

NON-CONFORMING BUILDING PRODUCTS RESPONSIBILITIES - INSTALLERS

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Introduction

The use of non-conforming building products in the buildings in which we work, live and play, puts lives and property at risk. On 1 November 2017, the Queensland Parliament commenced new laws to cover the sale and use of building products.

These laws amended the *Queensland Building and Construction Commission Act 1991* (QBCC Act) and created a chain of responsibility for building products.

This means that all parties involved in the building product supply chain, including designers, manufacturers, importers and suppliers of a building product, and sometimes architects and engineers, have a responsibility and are held accountable for building products that are not compliant or fit for their intended purpose.

Information about the building product and its intended use must be provided by each person in the supply chain to the next person in the chain.

What is a non-conforming building product?

The laws state that a building product is regarded as non-conforming if it is unsafe, does not comply with the relevant regulatory provisions (e.g. the National Construction Code), or its performance does not meet, or is incapable of meeting, the claimed standard or performance.

What is an installer?

For these purposes, the installer is the person or company that installs (e.g. assembles or incorporates) building products into a building in Queensland as part of building or plumbing and drainage work.

What do the NCBP laws mean for me?

The laws aim to eliminate the use of NCBPs by imposing responsibilities on those involved at the earliest stages of a typical building supply chain. Previously, the responsibility for recognising a building product may not be safe or fit for its intended purpose usually rested with the installer or building certifier.

Now, however, everyone in the building supply chain including designers, manufacturers, importers and suppliers of a building product, and sometimes architects and engineers, have a responsibility to do all they can to ensure these products are safe and compliant. They are also required to do what is reasonably possible to ensure the safety and suitability of the building product in question, and pass the product information down the chain to you.

You must take all reasonable steps to ensure that any product that you install in a building is not a non-conforming building product.



That is, it needs to meet the relevant standards for its intended use under the National Construction Code or other relevant legislation and be installed consistent with the limitations specified by accompanying information supplied known as 'required information' by others in the chain of responsibility.

It is your responsibility to check that the certificates demonstrating the compliance of purchased and installed materials align with the certification documents and building approvals.

What information should be supplied with the product?

All building products need to have information accompanying them known as 'required information' or made easily available to help the next person in the supply chain decide whether the product is suitable for its intended use. This could be information that demonstrates or outlines:

- The product's intended use
- Demonstrate the product meets the relevant Australian standards for that use. For example, evidence of suitability that satisfies the National Construction Code (NCC)
- The limitations and conditions in which the product can be used, e.g. in internal areas or not above certain heights
- How the product should be installed, e.g. the type of fastener, adhesive or mounting system to ensure NCC compliance
- How the product must be used to remain compliant with the NCC, e.g. rods in cyclone areas

What questions should I ask the supplier?

- Is the product compliant with the National Construction Code or other relevant legislated provisions and what is the intended use?
- Does the product meet the relevant Australian Standards?
- Has the product been tested by a NATA or ILAC MRA accredited laboratory?
- Is there any documentation available to demonstrate that the building product conforms with the relevant regulations?
- Are there any conditions or restrictions that apply to the use of the product?
- Is the product part of a performance solution, and if so, is there any relevant information that should be communicated?

What will happen if I don't comply with the NCBP laws?

It takes many thousands of products to complete a building and most people involved in the design, manufacture, importation, supply and installation of these products do the right thing.

But the use of non-conforming products puts lives and property at risk so the Queensland Government has taken steps to ensure that risk is minimised. The laws enhance the powers of the QBCC so that it can take disciplinary action for offences relating to NCBPs.

What do I do if I become aware of a NCBP?

All suspected NCBPs must be reported to the QBCC as soon as practicable, but within 2 days after becoming aware or reasonably suspecting a NCBP, unless the person has a reasonable excuse.

If you become aware of, or suspect that, the use of a non-conforming product has caused death, injury or illness, you must notify the QBCC within two days unless there is a reasonable excuse.

Where can I go to report, get help or for more information about NCBPs?

More information on the building product laws can be obtained from the Queensland Building and Construction Commission (QBCC) at

- qbcc.qld.gov.au/complaints-disputes/report-non-conforming-building-product-incident
- Email: ncbp@qbcc.qld.gov.au.

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If you have any questions as to how the NCBP laws apply to you, you should obtain appropriate independent professional advice regarding how to discharge your duties under the QBCC Act and achieve compliance with the relevant regulatory provisions for building products. This is especially important if you (or your company) intend to later rely upon that advice to demonstrate satisfaction of your duties under Part 6AA of the QBCC Act or other legislative obligations.