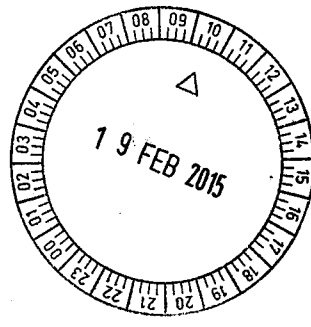


ASA (2)

Premier
Minister for Tourism, Hospitality and Events
Minister for Sport and Recreation
Minister for Aboriginal Affairs

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Mr Peter Abetz MLA
Chairman
Joint Standing Committee on Delegated Legislation
delleg@parliament.wa.gov.au

Dear Mr Abetz

Thank you for your correspondence of 4 December 2014 inviting the Tasmanian Government to make a submission to the Committee's Inquiry into access to Australian Standards adopted in delegated legislation.

Reducing red tape is a high priority for the Tasmanian Government and I am pleased to provide what assistance I can to help your Committee to examine ways to improve public access to Australian Standards adopted in legislation. Accordingly, my Department has consulted with a cross-section of Tasmanian Government agencies and prepared the attached response to the Committee's questions.

If you have any questions about the response, the contact officer in my Department is Mr Andrei Norris, Policy Analyst, Policy Division. Mr Norris can be contacted by telephone on (03) 6232 7203 or by email at Andrei.Norris@dpac.tas.gov.au.

Yours sincerely

Will Hodgman MP
Premier

Attachment

Inquiry into access to Australian Standards adopted in delegated legislation

TASMANIAN GOVERNMENT RESPONSE

FEBRUARY 2015

Introduction

The Department of Premier and Cabinet has prepared this response based on consultation with key Tasmanian Government agencies that either administer legislation adopting Australian Standards and/or are responsible for providing public access to Australian Standards. Agencies consulted were:

- the Department of Health and Human Services (Population Health Service);
- the Department of Justice (WorkSafe Tasmania and Building Standards and Occupational Licensing);
- the Department of Primary Industries, Parks, Water and Environment (Biosecurity Tasmania); and
- the Department of Education (Learning Information Network Centres Tasmania).

Agency responses

Question 1 - Does your Government have any understanding or agreement with Standards Australia or SAI Global relating to Government agencies, the Parliament or public access to Australian Standards?

There is no whole-of-government agreement with Standards Australia or SAI Global relating to access to Australian Standards. Individual agencies/business units subscribe to SAI Global's online service on an as needs basis. This includes a subscription that allows restricted public access at Tasmania's public library network.

Question 2 - Does the issue of access to Australian Standards fall within the responsibility of one Government agency?

No. See above.

Question 3 - Is it known approximately how many Australian Standards are adopted in delegated legislation in your jurisdiction? If no, is it common practice to adopt Australian Standards in delegated legislation in your jurisdiction?

For the agencies sampled, approximately 205 Australian Standards were adopted. This is made up of:

| | |
|--|-----------------|
| WorkSafe Tasmania (WST) | 26 ¹ |
| Biosecurity Tasmania | 6 |
| Population Health Service (PHS) | 4 |
| Building Standards and Occupational Licensing (BSOL) | 169 |

For BSOL, relevant standards are adopted under the National Construction Code (NCC). BSOL has advised that the figure of 169 does not include additional standards that apply in the areas of gas and electrical safety. In total BSOL estimates that up to 250 standards could apply to a building site (excluding standards adopted under Work Health and Safety laws).

¹ WST noted the following in providing its response:

- Some references to standards are for definitional or scoping purposes.
- Some references are to a series of standards, which may include any number of parts or volumes. For example, AS 2187 contains four parts.
- Some references may be to specific parts of a standard only, eg AS/NZS2299.1.

This means that the number of standards quoted may be an underestimate because it does not include all the separate parts. References in codes of practice have not been included as these are not subordinate legislation.

Question 4 - What provisions in legislation authorise Australian Standards to be adopted in delegated legislation?

Authorisation is provided in the specific enabling Acts under which the relevant delegated legislation is made. Examples include the *Building Act 2000*, the *Occupational Licensing Act 2005* and the *Gas Act 2000*. In total, agencies cited 12 Acts under which delegated legislation adopts Australian Standards.

Question 5 - What legislation, if any, relates to or improves access to Australian Standards?

None cited.

Question 6 - What other measures, if any, have been taken to improve access to Australian Standards?

Examples cited were website and hardcopy access and direct circulation to licence holders.

Question 7 - Are explanatory materials to delegated legislation required to refer to Australian Standards adopted in delegated legislation or is the agency required to provide a copy of the adopted standard to the Parliament or a committee of the Parliament to aid in the scrutiny of the legislation?

There is no specific requirement to do this. For example, publication of the annual edition of the NCC is not regarded as creating subordinate legislation for the purposes of the Tasmanian Parliament's Subordinate Legislation Committee.

Question 8 - How and where are Australian Standards adopted in delegated legislation made available to the public? What level of public access is available at your state library and public library? Is access free or do charges apply?

Arrangements differ across agencies:

- Some agencies regard access to relevant standards as part of the responsibility of those engaged in relevant industries and professions. For example:
 - WST and BSOL refer inquirers (including building practitioners, those engaged in a relevant business or undertaking, homeowners and consumers) to SAI Global for purchase or to a public library known to provide public access to view Australian Standards; and
 - PHS is able to provide access to relevant standards on request.
- Biosecurity Tasmania facilitates access to some relevant standards via links on its website to other sites offering free online access (for example, links to the CSIRO's webpage which offers free online access to a PDF version of the Australian Standard for Meat Products). In most cases, relevant Australian Standards are circulated directly to licence holders.

Access through the State library network (known as Learning Information Network Centres or LINC)s is administered by LINC Tasmania. The current subscription with SAI Global costs \$13 345 per annum and allows for single client access at any one time at any one of the seven main urban LINC)s (Hobart, Launceston, Burnie, Devonport, Glenorchy, Rosny Park and Kingston). Access is available free of charge with standard copy charges for any printouts (22 cents per page). Printing is permitted (within the limits of the *Copyright Act 1968* and one page at a time), but electronic copying and emailing are prohibited under the licence terms and conditions.

There is no direct online access to Australian Standards through the library network at smaller LINC sites in rural or regional locations due to the high subscription cost and a restriction on library staff making print copies for supply to clients in non-metropolitan locations.

In 2014 there were 400 logins to Australian Standards via the LINC Tasmania network and 145 unsuccessful attempts.²

LINC Tasmania advises that the high cost of the subscription, combined with the restrictions on copying, place severe limitations on the services that the State Library can provide to clients wishing to access Australian Standards.

Question 9 - Do Government agencies provide access to Australian Standards to the public at their offices or their libraries? Is access free or do charges apply?

See response to question 8. WST does not routinely provide access at its offices.

Question 10 - Are you aware of any Government report or report of the Parliament dealing with the issue of access to Australian Standards? If so, please provide details.

Following a decision by Building Ministers to improve compliance with the NCC, free online access to the NCC will be available from April 2015. However, this does not include free access to the standards referenced in the NCC.

In August 2012, the Australian Law Reform Commission released an Issues Paper, *Copyright and the Digital Economy* and SAI Global provided a submission on the issue of free access to Australian Standards and the effects of removing a user pays system.³

² This is understood to be due to the single client access model and possibly some technical issues.

³ See www.alrc.gov.au/inquiries/copyright-and-digital-economy