

**2000**

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**CONSTRUCTION PRACTITIONERS REGISTRATION  
AMENDMENT BILL 2000**

**EXPLANATORY MEMORANDUM**

**Circulated by authority of  
Brendan Smyth MLA  
Minister for Urban Services**

## **Construction Practitioners Registration Amendment Bill 2000**

### **OUTLINE**

This is an amending Bill. It amends the *Construction Practitioners Registration Act 1998* (the "Principal Act").

The Principal Act deals with the qualifications of persons who may be registered to act as certifiers of building work under the *Building Act 1972* (the "Building Act") or certifiers of drainage plans under the Canberra Sewerage and Water Supply Regulations. The qualifications include holding minimum amounts of insurance of a kind prescribed in the Construction Practitioners Registration Regulations.

Currently some of the details of the insurance appear in the Principal Act and others in the Construction Practitioners Registration Regulations ("the Regulations"). The Bill moves them all to the Regulations.

Section 27 of the Principal Act describes how long a registered construction practitioner remains liable for negligence over building work. It sets the period by reference to the time elapsed after the last action a certifier takes in relation to the building work. The Bill alters this action from the issue of a Certificate of Occupancy under section 53 of the Building Act to the issue by a certifier of a certificate of completion for the building work under section 40 of the Building Act. The Certificate of Occupancy is issued not by the certifier but by the Government and covers completion not only of the building work but also of any associated plumbing or electrical work.

### **Financial Implications**

There are no financial implications.

## CLAUSE NOTES

### Formal clauses

**Clauses 1, 2 and 3** are formal clauses that deal with the short title of the Bill and its commencement and identify the Principal Act.

### Interpretation

**Clause 4** renames the section of the Principal Act that contains the meanings of expressions in the Principal Act and the statement that introduces the list of defined terms. The changes are in accordance with current drafting style.

**Clause 4** also removes subsection 3 (2) of the Principal Act. This subsection sets out some of the requirements for insurance cover adequate for the Principal Act and provides for others to appear in the Regulations. It is replaced by new section 3A.

### Insertion

**Clause 5** adds new section 3A to the Principal Act.

#### *When a person is covered by insurance*

**New section 3A** states that all the details of insurance cover required by registered construction practitioners will appear in the Regulations.

### Substitution

#### *Limitation of liability for building actions*

**Clause 6** replaces section 27 of the Principal Act. Section 27 limits the period of liability for building actions over new or altered buildings to ten years. This is the period that the regulations currently use to set the period for which run-off cover under professional indemnity insurance must apply to a registered construction practitioner acting as a certifier under the Building Act. **New section 27** makes the ten years begin at the time when the progress of construction results in the issue of a certificate of completion for the building work under paragraph 40 (1) (g) of the Building Act, instead of the issue of a certificate of occupancy under section 53 of the Building Act. Registered construction practitioners certify the completion but it is the holder of a statutory position, the building controller or a deputy building controller, who then issues certificates of occupancy taking into account not only the completion of the building work but also the completion of associated electrical and plumbing and drainage work. If no certificate of completion is issued, then the ten years begins when the last inspection is carried out by the building certifier. If no inspection takes place, the period begins when the building is in fact occupied or used.

Section 32 of the Building Act allows a certifier to be dismissed or to give up acting as certifier for a construction project and recognises that a person may cease to be eligible to act as certifier. **New subsection 27 (2)** states that for such certifiers the ten year period of liability begins at the time of the dismissal or resignation or when the person ceases to be eligible.

**New subsection 27 (3)** sets out the relationship between the Principal Act and the *Limitation Act 1985*. The ten year period of liability replaces not the standard six year period of liability stated in that Act but the longer periods of liability that it allows the courts to decide on, for matters including latent damage to property and economic loss.