Building Regulations 1993* (NT);
- *Building Act 2004* (ACT);
- *Building (General) Regulations 2008* (ACT);
- *Building Act 1993* (VIC);
- *Building Act 2016* (TAS);
- *Building Act 2011* (WA);
- *Building Services (Registration) Act 2011* (WA);
- *Queensland Building and Construction Commission Act 1991* (QLD);
- *Building Regulation 2006* (QLD);
- *Building Work Contractors Act 1995* (SA);
- *Building Work Contractors Regulations 2011* (SA);
- *Occupational Licensing Act 2005* (TAS);

- *Residential Building Work Contracts and Dispute Resolution Act 2016 (TAS);*
- *Residential Building Work Contracts and Dispute Regulations 2016 (TAS);*
- *Domestic Building Contracts Act 1995 (VIC);*
- *Domestic Building Contracts Regulations 2017 (VIC);*
- *Environmental Planning and Assessment Act 1970 (NSW);*
- *Environmental Planning and Assessment Regulation 2000 (NSW);*
- *Planning and Environment Act 1987 (VIC);*
- *Planning and Environment Regulations 2015 (VIC);*
- *Planning and Development Act 2005 (WA);*
- *Planning and Development Regulations 2009 (WA);*
- *Planning Act 2016 (QLD);*
- *Planning Regulations 2017 (QLD);*
- *Planning Act 1999 (NT);*
- *Planning Regulations 2000 (NT);*
- *Land Use Planning and Approvals Act 1993 (TAS);*
- *Development Act 1993 (SA);*
- *Development Regulations 2008 (SA);*
- *Planning and Development Act 2007 (ACT);*
- *Planning and Development Regulation 2008 (ACT);*
- National Construction Code;

In addition to these main sources of obligations each state also has additional legislation including acts and regulations governing water, sewerage, plumbing, drainage, electrical work and swimming pools.

## 2. The specific areas where legal and regulatory obligations apply to the Australian construction industry;

- Builders' registration and licensing.
- State based obligations of domestic building contracts;
  - Statutory warranties;
  - Disclosure requirements;
  - Defects liability; and
  - Combustible cladding (QLD).
- Commercial building contracts in Queensland.
  - Defects liability; and
  - Security of payment.
- Compulsory insurance requirements and consumer schemes.
- National Construction Code.
- State based planning permits and development approvals.
- State based building certifications, permits and approvals.
- Plumbing and drainage;
  - Licences;
  - Notifiable work; and
  - Compliance certificates.
- Electrical work;
  - Licences;
  - Compliance certificates; and
  - Safety
- Unsafe building products;
  - QLD, NSW, Tasmania and Victoria requirements.

- Approvals and safety standards for pool construction.
- Notices and inspections;
  - Builders' notification duties;
  - Stop work orders; and
  - Directions to rectify.
- Employment in the construction industry;
  - Supervision of contractors, employees, apprentices and trainees;
  - Portable long service leave; and
  - Contractors and employees.
- Contracting for government-funded work;
  - The commonwealth building code; and
  - Accreditation scheme.
- Fire safety;
  - Building standards;
  - Inspections;
  - Advisors and wardens;
  - Training;
  - Reporting; and
  - Bushfire protection.
- Disputes and disciplinary proceedings;
  - Response; and
  - Resolving
- Record keeping and reporting;
  - Domestic contract records;
  - Financial reporting;
  - Quality assurance.

3. Significant consequences can apply to Australian construction industry entities found to have breached or not complied with their legal obligations. These consequences vary considerably depending on the nature and extent of the breach or failure. The BUILDING AND CONSTRUCTION module covers specific consequences in detail.

The BUILDING AND CONSTRUCTION module does not cover the rights or entitlements of individuals who have suffered damages or losses due to breaches of obligations by Australian construction industry entities. The module does not cover the process that an entity or an individual would follow to report or seek compensation for the breach or their loss.

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