



# FREQUENTLY ASKED QUESTIONS

## Improvements to the Australian Government Building and Construction WHS Accreditation Scheme

### PART A - TIMING AND IMPLEMENTATION

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#### TIMING

##### When will the changes take effect?

- The changes are expected to commence on **1 January 2015**.
- Some changes require legislative amendments (to the Regulations governing the Scheme) which are expected later in 2014.
- In the meantime, the current arrangements continue to apply.

##### Are the changes subject to the passage of legislation to re-establish the Australian Building and Construction Commission?

- No.

##### Is a new accreditation application form available yet?

- A new application form is currently under development. It is anticipated that the application form will be available on the FSC website by April 2015. Until the new application form is available continue to use the existing form and where it asks for your JAS/ANZ 4801 certification number you can, if you have one, insert it or if you don't leave that section of the form blank.

#### ACTION REQUIRED

##### I'm an accredited builder - do I need to take any action as a result of this announcement in relation to ...

###### My current contracts for Scheme projects?

- No. Arrangements under existing contracts for Scheme projects continue to apply, including reporting requirements.

###### My reaccreditation process that is currently underway, or forthcoming?

- No. Current reaccreditation arrangements continue to apply for now.
- Companies with reaccreditation due soon after 1 January 2015, that have yet to submit their application, will be contacted by the Office of the Federal Safety Commissioner in coming weeks.

### **Any other matters that I'm uncertain about?**

- Please contact the Office of the Federal Safety Commissioner. Further updates will be posted on the [www.fsc.gov.au](http://www.fsc.gov.au) website.

### **What does this mean for current or upcoming tender processes for Commonwealth funded building projects?**

- Nothing at this stage. Until the amendments to the Regulations governing the Scheme are lodged (expected during November 2014), tender processes cannot pre-empt the changes and the current thresholds and other arrangements continue to apply. This includes tender processes where contracts are likely to be signed after 1 January 2015.
- Once the changes to the Regulations are lodged, tender processes can reflect the changed requirements (where contracts are to be signed after 1 January 2015).
- Advice will be provided on the [www.fsc.gov.au](http://www.fsc.gov.au) website, and to all Australian Government departments and agencies, at that time.

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## **PART B – CHANGES TO THE SCHEME'S COVERAGE OF COMMONWEALTH FUNDED BUILDING PROJECTS**

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### **INCREASED FINANCIAL THRESHOLDS**

#### **What will the new thresholds be after 1 January 2015?**

- The financial threshold for projects **directly funded** by the Commonwealth will increase from \$3 million to **\$4 million**.
- The financial threshold for projects **indirectly funded** by the Commonwealth will increase from \$5 million to **\$6 million** and where the Commonwealth contribution is at least 50 per cent.
- The financial threshold for projects **indirectly funded** by the Commonwealth, regardless of the percentage of the Commonwealth's contribution, remains unchanged at **\$10 million**.
- Subject to the above, where any 'head contracts' for building work are awarded that have a value of \$4 million or more, the Scheme will apply and an accredited builder must be appointed.

#### **Will the Scheme thresholds change in the future?**

- Yes. The thresholds will be reviewed in light of industry price movements every three years.
  - Any changes to thresholds will be publicised well in advance of them taking effect.
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## PROJECTS INVOLVING SINGLE DWELLING HOUSES

### What changes will there be to the definition of building work covered by the Scheme?

- Projects involving the construction, alteration, extension or refurbishment of single-dwelling houses will no longer be covered by the Scheme (for contracts signed after 1 January 2015).

### What is the definition of a single-dwelling house?

- A single-dwelling house means a building that comprises one stand-alone (detached) residential dwelling.

### What types of residential projects will still be covered by the Scheme?

- Any building projects above the financial thresholds involving attached or semi-detached dwellings (such as duplexes, townhouses, apartments, terrace houses, aged care units etc) will continue to require Scheme accredited builders.
- This includes the construction, alteration, extension or refurbishment of attached or semi-attached dwellings.

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## PART C – CHANGES TO THE ACCREDITATION REQUIREMENTS

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### KEY CHANGES FOR CURRENTLY UNACCREDITED BUILDERS

#### Will I still need certification to AS4801 or OHSAS 18001 before applying?

- No. After 1 January 2015 this will cease to be a pre-requisite. The review of the Scheme found that this requirement was a costly and time consuming barrier for some companies. The Scheme's criteria already encompass, and far exceed, those requirements.
- You will still need to have in place a work health and safety management system, documented and observable in practice, which meets the requirements of the Scheme. The Scheme criteria and guidance material are available at [fsc.gov.au](http://fsc.gov.au) and you should contact the Office of the Federal Safety Commissioner for advice if you are considering applying.
- You should contact the Office of the Federal Safety Commissioner about transitional arrangements if you are thinking of applying before 1 January 2015.

#### What are the new joint venture arrangements that allow unaccredited builders to participate in Scheme projects?

- For contracts signed after 1 January 2015, an unaccredited company may be able to enter into contracts for Scheme work as part of a joint venture with an accredited partner, subject to meeting specified criteria.

- This new opportunity may particularly assist, for example, smaller regional and Indigenous building companies that only have the occasional opportunity to tender for Commonwealth-funded projects.
- Unaccredited companies making use of the new joint venture opportunities will develop skills and experience by operating under best practice, accredited safety systems which they will be encouraged to adopt into their own systems in the future.
- The builder will need to undertake the work in full accordance with the partner's accredited systems and practices. A range of undertakings will be required by both parties, and the accredited partner risks losing accreditation if the accredited systems and practices are not followed on the project.
- Once the necessary changes to Scheme's Regulations are lodged (expected around November 2014), detailed advice will be provided on [www.fsc.gov.au](http://www.fsc.gov.au) (and on request) about how to seek the Federal Safety Commissioner's approval to tender for a specific Scheme project as part of joint venture.

#### **Will the application process change for first time accreditation?**

- The current core requirement of submitting an application, including a self-assessment of how and where a company's documented systems meet the criteria, will remain. The second key element, of on-site audit(s) by Federal Safety Officers, with follow up opportunities and support to implement required improvements, will not change.

#### **Have the standards required for accreditation been lowered?**

- No. The Scheme will continue to require the current high standards based around, for example, a genuine 'top to bottom' organisational commitment to best practice safety systems, culture and practice.
- While the standards remain high, the Scheme will continue to be 'scale-able' depending on the size and nature of works undertaken by the company. A collaborative approach to assist companies achieve the required standards will continue to be central to the administration of the Scheme.
- A range of improved guidance material will be progressively developed to assist, particularly smaller, companies prepare for and undertake the accreditation process. See more information under 'Criteria and Guidance' below.

### **CRITERIA AND GUIDANCE**

#### **Will the audit criteria change?**

- Yes, there won't be wholesale change but some improvements are expected. The audit criteria are currently being reviewed in order to streamline and clarify the requirements as well as better target key construction hazards.

### Who is reviewing the criteria?

- The criteria will be reviewed by the Office of the Federal Safety Commissioner with the input of the Scheme's Industry Reference Group and key industry associations such as Master Builders Australia.

### When will the new criteria take effect?

- Further advice will be provided once the review process is underway. However, it is anticipated that changes may coincide with the planned introduction of a new online portal, with a new online application process, by around April 2015.
- Any open corrective actions based on previous criteria will continue to be reviewed based on the existing issue until they are closed.

### Will guidance material such as the 'Audit Evidence Guide' change?

- Yes, the evidence guide is also being reviewed in conjunction with stakeholders, along with the criteria, with the objective of increasing clarity about what exactly is required to address each criterion.
- The guide will be updated with a more 'plain English' explanation of the scope and expectations in relation to each criterion, as well as examples of evidence that may meet the requirements.

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## PART D - CHANGES TO THE POST-ACCREDITATION COMPLIANCE ARRANGEMENTS (INCLUDING REACCREDITATION)

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### PERIOD OF ACCREDITATION

#### Will the maximum period of accreditation change?

- Companies seeking accreditation for the first time will be granted an initial accreditation period of 3 years. Following this initial period, companies seeking re-accreditation, may be granted an accreditation period of up to 6 years, **but only for those companies with a low risk of non-compliance with the Scheme's requirements.**
  - This provides a benefit to high performing companies by removing the focus on multiple concentrated audits at the expiry of the accreditation period.
  - For a number of companies re-accreditation will continue to be for less than 6 years, and other conditions will continue to be applied, where there are concerns about the company's compliance track record particularly as evidenced at on-site audits during the accreditation application process or the company's preceding accreditation period.
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### **What factors will be taken into account in developing the risk based model announced by the Government?**

- A risk-based model, rather than the current 'one size fits all' approach, will be implemented.
- The risk-based approach will allow resources to be targeted to those companies requiring attention and support.
- The details of the risk model will be developed further in consultation with stakeholders but a central determinant of a company's compliance risk profile will continue to be on-site observations at audit. A number of other factors are also likely to be taken into consideration.
- The risk model will be used to determine the nature and frequency of compliance monitoring, as well as the duration of accreditation (as above).

### **Will my current accreditation be extended?**

- No. The Federal Safety Commissioner does not have the power to extend existing (or future) accreditation periods.
- Currently accredited companies will continue to be accredited until their nominal expiry date.
- Prior to expiring, an accredited company will be required to apply for reaccreditation (streamlined process discussed below) and when the application for reaccreditation is determined, the company will be reaccredited for up to 6 years.

### **What will happen when the accreditation period expires?**

- Companies approaching the expiry of their accreditation period will be contacted by the Office of the Federal Safety Commissioner and invited to apply for reaccreditation. Please refer to 'Reaccreditation' below.
- Companies with expired accreditation will be unable to sign contracts for Commonwealth-funded building work.

## **MAINTAINING ACCREDITATION**

### **Will there still be audits conducted after gaining accreditation?**

- Yes, audits will continue to be the central component of the compliance process.
- The frequency, duration and nature of audits will be determined based on the risk profile of each company. This risk-based model will take into account a number of factors including a company's audit history and safety performance since applying for accreditation.
- Even companies with a good risk profile should expect to have an on-site audit every 12 to 18 months.
- Companies with a higher risk profile can expect more frequent and extensive audits.

### **Will there be an increased risk of losing accreditation?**

- The risk model will provide greater incentives for high levels of voluntary compliance across all projects at all times.
- A central element of the Scheme will continue to be a collaborative approach whereby those companies that are committed and responsive to advice on achieving and maintaining the Scheme's requirements will continue to be supported.
- Companies that, despite reasonable efforts by the Office of the Federal Safety Commissioner, fail to consistently maintain compliance with the Scheme criteria, or actively address identified shortcomings, will have their accreditation suspended or revoked.

## **REACCREDITATION**

### **Will the reaccreditation process change?**

- Yes. It will be far more streamlined for most companies than the current reaccreditation process (which is effectively identical to the initial accreditation process).

### **What will the reaccreditation process require – how will it reduce requirements for companies with a good track record?**

- Greatly streamlined arrangements for high performing companies will be introduced.
- Details of the reaccreditation process will be determined in consultation with stakeholders.
- A key objective is to ensure very limited paperwork requirements at the reaccreditation phase for companies with a strong compliance record. There should also be no need for any additional audits at the reaccreditation phase where previous audits have shown strong performance.
- For companies with conditions attached to their accreditation or other compliance-related measures are in place, or where there are significant concerns over their audit history and safety performance, a more rigorous reaccreditation process will be required.

## **REPORTING**

### **Will my reporting requirements to the Office change?**

- No, not for now. Accredited contractors should continue to report to the Office of the Federal Safety Commissioner under the current arrangements.
- Changes are expected in the first half of 2015 that will ensure alignment with the new risk based model. A further objective will be to streamline reporting requirements for companies and, where possible, improve comparability with data collected by other bodies.
- Changes will be developed in consultation with the industry.

## THIRD PARTY COMPLAINTS MECHANISM

### What is a third party complaints mechanism?

- This will be a way for companies going through the accreditation or post-accreditation processes to raise concerns with the support of a third party (such as an industry association).

### What is the third party complaints process?

- The Office of the Federal Safety Commissioner is consulting with key industry representatives to establish how the third party complaints process will operate.

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## PART E – OTHER CHANGES

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## RECOGNITION FOR ACCREDITED COMPANIES UNDERTAKING PROJECTS FOR STATE AND TERRITORY GOVERNMENTS

### Will there be better recognition of accredited companies under ‘pre-qualification’ schemes run by states and territories for the projects they fund?

- Yes, this appears likely. It is anticipated that from early 2015 all states and territories will recognise accreditation under the Scheme as meeting all jurisdictions’ prequalification requirements in relation to work health and safety for their tender processes (for civil and commercial projects).
- This agreement has been reached by the Australian Procurement and Construction Council (APCC) and Austroads and final approval is anticipated in coming months.

### Is the removal of the requirement for AS4801 for Scheme accreditation purposes likely to affect this anticipated recognition by states and territories?

- No, both the APCC and Austroads agree that the Scheme’s requirements cover and far exceed those of AS4801.

## INTERNATIONAL COMPANIES

### Will international companies still require accreditation for Scheme projects?

- Yes. International companies wishing to undertake Scheme work will need to be accredited in their own right, or have a decision in place to allow them to work in a joint venture with an accredited partner.
- The joint venture arrangements are described in the International Companies in Joint Ventures/Alliances Facts Sheet available on [www.fsc.gov.au](http://www.fsc.gov.au).

## Will there be changes to assist international companies?

- It is anticipated that a number of the pre-requisites for an international company wishing to enter into a joint venture with an accredited company will be removed, greatly reducing the time taken to be given approval for the joint venture arrangement.
- Commencement of these changes from 1 January 2015, and final details, are subject to the changes to the Regulations governing the Scheme being put in place (expected in November 2014). Further advice will be available at that time.
- These changes will apply equally to the new joint venture arrangements for domestic companies described above.
- Many of the other improvements to the Scheme will assist international as well as domestic companies.
- The Government has agreed that any opportunities to further increase access for international companies should be investigated, but that competitive neutrality for domestic building companies will be maintained.

### For further information you can:

- visit the FSC website at [www.fsc.gov.au](http://www.fsc.gov.au)
- contact the FSC Assist Line on **1800 652 500**
- contact the Office of the Federal Safety Commissioner via email at [ofsc@employment.gov.au](mailto:ofsc@employment.gov.au)

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