



Principles for Good Practice Building Regulation



INTERNATIONAL
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PREFACE

To be successful, good practice building regulatory systems highlighted by the IBQC, must not only assure public safety, but must also support two other goals: regulatory efficiency and innovation. Regulatory regimes that are not efficient will encourage industry practitioners with limited budgets and timeframes, to circumvent these systems. New and innovative building technologies can sometimes provide better safety, performance and lower costs. Regulatory systems that do not accommodate legitimate building innovations become irrelevant. Therefore, good practice regulatory systems must not only provide a very high level of public safety but must also be efficient and facilitate high quality design, system and material innovations fully compliant with safety standards. Good practice building regulatory regimes, therefore, must be a win-win-win proposition relative to safety, efficiency and innovation.

Those seeking to implement the IBQC Good Practice Principles for Building Regulation set out below will need to have regard to their own circumstances, including the capability and capacity of:

- their country or jurisdiction to enact the required legislation and establish the necessary institutional arrangements to properly support the implementation of all principles; and
- their building and construction industry participants to meet regulatory requirements and develop their professionalism.

In many cases a staged approach to implementation will be appropriate.

PRINCIPLE ONE

1. In the creation and development of a legislative scheme for the regulation of building and construction governments should seek to avoid fragmentation and inconsistency.

Fragmentation and inconsistency (which should be avoided) is caused by having:

- 1.1.** Multiple applicable Acts and Regulations;
- 1.2.** Multiple government departments or entities responsible for administration and enforcement that operate under different policy settings and do not have clearly defined statutory roles and mechanisms to facilitate effective collaboration;
- 1.3** Legislation that is not harmonised across jurisdictions operating within a single country resulting in participants having to understand and comply with different laws within one country; and
- 1.4.** Multiple Ministers responsible for features of building regulation.

Many countries operate a federalised system of government which results in different regulatory frameworks operating in different states, territories, provinces or regions. Where this occurs the mechanisms for collaboration, mutual recognition and sharing of good practice should be established to minimise compliance costs for businesses operating across jurisdictions as well as ensuring consistent benchmarks and standards.

PRINCIPLE TWO

2. Provision for a single technical code or standard which clearly sets out technical requirements.

- 2.1.** Authoritative rulings on the interpretation of technical matters arising in the application of the Code by a competent government appointed expert, or committee of experts, in the relevant discipline (which might be a specialist construction and technology court if available within the jurisdiction);
- 2.2.** Ongoing development of technical standards based on advice from properly constituted technical committees represented by industry, experts, academics and government officials; and



- 2.3** An ongoing commitment to government funded research to support the development of technical standards and codes.

The single code or standard can be designed for compliance to be achieved by performance based or prescriptive means (or a combination of the two), noting that both prescriptive and performance based requirements require a high level of skill in the designer and those that assess the design. Where prescriptive codes are preferred, consideration should be given to a mechanism that allows for the approval of innovative design or more complex buildings that cannot meet prescriptive requirements.

The extent to which a country may have the capacity to develop technical standards will vary. An alternative approach may be to recognise or adopt international standards in so far as they meet the above principles.

PRINCIPLE THREE

3. A coherent framework of government departments or authorities with powers and functions to effectively administer and enforce the legislation

This would include:

- 3.1.** Broad powers to enable auditing, investigation and enforcement;
- 3.2.** Adequate funding to support effective enforcement and compliance which may be best achieved via a self-funding model;
- 3.3.** A system for determining non-compliance which is based on competent decision making and fair legal processes; and
- 3.4.** Adequate penalties or other consequences for non-compliance including appropriately weighted civil or criminal sanctions which should apply to individuals, corporations and directors and executives of corporations.

PRINCIPLE FOUR

4. Provisions for building product safety

This may include:

- 4.1.** A **Building Product Safety Authority** responsible for:
 - A. oversight and enforcement of building product safety requirements;
 - B. oversight and enforcement of a compulsory product certification scheme for defined building products or categories of such products under which scheme **Accredited Conformity Assessment Bodies** issue certification;
 - C. the accreditation and oversight of **Accredited Conformity Assessment Bodies** to ensure complete impartiality and accuracy of testing/certification; and
 - D. ensuring publication of all certificates issued by **Accredited Conformity Assessment Bodies** and of all test results, including failed tests.

There should be appropriately weighted civil or criminal sanctions for any governance failures by the **Accredited Conformity Assessment Bodies**.



4.2. Accredited Conformity Assessment Bodies that:

- A. are accredited under internationally recognised competence, calibration and governance standards such as ISO/IEC 17065 (or national implementation of such standards);
- B. issue certificates:
 - I. based on product testing by laboratories accredited to testing and calibration standards such as ISO/IEC 17025 or national implementations of such standard;
 - II. that provide proof of compliance to approved standards or normative documents;
 - III. that contain prescribed product safety information; **and**
- C. undertake mandatory batch and type testing of certified products post certification to ensure on-going quality control and consistency with the certified product.

4.3. Product supply chain laws administered and enforced by the **Building Product Safety Authority** which place express obligations on those in the building product supply chain (including, but not limited to, the manufacturer) to:

- A. Supply safe and compliant building products;
- B. Provide product safety information in the form of:
 - I. statements/declarations of performance that are subject to independent scrutiny/peer review, not merely those stated by the manufacturer; or
 - II. where required under the compulsory product certification scheme, certificates issued by an **Accredited Conformity Assessment Body**.

There should be appropriately weighted civil or criminal sanctions for misstatements or misinformation by those in the building product supply chain which should apply to individuals, corporations and directors and executives of corporations.

The extent to which a country may have the capacity to regulate building product safety will vary. An alternative approach may be to recognize building products that have been the subject of building product safety controls in other countries in so far as they meet the above principles.

PRINCIPLE FIVE

A competency and accountability framework for defined duty holders which extends to all relevant disciplines including:

- Design practitioners of all disciplines (including Architect, Structural engineer, M&E engineer);
- Fire safety practitioners;
- Building approval authorities;
- Builders;
- Project managers;
- Specialist trades (including plumbing, electrical, gas); and
- Building managers (post construction).

To enable this principle to be implemented there must be a system capable of delivering education that meets quality standards and is accessible to those wishing to gain the required competencies through qualifications and training.

The accountability framework may include:

- 5.1 A government department or statutory body responsible for a registration or licensing regime for duty holders but on the advice of **Industry Competent Bodies** (see below);
- 5.2 Government requirements against which a series of Industry Competent Bodies for each relevant discipline would prepare competency frameworks that they would apply to accredit and discipline specified practitioners/duty holders; and/or
- 5.3 Clear definition of each discipline including statements of duties imposed on each duty holder and consequences for failure to meet specified duties.
- 5.4 Competency frameworks prepared by the relevant Industry Competent Bodies should include:
 - A. Provision for auditing practitioners;
 - B. Complaints and disciplinary functions;
 - C. Clearly defined certificated qualifications which reflect agreed competencies required for each type of duty holder;
 - D. A process for accreditation of courses that ensures adequate levels of quality and scope in delivery of certificated qualifications;
 - E. Clearly defined experience requirements for each type of duty holder;
 - F. A requirement for duty holders to comply with a specified framework for CPD (defined in each case by the relevant Industry Competent Body, but subject to Government definition and scrutiny as per 5.2 above); and
 - G. Specified minimum standards for fitness and propriety.

The extent to which a country may have the capacity to support education and training vary. An alternative approach may be to recognise qualifications and training in other countries in so far as they meet the above principles.

PRINCIPLE SIX

A mandatory statutory process for building approvals which requires the approval of adequate designs and documentation for proposed building work.

- 6.1 A **Building Approval Body** will be required exercise powers and functions to administer and oversee the building approval process.
- 6.2 The **Building Approval Body** may be a public or private entity or hybrid of the two but for any model regulatory controls should ensure:
 - A. system design and strict controls to mitigate conflicts of interest;
 - B. high levels of competency;
 - C. ethical conduct; and
 - D. oversight of conduct and performance including, but not limited to, peer review.



- 6.3** Building approvals processes should ensure that within a recognised building classification system, buildings designated through a regulated risk mechanism by the appropriate government authority, have an **Integrated Safety Strategy** which reflects building complexity, use and occupancy. The approach, which may be achieved by adopting different approval requirements for different types of building work, services (utilities) or buildings, would enable a more efficient process with a proportionate regulatory burden for less complex buildings.
- 6.4** The complexity and use of the building and the nature and number of occupants may increase/reduce the nature and number of controls required, thereby enabling a more efficient process with a proportionate regulatory burden for less complex buildings.

This requires:

- A. A **Building Approval Body** which is able to access specialist advice on each relevant discipline involved in the construction of the Building so as to be in a position to approve plans;
- B. Any proposal to carry out building work must meet a specified threshold of complexity and must be subject to the preparation of adequate design documentation, including detailed design drawings and calculations, clear resolution and justification for the use of any performance based measures and the phasing/stages of the work to be carried out;
- C. The precise nature of the documentation to be clearly defined according to building type;
- D. Such information to be lodged in its entirety at least one month before the commencement of any work;
- E. Such documentation to be held on an electronic database (“**Building Specific Database**”) to inform oversight and enforcement by government and accessible to emergency services and residents 24/7 including:
 - I. Practitioners involved in projects;
 - II. Lodgement of design documentation;
 - III. Lodgement of approvals;
 - IV. Lodgement of inspection records;
 - V. Lodgement of enforcement actions and outcomes;
 - VI. Notification of variations; and
 - VII. Lodgement of final approval documentation including clearly defined safety information relating to:
 - i. Fire and location of hydrants close to the building;
 - ii. Gas including location of shut off valves both internal and external;
 - iii. Electricity supplies;
 - iv. water, boiler(s) and shut-off valves; and
 - v. identification of any hazards within/posed by the building.
- F. All such design documentation should be:



- I. prepared by or under the supervision of the Competent Practitioner who is the Lead Designer or person ultimately responsible for the construction/refurbishment; and
 - II. declared by the Competent Practitioner to meet legislation (including applicable codes and standards);
- G. Adequate provision for a holistic assessment of the design documentation by the **Building Approval Body**;
- H. Specific (safety critical) aspects of design to be the subject of mandatory independent peer review;
- I. Any variation to approved design to be subject to redesign and approval following the above process; and
- J. Ideally where funds permit, video/photographic record of work completed as at the relevant inspections and of any varied work.

PRINCIPLE SEVEN

A mandatory statutory process which provides for rigorous inspections of work by appropriately skilled practitioners

This would include:

- 7.1** Inspections of work under construction at hold points defined prior to commencement of works by reference to either:
 - A. Prescribed inspections;
 - B. A framework for the assessment of appropriate hold points based on risk; and/or
 - C. Inspections required by specialist design practitioners including as part of mandatory peer review required as part of Principle 6 (such as structural or fire safety engineers);
- 7.2** An authorised process for determining the type and frequency of inspections based on risk, as stipulated by the **Building Approval Body** (in the event of complex work/stages and/or delay);
- 7.3** Mandatory documentation of the outcomes of each inspection to be held on the **Building Specific Database**;
- 7.4** Enforcement powers and processes mandated for use where works are identified as non-compliant; and
- 7.5** Adequate provision for a holistic assessment of the outcomes of inspections and compliance.

PRINCIPLE EIGHT

Mandatory processes for final approval of completed works

This would include:

- 8.1** Final (possibly joint) inspections by the **Competent Practitioner**, the relevant disciplines of the **Building Approval Body** which should include a fire engineer as well as fire authorities and utilities providers (eg. water, gas and electricity); and
- 8.2** Lodgement of a final approval document together with documentation required for the ongoing operation and maintenance of the building on the **Building Specific Database**.



PRINCIPLE NINE

Powers and functions which enable actions to be taken or orders to be made by competent government officials where existing buildings or building works are a danger to life safety or health; or non-compliant with relevant laws.

This would include:

- 9.1** The power to enter a site and make orders for public safety;
- 9.3** The ability to step in and carry out work (and recover costs) in an emergency;
- 9.3** Adequate penalties for non-compliance; and
- 9.4** Appeal rights from decisions.

PRINCIPLE TEN

Provision for the efficient and swift resolution of disputes and an adequate insurance provision by the Competent Practitioner and all members of the design/construction team.

The following principles should be applied:

- 10.1** The primary aim should be the protection of the person who commissions the work and the ultimate occupants of the building;
- 10.2** Adequate insurance should be mandatory against all risks and public liability during the currency of the buildings works;
- 10.3** Each designing professional / contractor should be required to take out professional indemnity insurance and maintain insurance for a period equating to the period in which claims for breach of contract or negligence/breach of statutory duty can be brought;
- 10.4** A time limit on claims should be defined and mandatory insurance should provide run off cover that aligns to the time limit;
- 10.5** A policy decision has to be taken as to whether liability of each member of the design and construction team should be joint/several/proportionate;
- 10.6** The accountability and liability of corporate entities and their officers will be determined by the relevant laws of each country but from a consumer perspective the limited liability of corporations should not necessarily enable decision makers to avoid accountability and consideration should be given to express director liability provisions;
- 10.7** Disputes may be resolved in a number of different ways and speed must be balanced against adequacy of decision making process; and
- 10.8** If the ultimate decision maker is the court, then specialist construction and technology courts are desirable.