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

**CONSTRUCTION AND ENERGY EFFICIENCY LEGISLATION AMENDMENT
BILL 2013**

**SUPPLEMENTARY
EXPLANATORY STATEMENT**

**Presented by
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CONSTRUCTION OCCUPATIONS AND ENERGY EFFICIENCY LEGISLATION AMENDMENT BILL 2013

Overview

The Construction and Energy Efficiency Legislation Amendment Bill 2013 (the Bill) amends a number of laws administered by the Environment and Sustainable Development Directorate.

This supplementary explanatory statement provides information on amendments proposed by the Minister for the Environment and Sustainable Development.

Additional information – Clauses 31 and 32

Rectification orders – Construction Occupations (Licensing) Act 2004 (COLA)

Part 4 of the COLA provides for rectification orders and other obligations on licensees. Rectification orders work with the occupational discipline and demerit point systems, and provide an important and practical mechanism for correcting work that does not comply with legislation, including minimum standards for health, safety, environment protection or amenity of occupants.

After issuing a notice of intention to make a rectification order (s 34), if the Registrar considers it is appropriate an order is issued to the entity given the notice under s 38.

It is expected that part of the rectification process will be to have work certified or verified by a person that is qualified to do so. This is not currently explicit in section 38, which provides for actions to rectify work and provide construction services. The Bill inserts a new provision in section 38 that clarifies a stated action may include providing, and paying for, written information about a stated matter. The Standing Committee on Justice and Community Safety (the Committee) in its Legislative Scrutiny role commented on the proposed provision and its clarity in expressing that the purpose of written information required as part of a rectification order was limited to information related to work under the order. In response to those comments amendments to clause 31 and 32 of the Bill are proposed.

Human Rights Implications

There are no human rights implications. Human rights implications of provisions in the Bill are addressed in the Explanatory Statement for the Bill.

Clause Notes

Clause 1 **Rectification orders, Section 38 (1), new example**

This clause amends clause 31 of the Bill. Clause 31 was intended to clarify that a stated action for a rectification order may include a requirement for the entity to provide written information.

This amendment omits clause 31 and instead relocates an example of stated action from clause 32 in the Bill. The example highlights that the stated action for a rectification order may be to comply with a performance requirement of a particular standard rather than a prescriptive requirement or a particular plan.

Clause 2 **New section 38 (1A)**

This clause amends clause 32 of the Bill. Clause 32 included new examples of stated actions and written information that may form part of a rectification order.

Section 38 (1) provides that the registrar may make an order (a rectification order) in relation to an entity requiring the entity—

- (a) to take stated action to rectify work done as part of a construction service; or
- (b) to demolish a building or part of a building where a construction service has been provided and provide the construction service under this Act or an operational Act; or
- (c) to start or finish stated work in relation to which a construction service has been, is being or was proposed to be provided.

In response to comments from the Committee that clause 31 of the Bill was not sufficiently clear that written information required as part of a rectification order was not limited to information related to work under the order, this amendment omits clause 32 and inserts a new section 38 (1A).

The new section provides that the rectification order may also require the entity to give the registrar written information about a thing required to be done under the order. This links the provision of written information back to the purpose of the rectification order as described in sections 38 (1) (a) – (c).

Written information could include an independent report, certification or other information relating to the order. The information would be arranged and paid for by the entity that was issued the rectification order in accordance with 38 (2). This is necessary as it expected that part of the rectification process will be to have work certified or verified by a person that is qualified to do so.

The amendment preserves the examples of written information in clause 32 of the Bill. The examples show that there are a variety of documents that could be part of rectification work and of verifying that the order has been complied with, including that the completed work complies with the Act, an operational Act or a relevant code or standard.

Clauses 3 -15

Clauses 3-15 are include minor and technical amendments. Section 5.9.9 of the Legislation Handbook provides that minor or technical amendments will not require a supplementary explanatory statement.

The recent Statute Law Amendment Bill 2013 amended references to Australian Standards to align them with the latest drafting practice. This affects a small number of provisions in the Bill so that it is necessary to make minor technical amendments to provisions in the Water and Sewerage Act and Regulation to reflect the new manner of referencing the Australian/New Zealand Standard 3500: Plumbing and drainage. These amendments do not alter the intent of the affected provisions.