



Australian Capital Territory

Building and Construction Legislation Amendment Act 2016

A2016-44

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Australian Capital Territory

Building and Construction Legislation Amendment Act 2016

A2016-44

An Act to amend legislation about building and construction occupations, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Building and Construction Legislation Amendment Act 2016*.

2 Commencement

- (1) This Act (other than the following provisions) commences on the day after its notification day:
- sections 17 to 23
 - section 25
 - section 35
 - section 37
 - section 44
 - section 47.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) The provisions mentioned in subsection (1) commence on a day fixed by the Minister by written notice.

Note A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

- (3) If the provisions mentioned in subsection (1) have not commenced within 12 months beginning on this Act's notification day, they automatically commence on the first day after that period.
- (4) The [Legislation Act](#), section 79 (Automatic commencement of postponed law) does not apply to the provisions mentioned in subsection (1).

3 Legislation amended

This Act amends the following legislation:

- *Building Act 2004*
- *Building (General) Regulation 2008*
- *Building and Construction Industry (Security of Payment) Act 2009*
- *Construction Occupations (Licensing) Act 2004*
- *Construction Occupations (Licensing) Regulation 2004*
- *Planning and Development Act 2007.*

4 Legislation repealed

The following legislative instruments made under the *Construction Occupations (Licensing) Act 2004* are repealed:

- *Construction Occupations (Licensing) Building Energy Efficiency Assessment Sale and Lease of Residential Premises Code of Practice 2012 (No 1)* (NI2012-228)
- *Construction Occupations (Licensing) Unit Title Landscaping Works Assessment Code of Practice 2010* (NI2010-529)
- *Construction Occupations (Licensing) Unit Title Site Assessment Code of Practice 2010 (No 2)* (NI2010-582)
- *Constructions Occupations (Licensing) Unit Title Unit Fitness Assessment Code of Practice 2010* (NI2010-632).

Part 2 Building Act 2004

5 New section 17A

insert

17A Certifier—functions

A certifier appointed for building work or proposed building work has the following functions in relation to the work:

- (a) receiving and deciding an application from a land owner for—
 - (i) building approvals for the work; and
 - (ii) amendments to building approvals for the work;
- (b) for building work on buildings other than class 1, class 10a or class 10b buildings—stating in the relevant building approval the structural framework, the placement of formwork and the steel reinforcing for any reinforced concrete member that will require inspection before proceeding beyond that stage;
- (c) receiving and deciding an application from a building licensee for a commencement notice for the work;
- (d) inspecting building work at prescribed stages, and stages stated in a building approval, to determine compliance with this Act, including the following:
 - (i) requesting and verifying records of tests for the building work;
 - (ii) if building work does not comply with this Act—giving the building licensee notice of the noncompliance and directions on how to achieve compliance;
 - (iii) giving directions about safety precautions to the building licensee if required;
 - (iv) authorising building work to proceed beyond a stage if appropriate;

- (v) providing advice to the construction occupations registrar about the completeness of building work and compliance with this Act;
- (e) notifying the construction occupations registrar about contraventions or suspected contraventions of this Act;
- (f) issuing stop notices if appropriate;
- (g) giving building licensees directions about safety precautions;
- (h) telling the planning and land authority if the certifier suspects there is non-compliant site work;
- (i) maintaining documents, records and information in relation to building approvals, stage inspections, directions, notices and other matters as required under the following:
 - (i) this Act;
 - (ii) a code of practice under this Act;
 - (iii) a code of practice under the *Construction Occupations (Licensing) Act 2004*;
- (j) any other function under this Act or prescribed by regulation.

Note 1 Eligibility criteria for appointment of certifiers and suspension and ending appointments are set out in this division and the regulation.

Note 2 Power to make a decision includes power to reverse or change the decision (see [Legislation Act](#), s 180).

6 Section 43

substitute

43 Stages of building work

- (1) A regulation may prescribe—
 - (a) stages of building work; and
 - (b) exceptions to allow building work to proceed beyond a stage without a stage inspection; and

- (c) conditions for building work to proceed beyond a stage without a stage inspection.

Note Power to make a statutory instrument (including a regulation) includes power to make different provision in relation to different matters or different classes of matters, and to make an instrument that applies differently by reference to stated exceptions or factors (see [Legislation Act](#), s 48).

- (2) A building licensee in charge of building work must give the certifier a required written notice when building work reaches a stage of building work.
- (3) A building licensee commits an offence if—
 - (a) building work has reached a stage; and
 - (b) the building work is not within a prescribed exception; and
 - (c) the licensee—
 - (i) does building work beyond the stage; and
 - (ii) fails to give the certifier the required written notice before the building work beyond the stage was started.

Maximum penalty: 50 penalty units.

- (4) An offence against this section is a strict liability offence.
- (5) In this section:

required written notice means a notice that—

- (a) is dated on the day it is given; and
- (b) states the stage of building work that has been reached; and
- (c) includes a statement that—
 - (i) the building work done for the stage was carried out in accordance with approved plans; and

- (ii) if the building work involved handling asbestos or disturbing friable asbestos—the approved plans comply with this Act in relation to the asbestos.

Note The licensee may give the notice electronically (see [Electronic Transactions Act 2001](#), s 8).

7 Stage inspections **Section 44 (1)**

omit

section 43 (3) (a)

substitute

section 43 (2)

8 New section 44 (1A)

insert

- (1A) A regulation may make provision for the inspection of stages of building work.

9 New section 44 (2A) and (2B)

insert

- (2A) A building licensee commits an offence if—
 - (a) building work has reached a stage; and
 - (b) the building work is not within a prescribed exception; and
 - (c) the licensee does building work beyond the stage; and
 - (d) the licensee does not obtain—
 - (i) written notice under subsection (2) (a) stating that the work may proceed beyond the stage subject to directions for achieving compliance; or

- (ii) a certificate under subsection (2) (b).

Maximum penalty: 50 penalty units.

- (2B) A building licensee commits an offence if—

- (a) building work has reached a stage; and
- (b) the building work is not within a prescribed exception; and
- (c) the licensee does building work beyond the stage; and
- (d) the licensee obtains—
 - (i) written notice under subsection (2) (a) but does not comply with a direction for achieving compliance; or
 - (ii) a certificate under subsection (2) (b) but does not comply with a condition of the certificate.

Maximum penalty: 50 penalty units.

10 Section 44 (4)

omit

subsection (3)

substitute

this section

11 New section 44 (6A)

insert

- (6A) If a building licensee in charge of building work is required under subsection (6) to conduct a test, the licensee must, as soon as practicable after the test is completed, give the certifier the written results of the test.

12 Section 44 (7) (b) (i)

omit

section 43 (3) (a)

substitute

section 43 (2)

**13 Meaning of *prescribed requirements*—div 5.1
Section 66, definition of *prescribed requirements*,
paragraph (b), except note**

substitute

(b) for any other building work—the requirements of this Act.

**14 Certificates of occupancy
Section 69 (1) and note**

substitute

- (1) The construction occupations registrar must issue a certificate of occupancy for building work that involves the erection or alteration of a building if, on application by the owner of the parcel of land where the building work was carried out, the registrar is satisfied that—
- (a) the building work has been completed in accordance with the prescribed requirements for the building work; and
 - (b) the building as erected or as altered is fit for occupation and use as a building of the class stated in the approved plans for that building work.

Note 1 If the building work only involved erecting part of a building, see s (3).

Note 2 Power to make a decision includes power to reverse or change the decision (see [Legislation Act](#), s 180).

15 Section 69 (4)

substitute

- (4) A regulation may prescribe matters that must be considered by the construction occupations registrar in deciding whether a building is fit for occupation and use.

Note Power to make a statutory instrument (including a regulation) includes power to make different provision in relation to different matters or different classes of matters, and to make an instrument that applies differently by reference to stated exceptions or factors (see [Legislation Act](#), s 48).

16 Part 6 heading

substitute

Part 6 Residential buildings—statutory warranties, standard conditions, insurance and fidelity certificates

**17 Definitions—pt 6
Section 84, definition of *complying residential building work insurance***

substitute

complying residential building work insurance means an insurance policy issued in relation to insurable residential building work that complies with section 90.

18 Section 84, new definitions

insert

insurable residential building means a residential building—

- (a) the residential parts of which (other than a part of the building that is a structurally integral adjunct to the building) are classified as a class 1 or class 2 residential building; and

- (b) that has no more than 3 storeys at any point, excluding any storey used exclusively for parking.

Examples

- 1 A building has 2 wings, which are structurally independent of each other. The north wing has 3 storeys including the ground storey. The south wing has 6 storeys including the ground storey. All storeys contain residential units. The north wing is an insurable residential building. The south wing is not an insurable residential building because it is 6 storeys.
- 2 A building has 2 wings that are dependent on each other for structural support. The north wing has 3 storeys including the ground storey. All storeys contain residential units. The lower 3 storeys of the south wing are structurally integrated with the north wing. A structural instability in any of the lower 3 storeys in the south wing could compromise the structural integrity of both wings of the building. The south wing storeys that are higher than the north wing are structurally independent of the north wing. The north wing of the building is an insurable residential building. The lower 3 storeys of the south wing are an insurable residential building to the extent that they are a structurally integral adjunct to the building as a whole. The upper 3 storeys of the south wing are not an insurable residential building because they are over 3 storeys and not a structurally integral adjunct to the building.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

insurable residential building work means residential building work in relation to an insurable residential building.

19 Section 84, definition of *residential building*

substitute

residential building means—

- (a) a building intended mainly for private residential use; or

- (b) part of a building mentioned in paragraph (a) (whether or not the part is intended for private residential use) if the part provides structural support, or is a structurally integral adjunct, to the building.

Examples

- 1 A building has shops on its ground storey and hotel accommodation on its 2nd and 3rd storey. The building is not a residential building because it is not used mainly for private residential use.
- 2 A 4-storey residence has a parking garage as its ground storey. A structural instability in the garage could compromise the building's structural integrity. The garage is a residential building because it is a part of the building that is a structurally integral adjunct to the building and the building is a residential building.
- 3 A single storey residence has a garage attached at the side. The roof trusses of the building span across the residence and garage in a single span. A structural instability in the garage could compromise the structural integrity of the roof trusses and, because of that, compromise the structural integrity of the building. The garage is a residential building because it is a part of the building that is a structurally integral adjunct to the building and the building is a residential building.
- 4 A single storey residence has a garage attached at the side and under the same roofline as the residence. The garage is mainly used for cars and is not for residential use. No structural elements of the residence depend on the garage for structural integrity. A structural instability in the garage could not compromise the structural integrity of the residence. The garage is not a residential building because it is not a structurally integral adjunct to a building intended primarily for residential use. The residence, apart from the garage, is a residential building.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

**20 Residential building work to which pt 6 does not apply
Section 87 (1) (d)**

omit

21 Section 87 (2)

omit

22 New section 87A

insert

87A Residential building work to which div 6.2 does not apply

This division does not apply to residential building work prescribed by regulation.

**23 Statutory warranties
Section 88 (2)**

omit everything before paragraph (b), substitute

- (2) The builder warrants the following in relation to residential building work:
- (a) that the work has been or will be carried out in accordance with this Act;

24 New division 6.2A

insert

Division 6.2A Standard conditions**89A Residential building work contract to which div 6.2A does not apply**

This division does not apply to a residential building work contract if the cost of the residential building work under the contract is less than the amount prescribed by regulation.

89B Meaning of *residential building work contract*—div 6.2A

- (1) In this division:

residential building work contract means a contract—

- (a) to carry out residential building work, to which the builder is a party; or

- (b) for the sale of a residential building, or part of a residential building, if the contract involves carrying out residential building work; or
- (c) to arrange for someone else to carry out residential building work.

Note If a form is approved under s 151 for this provision, the form must be used.

- (2) For this division, a contract *involves* carrying out residential building work if—
 - (a) the contract is to purchase a residential building before, at, or after the completion of residential building work; or
 - (b) the completion of the contract depends on the completion of residential building work; or
 - (c) progress payments under the contract relate to the progress of residential building work.

89C Standard conditions for residential building work contract

- (1) A regulation may prescribe the following for a residential building work contract:
 - (a) a standard condition;
 - (b) the meaning of a term used in a residential building work contract (a *prescribed term*).
- (2) A person commits an offence if—
 - (a) the person enters into a residential building work contract; and
 - (b) under the contract the person—
 - (i) is required to carry out residential building work; or
 - (ii) sells a residential building, or part of a residential building, and carrying out residential building work is involved in the contract; or

- (iii) arranges for someone else to carry out residential building work; and
- (c) the residential building work contract does not include—
 - (i) each standard condition; or
 - (ii) if the residential building work uses a prescribed term—the meaning of the prescribed term.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

89D Required documents for residential building work contract

- (1) A regulation may prescribe the documents (the *required documents*) that must be attached to a residential building work contract.
- (2) A person commits an offence if—
 - (a) the person enters into a residential building work contract; and
 - (b) under the contract the person—
 - (i) is required to carry out residential building work; or
 - (ii) sells a residential building, or part of a residential building, and carrying out residential building work is involved in the contract; or
 - (iii) arranges for someone else to carry out residential building work; and
 - (c) the required documents are not attached to the residential building work contract.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

89E Prohibited conditions for residential building work contract

- (1) A regulation may prescribe a prohibited condition for a residential building work contract.
- (2) A prohibited condition, that is included in a residential building work contract, is void.

**25 Appointment of building inspectors
New section 128 (2) to (6)**

insert

- (2) A person must not be appointed under this section unless the construction occupations registrar is satisfied that the person is competent to exercise the functions of a building inspector under this Act.
- (3) A regulation may prescribe matters that the construction occupations registrar must consider in relation to a person's competency for subsection (2).
- (4) An appointment must be for a term of not longer than 5 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see [Legislation Act](#), s 208 and dict, pt 1, def *appoint*).

- (5) A building inspector has the functions of a building inspector under this Act and any other function given to the inspector by the construction occupations registrar.
- (6) A building inspector must exercise the inspector's functions in accordance with—
 - (a) the instrument of appointment; and
 - (b) any directions the construction occupations registrar gives the inspector.

26 New division 7.2 heading

after section 129, insert

Division 7.2 Inspection of building work and authority for required work**27 Inspection of building work where no approval
Section 131 (3)**

substitute

- (3) The construction occupations registrar may, in writing, authorise a building inspector to order the opening or cutting into or pulling down of the building work.
- (4) The construction occupations registrar may, in writing, authorise a person to assist a building inspector who is authorised to act under subsection (3).
- (5) A written authority may only be given if the construction occupations registrar believes on reasonable grounds that the person authorised has the necessary skills and qualifications to act under this section.

28 Section 133

substitute

133 Power to authorise required work

- (1) This section applies if—
 - (a) a notice has been issued under part 4 (Stop and other notices and demolition orders); and
 - (b) the notice has not been complied with.

- (2) The construction occupations registrar may, in writing, authorise a building inspector to—
 - (a) enter premises where the building work mentioned in the notice has been, is being or should have been carried out; and
 - (b) carry out the building work mentioned in the notice.
- (3) The construction occupations registrar may, in writing, authorise a person to assist a building inspector who is authorised to act under subsection (2).
- (4) A written authority may only be given if the construction occupations registrar believes on reasonable grounds that the person authorised has the necessary skills and qualifications to act under this section.

29 New division 7.3 heading

after section 133, insert

Division 7.3 Entry and seizure

30 Section 134 heading

substitute

134 Building inspectors—entry to premises

31 New sections 134A to 134E and division 7.4

after section 134, insert

134A Building inspectors—powers on entry

- (1) A building inspector who enters premises under this part may, for this Act, do 1 or more of the following in relation to the premises, anything on the premises, and the land around the premises:
 - (a) inspect or examine;

- (b) inspect and copy, or take an extract from, any document at the premises;
- (c) take measurements or conduct tests;
- (d) take samples;
- (e) take photographs, films, audio, video or other recordings;
- (f) take onto the premises any people, equipment or material the inspector reasonably needs to exercise the inspector's functions under this Act;
- (g) require the occupier, or anyone at the premises, to give information, answer questions, or produce documents or anything else, reasonably needed to exercise the inspector's functions under this Act.

Note The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

- (2) A person must take all reasonable steps to comply with a requirement made of the person under subsection (1) (g).

Maximum penalty: 50 penalty units.

134B Building inspectors—power to seize things

- (1) A building inspector who enters premises under this part with the occupier's consent may seize anything at the premises if—
 - (a) the inspector is satisfied on reasonable grounds that the thing is connected with an offence against this Act; and
 - (b) seizure of the thing is consistent with the purpose of the entry told to the occupier when seeking the occupier's consent.
- (2) A building inspector who enters premises under a warrant under this part may seize anything at the premises that the inspector is authorised to seize under the warrant.

- (3) A building inspector who enters premises under this part (whether with the occupier's consent, under a warrant or otherwise) may seize anything at the premises if satisfied on reasonable grounds that—
- (a) the thing is connected with an offence against this Act; and
 - (b) the seizure is necessary to prevent the thing from being—
 - (i) concealed, lost or destroyed; or
 - (ii) used to commit, continue or repeat the offence.
- (4) Also, a building inspector who enters premises under this part (whether with the occupier's consent or otherwise) may seize anything at the premises if satisfied on reasonable grounds that the thing—
- (a) puts the health or safety of people at risk; or
 - (b) may cause damage to property or the environment.
- (5) The powers of a building inspector under subsections (3) and (4) are additional to any powers of the inspector under subsection (1) or any other territory law.
- (6) Having seized a thing, a building inspector may—
- (a) remove the thing from the premises where it was seized (the *place of seizure*) to another place; or
 - (b) leave the thing at the place of seizure but restrict access to it.
- (7) A person commits an offence if—
- (a) the person interferes with a seized thing, or anything containing a seized thing, to which access has been restricted under subsection (6); and
 - (b) the person does not have a building inspector's approval to interfere with the thing.

Maximum penalty: 50 penalty units.

- (8) An offence against this section is a strict liability offence.

134C Building inspectors—receipt for things seized

- (1) As soon as practicable after a thing is seized by a building inspector under this part, the inspector must give a receipt for it to the person from whom it was seized.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the building inspector must leave the receipt, secured conspicuously at the place of seizure.

134D Access to things seized

A person who would, apart from the seizure, be entitled to a thing seized under this part may—

- (a) inspect it; and
- (b) if it is a document—take extracts from it or make copies of it.

134E Return of things seized

- (1) A thing seized under this part must be returned to its owner, or reasonable compensation must be paid to the owner by the Territory for the loss of the thing, if—
 - (a) a prosecution for an offence relating to the thing is not instituted within 90 days of the seizure; or
 - (b) the court does not find the offence proved in a prosecution for an offence relating to the thing.
- (2) A thing seized under this part is forfeited to the Territory if a court—
 - (a) finds an offence relating to the thing to be proved; and
 - (b) orders the forfeiture.
- (3) If subsection (2) (a) applies, but a court does not order forfeiture of the thing seized, the construction occupations registrar must return the thing to its owner or the Territory must pay reasonable compensation to the owner for the loss of the thing.

Division 7.4 Search warrants

134F Warrants generally

- (1) A building inspector may apply to a magistrate for a warrant to enter premises.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.
- (4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—
 - (a) there is a particular thing or activity connected with an offence against this Act; and
 - (b) the thing or activity is, or is being engaged in, at the premises, or may be, or may be engaged in, at the premises within the next 14 days.
- (5) The warrant must state—
 - (a) that a building inspector may, with any necessary assistance and force, enter the premises and exercise the inspector's powers under this part; and
 - (b) the offence for which the warrant is issued; and
 - (c) the things that may be seized under the warrant; and
 - (d) the hours when the premises may be entered; and
 - (e) the date, within 14 days after the day of the warrant's issue, that the warrant ends.

(6) In this section:

connected—an activity is **connected** with an offence if—

- (a) the offence has been committed by engaging or not engaging in it; or
- (b) it will provide evidence of the commission of the offence.

134G Warrants—application made other than in person

- (1) A building inspector may apply for a warrant by phone, fax, radio or other form of communication if the inspector considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances.
- (2) Before applying for the warrant, the building inspector must prepare an application stating the grounds on which the warrant is sought.
- (3) The building inspector may apply for the warrant before the application is sworn.
- (4) After issuing the warrant, the magistrate must immediately fax a copy to the building inspector if it is practicable to do so.
- (5) If it is not practicable to fax a copy to the building inspector—
 - (a) the magistrate must—
 - (i) tell the building inspector what the terms of the warrant are; and
 - (ii) tell the building inspector the date and time the warrant was issued; and
 - (b) the building inspector must complete a form of warrant (the **warrant form**) and write on it—
 - (i) the magistrate's name; and
 - (ii) the date and time the magistrate issued the warrant; and

- (iii) the warrant's terms.
- (6) The faxed copy of the warrant, or the warrant form properly completed by the building inspector, authorises the entry and exercise of the inspector's powers under this part.
- (7) The building inspector must, at the first reasonable opportunity, send to the magistrate—
 - (a) the sworn application; and
 - (b) if the inspector completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.
- (9) A court must find that a power exercised by a building inspector was not authorised by a warrant under this section if—
 - (a) the question arises in a proceeding before the court whether the exercise of power was authorised by a warrant; and
 - (b) the warrant is not produced in evidence; and
 - (c) it is not proved that the exercise of power was authorised by a warrant under this section.

134H Search warrants—announcement before entry

- (1) A building inspector must, before anyone enters premises under a search warrant—
 - (a) announce that the inspector is authorised to enter the premises; and
 - (b) give anyone at the premises an opportunity to allow entry to the premises; and
 - (c) if an occupier of the premises, or someone else who apparently represents the occupier, is present at the premises—identify himself or herself to the person.

- (2) The building inspector is not required to comply with subsection (1) if the inspector believes on reasonable grounds that immediate entry to the premises is required to ensure—
- (a) the safety of anyone (including the inspector or any person assisting); or
 - (b) that the effective execution of the warrant is not frustrated.

134I Details of search warrant to be given to occupier etc

If an occupier of premises, or someone else who apparently represents the occupier, is present at the premises while a search warrant is being executed, the building inspector or a person assisting must make available to the person—

- (a) a copy of the warrant; and
- (b) a document setting out the rights and obligations of the person.

134J Occupier entitled to be present during search etc

- (1) If an occupier of premises, or someone else who apparently represents the occupier, is present at the premises while a search warrant is being executed, the occupier or the other person is entitled to observe the search being conducted.
- (2) However, the person is not entitled to observe the search if—
 - (a) to do so would impede the search; or
 - (b) the person is under arrest, and allowing the person to observe the search being conducted would interfere with the objectives of the search.
- (3) This section does not prevent 2 or more areas of the premises being searched at the same time.

134K Moving things to another place for examination or processing

- (1) A thing found at premises entered under a search warrant may be moved to another place for examination or processing to decide whether it may be seized under the warrant if—
 - (a) both of the following apply:
 - (i) there are reasonable grounds for believing that the thing is or contains something to which the warrant relates;
 - (ii) it is significantly more practicable to do so having regard to the timeliness and cost of examining or processing the thing at another place and the availability of expert assistance; or
 - (b) the occupier of the premises agrees in writing.
- (2) The thing may be moved to another place for examination or processing for not longer than 72 hours.
- (3) A building inspector may apply to a magistrate for an extension of time if the inspector believes on reasonable grounds that the thing cannot be examined or processed within 72 hours.
- (4) The building inspector must give notice of the application to the occupier of the premises, and the occupier is entitled to be heard on the application.
- (5) If a thing is moved to another place under this section, the building inspector must, if practicable—
 - (a) tell the occupier of the premises the address of the place where, and time when, the examination or processing will be carried out; and
 - (b) allow the occupier or the occupier's representative to be present during the examination or processing.

- (6) The provisions of this part relating to the issue of search warrants apply, with any necessary changes, to the giving of an extension under this section.

32 Division 8.2 heading

substitute

Division 8.2 Codes of practice and guidelines

33 Approval of codes of practice Section 139B (2)

substitute

- (2) A code of practice may set out practices, standards and other matters about building certification and building work.

34 New section 139BA

in division 8.2, insert

139BA Approval of guidelines

- (1) The Minister may approve guidelines for this Act.

Note A power given under an Act to make a statutory instrument (including a code of practice) includes power to amend or repeal the instrument (see [Legislation Act](#), s 46 (1)).

- (2) A guideline may set out standards and other matters about building approval applications, documentation, plans and specifications for building work.

- (3) An approved guideline is a disallowable instrument.

Note 1 A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

Note 2 An amendment or repeal of a code of practice is also a disallowable instrument (see [Legislation Act](#), s 46 (2)).

- (4) The construction occupations registrar must make a copy of a guideline, and any instrument applied (with or without change) by the guideline, available for public inspection during ordinary office hours at—

- (a) the office of the construction occupations registrar; or
(b) another place prescribed by regulation.

Note A reference to an instrument includes a reference to a provision of an instrument (see [Legislation Act](#), s 14 (2)).

- (5) In this section:

applied includes adopted and incorporated.

35 Dictionary, new definitions

insert

insurable residential building, for part 6 (Residential buildings—statutory warranties, standard conditions, insurance and fidelity certificates)—see section 84.

insurable residential building work, for part 6 (Residential buildings—statutory warranties, standard conditions, insurance and fidelity certificates)—see section 84.

36 Dictionary, new definition of *residential building work contract*

insert

residential building work contract, for division 6.2A (Standard conditions)—see section 89B.

37 Further amendments, mentions of *residential building work*

before

residential building work

insert

insurable

in

- section 37
- section 38
- section 90
- section 93

38 Further amendments, mentions of *warranties, insurance*

omit

warranties, insurance

substitute

warranties, standard conditions, insurance

in

- section 6
- section 69 (2C) (c)
- section 73
- dictionary, definitions of

actuary

approval criteria

approved scheme

builder

building

building work

complying residential building work insurance

completion day

cost

fidelity certificate

fidelity fund scheme

prudential standards

residential building

residential building work

special actuary

storey

Part 3 Building (General) Regulation 2008

39 Stages of building work—Act, s 43 (1) (a) Section 33, note

substitute

Note The [Act](#), s 43 requires certain things to be done before building work proceeds beyond a prescribed stage.

40 Section 34

substitute

34 Offence—building work above damp-proof course level

- (1) A building licensee in charge of building work commits an offence if the licensee—
- (a) does building work above damp-proof course level; and
 - (b) the building work is not within a prescribed exception; and
 - (c) fails to ensure that the certifier has received—
 - (i) a plan signed by a registered surveyor stating the position of the building in relation to the boundaries of the parcel of land where the building is to be erected and stating the level that the floor, or floors, of the building will have in relation to a level stated in the approved plans; or
 - (ii) for building work on an original building on original land—the original survey plan.

Maximum penalty: 50 penalty units.

- (2) A building licensee in charge of building work commits an offence if the licensee—
- (a) does building work above damp-proof course level; and
 - (b) the building work is not within a prescribed exception; and

- (c) fails to ensure that the certifier is satisfied that the position of the building, and the level of the floor, or floors, are in accordance with—
- (i) the approved plans; and
 - (ii) any condition of the following:
 - (A) an advice mentioned in the [Act](#), section 27 (1) (b) (i);
 - (B) an approval or consent mentioned in the [Act](#), section 27 (1) (b) (iii).

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) In this section:

damp-proof course means a continuous layer of impervious material placed in a masonry wall or pier, or between a wall or pier and a floor, to prevent the upward or downward migration of water.

original building means an existing class 1, class 10a or class 10b building.

original land means any building resulting from the work that is to be located completely on the same parcel of land as the original building.

original survey plan means a plan signed by a registered surveyor if—

- (a) the arrangement of the boundaries of the original land, and location and levels of the original building, have not changed since the original survey plan was made; and
- (b) no building on which the work is to be carried out is, or building resulting from the work is to be, situated closer than 100mm away from the boundary of the parcel of land.

41 New section 35A

in division 3.4, insert

35A Certificates of occupancy—fitness for occupation and use—Act, s 69 (4)

For the [Act](#), section 69 (4) the following are prescribed:

- (a) for plumbing, sewerage and drainage work carried out in, or in relation to, building work—
 - (i) for work that must be inspected under the [Water and Sewerage Act 2000](#)—that the work has been inspected and passed in accordance with that Act; or
 - (ii) for all other work—a certificate under the [Water and Sewerage Act 2000](#) that the plumbing, sewerage and drainage work complies with that Act; and
- (b) for electrical wiring work carried out in, or in relation to, building work—
 - (i) for work that must be inspected under the [Electricity Safety Act 1971](#)—that the work has been inspected and passed in accordance with that Act; or
 - (ii) for all other work—a certificate under the [Electricity Safety Act 1971](#) that the electrical wiring work complies with that Act; and
- (c) for gas fitting work carried out in, or in relation to, building work—
 - (i) for work that must be inspected under the [Gas Safety Act 2000](#)—that the work has been inspected and passed in accordance with that Act; or

- (ii) for all other work—a certificate under the *Gas Safety Act 2000* that the gas fitting work complies with that Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

42 Part 4 heading

substitute

Part 4 Residential buildings—statutory warranties, standard conditions, insurance and fidelity certificates

**43 Building work to which pt 6 does not apply
Section 37**

omit

warranties, insurance

substitute

warranties, standard conditions, insurance

44 Sections 39, 40 and 41 headings

substitute

39 Minimum insurance for insurable residential building work—Act, s 90 (1) (b)

40 Period of insurance for insurable residential building work—Act, s 90 (1) (c) and (d)

41 Period of claims for insurable residential building work—Act, s 90 (1) (i)

**45 Exempt buildings and building works
Schedule 1, part 1.3, column 3***omit*

warranties, insurance

substitute

warranties, standard conditions, insurance

46 Schedule 1, part 1.3, items 3, 5, 7, 15 and 16, column 4*omit*

otherwise—the building code

substitute

otherwise—the relevant deemed-to-satisfy provision of the building code

Part 4 Building and Construction Industry (Security of Payment) Act 2009

47 Application of Act Section 9

before

residential building work

insert

insurable

48 New sections 37A and 37B

in division 4.4, insert

37A Approval of codes of practice

- (1) The Minister may approve a code of practice for an authorised nominating authority.

Note A power given under an Act to make a statutory instrument (including a code of practice) includes power to amend or repeal the instrument (see [Legislation Act](#), s 46 (1)).

- (2) An approved code of practice is a disallowable instrument.

Note 1 A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

Note 2 An amendment or repeal of a code of practice is also a disallowable instrument (see [Legislation Act](#), s 46 (2)).

37B Breach of code of practice

A person commits an offence if the person—

- (a) is an authorised nominating authority; and

- (b) contravenes a code of practice applicable to the authorised nominating authority.

Maximum penalty: 50 penalty units.

Part 5 Construction Occupations (Licensing) Act 2004

49 Decision on licence application Section 19 (4)

substitute

- (4) The registrar may refuse to issue a licence for a construction occupation, or occupation class, to an applicant if—
- (a) the applicant, or a director or nominee of an applicant that is a corporation, or a partner or nominee of an applicant that is a partnership, is a licensee, a related licensee, or a former licensee (however described) under this Act or a corresponding law who—
 - (i) as a result of disciplinary action (however described) is, or has been, disqualified from holding a licence (however described) or prohibited from providing a construction service (however described) under this Act or a corresponding law; or
 - (ii) is, or has been, subject to occupational discipline (however described) under this Act or a corresponding law; or
 - (iii) the registrar believes on reasonable grounds surrendered a licence (however described) in circumstances that related to a ground for occupational discipline (however described) under this Act or a corresponding law; or
 - (iv) has contravened, or is contravening, a court order or an order made by the ACAT (or a similar State tribunal) relating to a construction service, construction occupation or occupation class under this Act or a corresponding law; or

- (v) has contravened, or is contravening, this Act or a condition of a licence or a previous or related licence; or

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (vi) has contravened, or is contravening, a rectification order (however described) under this Act or a corresponding law; or
- (vii) has a debt owing to the Territory under section 37 (5), section 41 (5) or section 42 (3) and does not have, or is not complying with, a formal arrangement to pay the debt; and
- (b) the registrar believes on reasonable grounds that the refusal is necessary or desirable to protect the public.

50 **New section 19 (7)**

insert

- (7) In this section:

related licence means a licence under this Act or a corresponding law that is held by a related licensee.

related licensee means—

- (a) if the applicant, or a director, partner or nominee of the applicant is or has been a director or nominee of a corporation (the ***related corporation***) that is or has been a licensee under this Act or a corresponding law—the related corporation; or
- (b) if the applicant, or a director, partner or nominee of the applicant is or has been a partner or nominee of a partnership (the ***related partnership***) that is or has been a licensee under this Act or a corresponding law—the related partnership.

51 New section 24A

insert

24A Eligibility for licence renewal

- (1) A regulation may prescribe when an entity is eligible, or not eligible, for renewal of a licence in a construction occupation or occupation class, including the qualifications the entity must have to be eligible for renewal of the licence.
- (2) A regulation may prescribe how an applicant may, or must, demonstrate that the applicant satisfies a requirement in relation to an application for renewal.

**52 Licence renewal
Section 25 (2)**

substitute

- (2) The registrar must renew a licence on application if satisfied that the applicant—
 - (a) would be eligible to be licensed if the application were for a new licence of the same kind; or
 - (b) is eligible for renewal of the licence.

53 Section 25 (3) (a)

omit everything before subparagraph (i), substitute

- (a) the applicant, or a director or nominee of an applicant that is a corporation, or a partner or nominee of an applicant that is a partnership, or a related licensee of the applicant—

54 Section 25 (3) (a) (i) and (ii)

substitute

- (i) has contravened, or is contravening, a court order or an order made by ACAT relating to the applicant's licence or a related licence (including work done by the licensee or a related licensee); or
- (ii) has contravened, or is contravening, this Act or a condition of the applicant's licence or a condition of a licence or a related licence; or

55 New section 25 (7)

insert

- (7) In this section:

related licence means a licence under this Act or a corresponding law that is held by a related licensee.

related licensee means—

- (a) if a director, partner or nominee of the applicant is or has been a director or nominee of a corporation (the ***related corporation***) that is or has been a licensee under this Act or a corresponding law—the related corporation; or
- (b) if a director, partner or nominee of the applicant is or has been a partner or nominee of a partnership (the ***related partnership***) that is or has been a licensee under this Act or a corresponding law—the related partnership; or
- (c) if a director, partner or nominee of the applicant is or has been a licensee under this Act or a corresponding law—the director, partner or nominee.

56 New section 26B

in division 3.1, insert

26B Notification requirements for licensees

- (1) A licensee must give the registrar written notice of the following events or circumstances (a *notification event*):
 - (a) for an individual who is the licensee—the individual becomes bankrupt or personally insolvent;
 - (b) for a corporation that is the licensee—
 - (i) the corporation becomes the subject of a winding-up order; or
 - (ii) a controller or administrator is appointed for the corporation;
 - (c) for a partnership that is licensed in a construction occupation or occupation class—a partner's licence in the same occupation or class is suspended or cancelled;
 - (d) the licensee, or a director or partner of the licensee, is found guilty, whether in the ACT or anywhere else, of an offence that—
 - (i) involves fraud, dishonesty or violence; and
 - (ii) is punishable by imprisonment for at least 1 year;
 - (e) the licensee is not insured for a construction occupation or occupation class in accordance with the regulation;
 - (f) for a corporation or partnership that is the licensee—the licensee does not have the required nominee or nominees for the construction occupation or occupation class of the licence.

- (2) The notice must be given within 24 hours after the notification event.
- (3) A licensee commits an offence if the licensee—
- (a) knows about a notification event; and
 - (b) fails to give the notice required under this section.

Maximum penalty: 100 penalty units.

57 **Nominees of corporations and partnerships**
New section 28 (2) (c)

insert

- (c) the nominee can, at all times, adequately supervise the construction services provided by it.

58 **New section 28 (3) (e)**

insert

- (e) between them, the nominees can, at all times, adequately supervise all the construction services to be provided by the corporation or partnership.

59 Section 28 (7)

substitute

- (7) A nominee of a corporation or partnership for a construction service, construction occupation or occupation class automatically stops being a nominee for the construction service, construction occupation or occupation class if the nominee stops being eligible to be appointed as a nominee for the construction service, construction occupation or occupation class.

Example

Satnam is a class A builder and is the appointed nominee for a corporation that provides construction services. The registrar applies to the ACAT for an occupational discipline order and the ACAT orders the cancellation of Satnam's class A builders licence. The cancellation of the licence means that Satnam is not eligible to be a nominee and his appointment as a nominee automatically ends. There is no need for Satnam to resign as nominee or for the corporation to revoke his appointment.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

**60 When rectification order may be made
Section 35 (3), example, except note**

substitute

Examples

- 1 The registrar issues a notice of intention to issue a rectification order to a licensee for completed work. The submission from the licensee claims that the work was completed 11 years ago but does not provide any evidence to satisfy the registrar that the act that caused the contravention to happen ended 11 years ago. The registrar may issue the rectification order to the licensee.
- 2 A licensee undertook work that did not comply with the required technical standards 13 years previously without obtaining or providing a required certification. The licensee did not bring the work into compliance with the relevant certification until 4 years after the work was complete. The registrar is not satisfied that the act that caused the contravention ended over 10 years ago and may issue the rectification order to the licensee.
- 3 The registrar receives a submission from a licensee who was issued with a notice of intention to issue a rectification order. The submission includes verifiable information that demonstrates the relevant work was completed 10 years and 2 months prior to the date the registrar intends to issue the rectification order. The registrar may not make the order.

**61 Automatic suspension of corporate licence
Section 49 (2)**

substitute

- (2) The corporation's licence is automatically suspended if the corporation—
 - (a) becomes the subject of a winding-up order; or
 - (b) has a controller or administrator appointed for the corporation;
or
 - (c) is found guilty, whether in the ACT or anywhere else, of an offence that—
 - (i) involves fraud, dishonesty or violence; and
 - (ii) is punishable by imprisonment for at least 1 year.

62 New section 50A

insert

50A Automatic suspension of licence—no nominee

- (1) This section applies to a corporation or partnership that is licensed in a construction occupation or occupation class.
- (2) The corporation's or partnership's licence in the construction occupation or occupation class is automatically suspended if—
 - (a) a nominee is not appointed for the construction occupation or occupation class; or
 - (b) if there is only 1 nominee for the construction occupation or occupation class—the nominee stops being the nominee for the construction occupation or occupation class.

Note A nominee may stop being a nominee automatically (see s 28), on resignation with the registrar's approval (see s 29) or on revocation with the registrar's approval (see s 30).

**63 End of licence suspension
Section 53 (1)**

insert

- section 50A (Automatic suspension of licence—no nominee);

64 Section 53 (5) and note

substitute

- (5) A suspension, other than a suspension under section 52A (Suspension of licence—public safety), ends if the registrar is given notice of the suspension, on the earlier of—
 - (a) the day the suspension is revoked under this section; or
 - (b) 3 months after the day the registrar is given notice of the suspension.

- (6) If the registrar is not given notice of a suspension, other than a suspension under section 52A, the suspension continues as long as the cause of the suspension continues.

Note The suspension on a licence may be held over to a new licence if the suspended licence expires without being renewed (see s 63).

- (7) A suspension under section 52A (Suspension of licence—public safety) ends on the earlier of—
- (a) the day the suspension is revoked under this section; or
 - (b) 3 months after the day it begins.

65 **Grounds for occupational discipline**
Section 55 (1) (a)

omit

, or a nominee or employee of the licensee,

substitute

, or a director, partner, nominee or employee of the licensee,

66 **New section 55 (1) (h)**

insert

(h) the licensee ceases to be eligible to hold a licence.

67 **Occupational discipline orders—licensees**
New section 58 (3) and (4)

insert

- (3) In addition to any other occupational discipline order the ACAT may make, the ACAT may require the licensee to pay to the Territory a stated amount of not more than—
- (a) if the licensee is an individual—\$20 000; or

(b) if the licensee is a corporation or a partnership—\$100 000.

Note The *ACT Civil and Administrative Tribunal Act 2008*, s 66 sets out other occupational discipline orders the ACAT may make.

- (4) If the ACAT makes an order for payment under subsection (3) in relation to an occupational discipline order against a licensee the ACAT must not make an order for payment under the *ACT Civil and Administrative Tribunal Act 2008*, section 66 (2) (h) in relation to the same occupational discipline order for the licensee.

68 New section 58A

insert

58A Occupational discipline orders—related licence of licensee

- (1) This section applies if—
- (a) the ACAT makes an occupational discipline order in relation to a licensee; and
 - (b) a related licensee has a related licence.

Note The *ACT Civil and Administrative Tribunal Act 2008*, s 65 sets out matters the ACAT must consider when the ACAT makes an order.

- (2) In addition to any other occupational discipline order the ACAT may make, the ACAT may—
- (a) cancel or suspend the related licence; or
 - (b) direct the registrar to place a condition on, or remove or amend a condition on, the related licence.

Note The *ACT Civil and Administrative Tribunal Act 2008*, s 66 sets out other occupational discipline orders the ACAT may make.

- (3) The ACAT may only make an order under subsection (2) if the related licensee has been given—
- (a) notice of the application for an occupational discipline order in relation to a licensee; and

- (b) notice that the ACAT is considering making an order in relation to the related licensee; and
- (c) the opportunity to make representations to the ACAT in relation to the proposed order.

(4) In this section:

related licence means a licence under this Act that is held by a related licensee.

related licensee means—

- (a) if the licensee is a corporation—
 - (i) if a director or nominee of the licensee is a director or nominee of a corporation (the ***related corporation***) that is a licensee under this Act—the related corporation; or
 - (ii) if a director or nominee of the licensee is a partner or nominee of a partnership (the ***related partnership***) that is a licensee under this Act—the related partnership; or
 - (iii) if a director or nominee of the licensee is a licensee under this Act—the director or nominee; and
- (b) if the licensee is a partnership—
 - (i) if a partner or nominee of the licensee is a director or nominee of a corporation (the ***related corporation***) that is a licensee under this Act—the related corporation; or
 - (ii) if a partner or nominee of the licensee is a partner or nominee of a partnership (the ***related partnership***) that is a licensee under this Act—the related partnership; or
 - (iii) if a partner or nominee of the licensee is a licensee under this Act—the partner or nominee; and

- (c) if the licensee is an individual—
 - (i) if the licensee is a director or nominee of a corporation (the *related corporation*) that is a licensee under this Act—the related corporation; or
 - (ii) if the licensee is a partner or nominee of a partnership (the *related partnership*) that is a licensee under this Act—the related partnership.

69 **Interim licence suspension**
Section 59 (4) and note

substitute

- (4) An interim suspension may be—
 - (a) for 2 weeks or less; but
 - (b) if the registrar is satisfied that it is in the public interest to extend the suspension—extended until the ACAT decides the application for occupational discipline in relation to the licence.

Note An interim suspension must be recorded on the register (see s 110).

70 **Effect of interim suspension**
Section 60 (3) (b)

omit

makes an occupational discipline order

substitute

decides the application for occupational discipline

**71 Information requirements
Section 80E (1) (a)**

after

this Act

insert

or an operational Act

**72 Breach of licence conditions or codes
New section 87 (7)**

insert

(7) In this section:

code of practice means a code of practice under this Act or an operational Act.

**73 Codes of practice
Section 104A**

omit

74 Section 116

substitute

116 Advisory board functions

An advisory board for a construction occupation has the following functions:

- (a) to provide advice about qualifications for the construction occupation if asked by the Minister;
- (b) to help with investigations for the construction occupation if asked by the registrar;

- (c) to help develop and maintain information about emerging issues in the construction industry related to the construction occupation if asked by the registrar.

75 New section 126A

insert

126A Codes of practice

- (1) The Minister may approve a code of practice for—
- (a) a construction occupation; or
 - (b) a class of construction occupation; or
 - (c) a construction service.

Note Power given under an Act to make a statutory instrument (including a code of practice) includes power to amend or repeal the instrument (see [Legislation Act](#), s 46 (1)).

- (2) An approved code of practice may consist of a code, standard, rule, specification or provision relating to the construction occupation or occupation class, or a construction service, and may apply, adopt or incorporate a law or instrument, or a provision of a law or instrument, as in force from time to time.

- (3) An approved code of practice is a disallowable instrument.

Note 1 A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

Note 2 An amendment or repeal of an approved code of practice is also a disallowable instrument (see [Legislation Act](#), s 46 (2)).

- (4) The [Legislation Act](#), section 47 (5) or (6) does not apply in relation to a law or instrument mentioned in subsection (2).

Note Laws and instruments mentioned in s (2) do not need to be notified under the [Legislation Act](#) because s 47 (5) and (6) do not apply (see [Legislation Act](#), s 47 (7)).

(5) In this section:

law of another jurisdiction—see the [Legislation Act](#), section 47 (10).

**76 Regulation-making power
Section 129 (2) (e)**

substitute

(e) compliance with, and administration of, codes of practice.

77 Section 129 (3)

omit

10 penalty units

substitute

60 penalty units

78 New part 22

insert

**Part 22 Transitional—Building and
Construction Legislation
Amendment Act 2016**

191 Definitions—pt 22

In this part:

commencement day means the day the *Building and Construction Legislation Amendment Act 2016*, part 5 commences.

previous Act means the [Construction Occupations \(Licensing\) Act 2004](#) as in force immediately before the commencement day.

192 End of suspension and interim suspension

- (1) This section applies to—
 - (a) a licence suspension under division 5.1 (Automatic licence suspension); and
 - (b) an interim licence suspension under section 59 (Interim licence suspension).
- (2) The suspension of a licence that occurs before the commencement day is taken to end on the day it would have ended under the previous Act.

193 Expiry—pt 22

This part expires 1 year after the day it commences.

Note Transitional provisions are kept in the Act for a limited period. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

79 Dictionary, definition of *code of practice*

omit

section 104A

substitute

section 126A

Part 6 Construction Occupations (Licensing) Regulation 2004

80 Licence applications—Act, s 17 (3) Section 5 (m), except note

omit

81 Section 13

substitute

13 Eligibility for licence—qualifications and financial requirements—Act, s 18

- (1) The Minister may declare the qualifications and financial requirements necessary for an entity to be eligible to be licensed in a construction occupation or occupation class.
- (2) Before making a declaration in relation to a construction occupation or occupation class, the Minister may consult the advisory board for the occupation or class.
- (3) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (4) A declaration may apply, adopt or incorporate a law of another jurisdiction or instrument as in force from time to time.
- (5) The [Legislation Act](#), section 47 (5) or (6) does not apply in relation to the law of another jurisdiction or instrument applied, adopted or incorporated under a declaration.

Note Laws of another jurisdiction and instruments mentioned in s (4) do not need to be notified under the [Legislation Act](#) because s 47 (5) and (6) do not apply (see [Legislation Act](#), s 47 (7)).

(6) In this section:

law of another jurisdiction—see the [Legislation Act](#), section 47 (10).

82 Section 19 heading

substitute

19 Eligibility to be nominee—Act, s 28 (6)

83 Section 19 (d), example and note

substitute

Examples

- 1 The individual is not able to exercise the functions of a nominee on a daily basis if the licensee is the nominee for another corporation that has no other nominees and is doing a lot of construction work.
- 2 The individual is reasonably able exercise the functions of a nominee if the nominee is available to attend locations where the construction services the nominee will be responsible for supervising are being carried out.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

**84 Comply with code of practice
New section 21A (3)**

insert

(3) In this section:

code of practice means a code of practice under this Act or an operational Act.

**85 Corporate licences
Section 22 (2)**

omit

or nominee

substitute

or a nominee (other than the sole nominee of the corporation for a construction service, construction occupation or occupation class)

86 Section 22 (3)

omit

2 weeks

substitute

1 business day

**87 Partnership licences
Section 23 (2)**

omit

or nominee

substitute

or a nominee (other than the sole nominee of the partnership for a construction service, construction occupation or occupation class)

88 Section 23 (3)

omit

2 weeks

substitute

1 business day

Part 7 Planning and Development Act 2007

89 Authority functions Section 12 (1) (j)

omit

Endnotes

- 1 Presentation speech**
Presentation speech made in the Legislative Assembly on 9 June 2016.
 - 2 Notification**
Notified under the [Legislation Act](#) on 19 August 2016.
 - 3 Republications of amended laws**
For the latest republication of amended laws, see www.legislation.act.gov.au.
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I certify that the above is a true copy of the Building and Construction Legislation Amendment Bill 2016, which was passed by the Legislative Assembly on 2 August 2016.

Clerk of the Legislative Assembly

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