



New South Wales

Better Regulation Legislation Amendment (Miscellaneous) Bill 2024

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend legislation administered by the Minister for Customer Service and Digital Government, the Minister for Better Regulation and Fair Trading and the Minister for Building.

The Bill includes the following amendments—

- (a) minor amendments of a statute law revision nature,
- (b) amendments to the *Home Building Act 1989* to dissolve the Building Insurers' Guarantee Corporation and the Building Insurers' Guarantee Fund, which are no longer required,
- (c) amendments to reflect machinery of government changes.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Minor amendments

Schedule 1.1 Associations Incorporation Act 2009 No 7

Schedule 1.1 makes it clear that a person aggrieved by the distribution of an association's property, following the cancellation of the association's registration, may apply to the Supreme Court for an order about the disposal of the property.

Schedule 1.2 Building and Construction Industry Security of Payment Act 1999 No 46

Schedule 1.2 provides that a person who has undertaken to carry out construction work, or to supply related goods and services, is not entitled to a progress payment if the construction contract—

- (a) does not comply with the *Home Building Act 1989*, section 4, or
- (b) involves construction work that is residential building work done in contravention of the *Home Building Act 1989*, section 92.

Schedule 1.3 Charitable Fundraising Act 1991 No 69

Schedule 1.3 relates to the application of the *Licensing and Registration (Uniform Procedures) Act 2002*, Part 2 and provides that an application for an authority under the *Charitable Fundraising Act 1991* is taken to have been refused if the application is not determined within 28 days.

Schedule 1.4 Community Land Management Act 2021 No 7

Schedule 1.4 corrects terminology.

Schedule 1.5 Conveyancers Licensing Act 2003 No 3

Schedule 1.5 removes a redundant provision relating to the application of the *Licensing and Registration (Uniform Procedures) Act 2002*, Part 2 to licences under the *Conveyancers Licensing Act 2003*.

Schedule 1.6 Fair Trading Act 1987 No 68

Schedule 1.6[1] and [2] make it clear that the scheme for the publication of prices of fuel, including electricity, at service stations, known as FuelCheck, extends to public electric vehicle charging stations, even if the stations are not staffed. **Schedule 1.6[3]** provides that the standard retail price for electricity for the scheme is the price calculated in accordance with arrangements approved by the Commissioner for Fair Trading instead of the price per kilowatt hour.

Schedule 1.6[4] corrects terminology.

Schedule 1.7 Government Telecommunications Act 2018 No 67

Schedule 1.7 provides that notice of meetings of the Government Telecommunications Authority Advisory Board may be given to members in any way. Currently, notice must be given personally or by post.

Schedule 1.8 Home Building Act 1989 No 147

Schedule 1.8[1]–[3] update references to certain qualifications required for tradesperson certificates and supervisor certificates relating to mechanical services and medical gas work, medical gasfitting work and medical gas technician work.

Schedule 1.9 Motor Dealers and Repairers Act 2013 No 107

Schedule 1.9[1] provides that a person is not a motor dealer if the person sells a trailer to carry a new boat sold by the person. Currently, the exemption applies only to a person who sells a trailer to carry a second-hand boat sold by the person.

Schedule 1.9[2] updates a cross-reference.

Schedule 1.10 Pawnbrokers and Second-hand Dealers Act 1996 No 13

Schedule 1.10[1] and [4] enable a person pawning goods to use an electronic signature to sign a record of the agreement with the pawnbroker, or an extension of an agreement, if the record is kept electronically. **Schedule 1.10[2], [3] and [5]** make consequential amendments.

Schedule 1.11 Residential Tenancies Act 2010 No 42

Schedule 1.11[1]–[3] provide that the Commissioner for Fair Trading is a member, and the Chairperson, of the Rental Bond Board, instead of the Secretary of the Department of Customer Service, as is currently the case.

Schedule 1.11[4] provides that a person appointed to act as the deputy of the Chairperson of the Rental Bond Board has the Chairperson's functions.

Schedule 1.12 Residential Tenancies Regulation 2019

Schedule 1.12 omits redundant provisions.

Schedule 1.13 Strata Schemes Development Act 2015 No 51

Schedule 1.13 requires copies of court orders to be lodged with the Registrar-General electronically if the plan and accompanying documents are lodged electronically.

Schedule 1.14 Strata Schemes Management Act 2015 No 50

Schedule 1.14[1] updates an offence provision to correct an error made by the *Strata Legislation Amendment Act 2023*.

Schedule 1.14[2] makes it clear that the bond scheme for building defects applies to building work if the owners corporation is liable to pay for the building work, even if the building work is not carried out on a building that is part of the parcel of the strata scheme. The owners corporation may be liable to pay for building work under a strata management statement or registered building management statement.

Schedule 1.15 Strata Schemes Management Regulation 2016

Schedule 1.15 updates references to offences under the *Strata Schemes Management Act 2015* for which penalty notices may be issued.

Schedule 1.16 Surveying and Spatial Information Act 2002 No 83

Schedule 1.16 provides for notice of meetings of the Board of Surveying and Spatial Information to be given to members in any way. Currently, notice must be given personally or by post.

Schedule 1.17 Tow Truck Industry Act 1998 No 111

Schedule 1.17[1] and [2] provide that tow truck operators licences and drivers certificates may be granted for 3 or 5 years for all applicants. Currently, a licence or certificate may be granted for only 1 year if the applicant has not held a licence or certificate continuously for the previous 3 years.

Schedule 2 Amendments relating to dissolution of Building Insurers' Guarantee Corporation

Schedule 2.2 amends the *Home Building Act 1989* to dissolve the Building Insurers' Guarantee Corporation (the *Corporation*) and the Building Insurers' Guarantee Fund (the *Fund*), which was administered by the Corporation. The Corporation and the Fund were established to administer claims by persons affected by the collapse of HIH and FAI insurance companies. The Fund was closed to new claims on 1 January 2018 and the last claims were finalised in December 2020.

Schedule 2.1 and 2.3–2.5 make consequential amendments to other Acts and regulations.

Schedule 3 Amendments relating to administrative arrangements

Schedule 3 updates the following Acts to reflect machinery of government changes—

- (a) *Biofuels Act 2007*,

- (b) *Building and Construction Industry Security of Payment Act 1999,*
- (c) *Building and Development Certifiers Act 2018,*
- (d) *Building Products (Safety) Act 2017,*
- (e) *Design and Building Practitioners Act 2020,*
- (f) *Home Building Act 1989,*
- (g) *Plumbing and Drainage Act 2011,*
- (h) *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020,*
- (i) *Swimming Pools Act 1992.*