

29 June 2018

Dr Trevor Pisciotta
Director
Building — Planning, Building and Heritage
Department of Environment, Land, Water and Planning
Level 7, 8 Nicholson Street
MELBOURNE VIC 3000

Dear Dr Pisciotta *Trevor*

REGULATORY IMPACT STATEMENT FOR THE PLUMBING REGULATIONS 2018

I would like to thank the staff of the Department of Environment, Land, Water and Planning (the Department) for working with the Office of the Commissioner for Better Regulation on the preparation of the Regulatory Impact Statement (RIS) for the proposed Plumbing Regulations 2018, which will replace the current Regulations that sunset on 18 November 2018.

Under section 10 of the *Subordinate Legislation Act 1994*, the Commissioner for Better Regulation is required to provide independent advice on the adequacy of all RISs prepared in Victoria. As you know, the Commissioner's role is to advise on the adequacy of the analysis presented in the RIS, rather than the merits or otherwise of policy or regulatory proposals. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be clearly written so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 29 June 2018 meets the adequacy requirements of the *Subordinate Legislation Act 1994*.

Background

The *Building Act 1993* (the Act) establishes the legislative framework for the regulation of plumbing in Victoria, which is based on a system of plumber licensing and registration. The Plumbing Regulations give effect to the Act by setting fees, and defining different classes of plumbing work, requirements to become a plumber, specific standards for plumbing work and the threshold value of work that requires a compliance certificate. The Regulations also formally adopt the Plumbing Code of Australia (PCA) into Victoria's Regulations. This Code sets out the minimum requirements for relevant areas of plumbing work and has been adopted by all States and Territories as their core standard for plumbing (subject to some variations).

Approach to the analysis

Options examined

The RIS presents a high-level discussion of why the Department has adopted the broad approach set out in the current Regulations as its preferred option. This approach is based on five elements — the PCA, work standards, formal training requirements, experience requirements, and an exam set by the Victorian Building Authority (VBA). The RIS makes it

clear that the Department believes an arrangement that includes all five elements 'is superior to options that only include part of the current arrangements, as the department believes that all current elements play an important part to reducing the risks associated with plumbing work'.

The options analysis in the RIS, therefore, focuses on possible changes to specific elements of the Regulations, rather than changing the broad approach. The RIS outlines the issues the Department considered in identifying possible specific options for consideration. For example:

- changes in technology, market demand, risk profiles associated with a type of work or the complexity of work that might warrant changing the scope of existing plumbing work, establishing a new class of plumbing work, or defining a new specialised class;
- different circumstances in Victoria that might warrant prescribing standards beyond those specified in the PCA; and
- feedback received during consultations the Department conducted in 2017 that suggested improvements to the current approach.

A review of fees has not been undertaken for this RIS. The Department explains that this is because 'a comprehensive review of building fees is planned to be undertaken by 2020, and the Department considers it is appropriate to reconsider plumbing fees thoroughly as part of this process ...'.

Choosing preferred options

Because it was not possible to quantify the costs and benefits of different options with precision, the RIS uses a mix of approaches to compare options — quantifying impacts where possible, and drawing on qualitative evidence where quantification is not possible. The Department considered factors including the following to determine its preferred approach:

- evidence about the risks (to practitioners, consumers and the broader community) associated with particular plumbing work, and the effects of defective plumbing work, including on health, life and safety;
- potential effectiveness of mitigating risks and harms; and
- costs to practitioners, industry, government and the community.

Where data are limited, the RIS outlines the assumptions underlying the Department's analysis, and the basis of the judgements the Department made in assessing trade-offs between the costs and potential safety risks, and determining its preferred approach.

The proposed Regulations

Although the proposed Regulations continue the current broad approach, they introduce a number of changes to specific aspects of the Regulations, including:

- ***introducing minimum experience requirements*** before a plumber can be licensed, which would require most plumbers to be registered for at least one year before becoming licensed, but fire protection, gasfitting, refrigerated air-conditioning and water supply classes would require two years' experience;
- ***new efficiency requirements for replacement water heaters***, which would require any water heating appliances being replaced in existing Class 1 homes (detached houses, terrace houses, town houses, villa units, or boarding houses/guest houses/hostels) to meet minimum performance standards for carbon emissions, which would effectively prohibit the installation of electric storage water heaters and gas water heaters rated at less than 5 Stars;
- ***changes to classes of plumbing work***, including establishing a new specialised class for maintenance on Thermostatic Mixing Valves, reclassifying the existing specialised classes

for Type B gasfitting and refrigerated air-conditioning as main classes of plumbing work, and a new class of plumbing work for the installation of 'basic systems' refrigerated air conditioning systems (such as split systems); and

- **changes to some work standards**, such as requiring the installation of a backflow prevention device for when a tap is installed adjacent to a water closet pan, and providing a clear compliance standard when a plumber undertakes work on a sanitary drain that services more than one dwelling.

The proposed Regulations also explicitly include routine servicing work in the definition of fire protection work.

The Department is proposing to keep the threshold of the value of plumbing work for which a compliance certificate is required at \$750, 'as it considers this provides a suitable balance between low risk and higher risk plumbing work'.

Estimated costs and benefits of the Regulations

The Department estimates that if the current Regulations were remade unchanged, they would impose costs of around \$286 million in net present value (NPV) terms over 10 years. Although the data to estimate these benefits are incomplete, the Department explains why it and the VBA believe the costs would be more than offset by the benefits. They consider these benefits would arise from:

- reduced 'search costs' for consumers by around \$63 million over ten years, 'because they will be able to continue to rely on a plumber's registration or licence as evidence of competency'; and
- reduced defects or poor quality plumbing work, reducing the incidence of damage to property, financial loss, or harm to people.
 - The Department notes that, given the difficulty of quantifying these benefits *'an informed judgment by the department has been used to conclude that the benefits are likely to outweigh the costs. This conclusion relies on break-even analysis; that is the amount of defective work ... that needs to be prevented by the proposed Regulations in order to justify the costs. The department has relied on advice from VBA to conclude that, in the absence of Regulations, the amount of defective work would be substantially higher than it is now, which it considers is more than enough to break even'*.

The Department estimates that the proposed Regulations will increase costs, to around \$473 million over ten years.

- Most of this increase is driven by the new water heater requirements (which are estimated to cost \$177 million over ten years).
 - However, the Department has also estimated that the benefits of this proposal, in the form of reductions in energy use/costs and greenhouse gas emissions, would be valued at about \$443 million over ten years, which 'gives an estimated overall net benefit of \$266 million over ten years' for this proposal.
 - The Department's sensitivity analysis suggests there would likely be a net benefit from this proposal even if less favourable assumptions than those used in the core modelling were adopted.
 - For individual households, the Department estimates that the *average* additional upfront cost would be \$304, with expected average energy savings of \$681 over ten years. It also acknowledges that some households (mainly those who choose to replace electric storage with a LPG storage heater) could be worse off under the proposal but explains why it considers that the likely incidence of this outcome is low in practice.
- The Department has also estimated that the new minimum plumbing experience

requirements would increase costs by about \$11.2 million over ten years. It concludes, however, that 'this would be offset, in the department's view, by a significant reduction in plumbing defects and faults that would offset the costs', although a lack of data does not allow this to be quantified.

The Department notes that there could be other costs, risks and unintended consequences of the proposed Regulations that are not possible to quantify.

- For example, the Department expects that the proposal to explicitly include routine servicing work in the definition of fire protection work will have 'no or minimal impact in practice'. It also notes, however, that because some routine servicing work is currently undertaken by those who are not registered or licensed plumbers, the preferred approach (in combination with the VBA increasing its proactive inspections of wet fire safety systems), may impact on the short-term supply of qualified practitioners.
- The Department also acknowledges that potential affordability and supply issues might result from the proposed water heating requirement, at least in the short term, and has proposed various measures to try to reduce these — including a delayed start date and communications campaign to support informed choices and to maximise the benefits to households.

The Department concludes that the continuation of exemptions for minor work (tap repairs and shower heads) and maintaining the threshold for compliance certificates at \$750 (rather than the \$500 default specified in the Act), will each result in 'significant savings to consumers', which will be 'possibly within a range between \$10 million and \$50 million, but subject to a number of unknowns that make an estimate highly uncertain'.

Transitions, evaluation and future work

Given the considerable uncertainties surrounding the impacts of the Regulations, and of some elements in particular, implementation and evaluation strategies are especially important. The Department has developed a set of strategies, including the following.

- Seeking feedback during consultation on this RIS on the proposed Regulations, facilitated by the inclusion of specific questions relating to areas about which there is particular uncertainty. This will allow the Department to develop a better understanding of the robustness of the assumptions underlying the analysis in the RIS, and the possible effects of the proposed Regulations in practice.
- Transitional provisions for some of the proposed changes, such as for the new class associated with the maintenance on Thermostatic Mixing Valves and the water heating requirements.
- A review of the Regulations within five years of their commencement, which will be integrated into the Department's monitoring and evaluation program of the Building Regulations 2018. As part of this process, the Department and VBA will review the evaluation priorities outlined in this RIS, in response to feedback received during consultation on this RIS and then annually, to ensure they remain relevant over time.
- A comprehensive review of fees by 2020 as part of the Department's comprehensive review of building fees.
- A forward work program (discussed in Part C.2 of the RIS), which will further investigate issues raised during pre-RIS consultation, and which the Department considers warrant further investigation, but were outside the scope of the sunset review and/or would be addressed more effectively through potential changes to the broader regulatory framework.

It is government practice that this letter be published with the RIS when it is released for public consultation.

Should you wish to discuss any issue raised in this letter, or the implications of new information or policy options identified through the public consultation process for your proposal, please do not hesitate to contact me on (03) 9092 5800.

Yours sincerely



Anna Cronin
Commissioner for Better Regulation