



New South Wales

# Building (Approvals and Practitioners) Bill 2026

## Explanatory note

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

## Overview of Bill

The objects of this Bill are as follows—

- (a) to establish a framework for the approval and oversight of building work, including work involving prefabricated buildings,
- (b) to provide that certain work may be carried out only under a registration (*registered work*) and to establish a registration process for registered work,
- (c) to enable the Secretary of the Department of Customer Service (the *Secretary*) to take disciplinary action against persons who are registered,
- (d) to enable the appointment of authorised officers, who are responsible for investigating, monitoring and enforcing the requirements of the proposed Act and the regulations,
- (e) to set out additional powers of the Secretary under the proposed Act,
- (f) to establish a duty of care owed by persons who carry out construction work requiring the persons to take reasonable care to avoid defects arising from the construction work,
- (g) to set out additional miscellaneous matters relating to the administration of the proposed Act,
- (h) to make consequential amendments to other Acts.

## Outline of provisions

### Part 1 Preliminary

**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.

**Clause 3** provides for the dictionary in proposed Schedule 2 to define certain words and expressions used in the proposed Act.

**Clause 4** sets out the objects of the proposed Act.

**Clause 5** provides that the proposed Act has extraterritorial application.

**Clause 6** sets out the relationship to the *Mutual Recognition Act 1992* of the Commonwealth and the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth.

### Part 2 Key definitions

**Part 2** defines certain key words and expressions used in the proposed Act, including *approvals work*, *building element*, *building work* and *prefabricated building*.

### Part 3 Approvals and other approvals work

**Division 1** defines terms used in the proposed part.

**Division 2** includes proposed Subdivisions 1–5.

Proposed Subdivision 1 provides that a building approval is required before building work involving the erection of a building may be carried out if the building work is carried out—

- (a) under a development consent, or
- (b) as exempt development prescribed by the regulations.

The proposed subdivision also provides for the following—

- (a) who may apply for a building approval for building work,
- (b) the form and content of an application for a building approval for building work,
- (c) that an application for a building approval for building work involving a building element for a building prescribed by the regulations must be accompanied by—
  - (i) the relevant design in the approved form (a *regulated design*), and
  - (ii) a design compliance declaration made by a holder of a registration under the proposed Act (a *registration holder*) that states the design complies with certain requirements (a *design compliance declaration*) for each design,
- (d) that an application for a building approval for building work involving a performance solution, as defined in the *Building Code of Australia*, must be accompanied by a report that meets certain requirements,
- (e) that when applying for building approval for a part of building work being carried out in stages, a separate application for building approval must be made for each stage of the building work,
- (f) that the local council, registered person or Planning Minister (the *approval authority*) appointed to approve an application for building work may require the applicant to give additional information that the authority reasonably requires,
- (g) that an approval authority must not issue a building approval for building work unless certain requirements or conditions are met,
- (h) that an approval authority must give an applicant written notice specifying the reasons for a refusal to issue a building approval,

- (i) that an approval authority must issue a building approval in accordance with certain requirements,
- (j) that a building approval for building work may be varied with the consent of the relevant approval authority in accordance with certain requirements,
- (k) that it is an offence for an approval authority to issue or vary a building approval applying to work that has already commenced, unless authorised by a post-commencement authorisation,
- (l) the effect of a post-commencement authorisation which authorises the variation or issuance of a building approval for building work that has already commenced,
- (m) the recovery of reasonable costs incurred in giving a post-commencement authorisation,
- (n) that documents relied upon by the approval authority in an application for building approval form part of the approval.

Proposed Subdivision 2 provides that a person with a building approval, development consent or complying development certificate (a **relevant approval**) must ensure an application is made for an approval (a **completion approval**) for the building work or change of building use related to the relevant approval.

The proposed subdivision also provides for the following—

- (a) who may apply for a completion approval,
- (b) the form and content of an application for a completion approval,
- (c) that the appointed approval authority for an application for building work or change of building use may require the applicant to give additional information that the authority reasonably requires,
- (d) that an approval authority must not issue a completion approval for building work or change of building use unless certain requirements or conditions are met,
- (e) that an approval authority must give an applicant written notice specifying the reasons for a refusal to issue a completion approval,
- (f) the circumstances in which a fire safety certificate must be issued before a completion approval may be issued,
- (g) that an approval authority must issue a completion approval in accordance with certain requirements,
- (h) that the issue of a completion approval revokes earlier completion approvals,
- (i) that documents relied upon to issue a completion approval form part of the completion approval and that a completion approval forms part of the development consent or complying development certificate under which building work or a change of building use is carried out,
- (j) the circumstances in which a person must not occupy a building or commence occupation following a change of building use.

Proposed Subdivision 3 provides that proposed Division 2 does not apply to certain development by the Crown (**Crown building work**) unless the building work requires building approval or an election is made to have the work approved under proposed Part 3. The proposed subdivision also—

- (a) sets out the circumstances in which Crown building work may be commenced if an election has not been made to have the work approved under the proposed part, and
- (b) inserts regulation-making powers to modify the proposed subdivision, which is a Henry VIII provision.

Proposed Subdivision 4 provides for conditions of building approvals for building work involving a prefabricated building. The proposed subdivision introduces a requirement for the making of a prefabricated building declaration and prefabricated building instructions by the manufacturer as documentation to confirm and support compliance with the *Building Code of Australia* or other

additional prescribed requirements. The proposed subdivision also creates an offence for supplying a prefabricated building without providing the required documentation and enables the regulations to provide exemptions or alternative requirements for buildings manufactured outside of New South Wales.

Proposed Subdivision 5—

- (a) sets out the requirements that must be met to issue a complying development certificate for complying development involving building work, and
- (b) provides that a person carrying out approvals work in reliance on a compliance declaration is entitled to assume the compliance declaration has been properly made, that all relevant conditions have been complied with and the declaration is true, and that the person is not liable for loss and damage arising out of the reliance.

**Division 3** makes it an offence, with certain exemptions—

- (a) for an individual to carry out relevant approvals work if they have a specified conflict of interest in the relevant approvals work, or
- (b) for a director or employee of a body corporate to carry out relevant approvals work if the body corporate or another director or employee of the body corporate authorised to do the approvals work have a specified conflict of interest in the relevant approvals work.

**Division 4** provides for the following—

- (a) the responsibilities of a registration holder who carries out approvals work for a registered body corporate or local council,
- (b) that it is an offence for a body corporate not to ensure approvals work is carried out by a registered individual,
- (c) the requirements for approvals work to be carried out by a local council, or the Planning Minister or their delegate.

**Division 5** makes it an offence—

- (a) for a person not to take all reasonable steps to ensure building work carried out by the person complies with the *Building Code of Australia*, or
- (b) to make or issue a specified document under the proposed Act that is false or misleading, whether knowingly or recklessly, or
- (c) for a person authorised to carry out approvals work—to act other than impartially or to seek or accept a benefit from another person in carrying out the work, or
- (d) for a person to improperly influence an approver to act other than impartially in carrying out approvals work.

**Division 6**—

- (a) inserts definitions for the proposed division, including *building element work* and *building practitioner*, and
- (b) makes it an offence for a building practitioner carrying out building element work not to take steps to ensure that a regulated design and design compliance declaration for each regulated design is obtained, and
- (c) makes it an offence for a building practitioner, without reasonable excuse, to carry out building element work unless the design compliance declaration for the regulated design meets certain requirements, and
- (d) makes it an offence for a building practitioner not to take all reasonable steps to ensure that building element work complies with the *Building Code of Australia*, and
- (e) provides for regulation-making powers.

**Division 7** provides for the appeals process for building approval or completion approval applications that a local council, as the approval authority, has refused to issue.

**Division 8** provides for the following—

- (a) notices that must be issued by an approval authority to persons responsible for carrying out building work if the approval authority becomes aware of a non-compliance or potential non-compliance in the building work,
- (b) that an approval authority, when issuing an approval, must be satisfied of certain matters,
- (c) that an appointed approval authority may be replaced by another approval authority with the Secretary's consent,
- (d) notices issued by an approval authority, other than a local council, appointed for building work to persons who made the appointment of the suspension, cancellation or relevant variation of the approval authority's registration,
- (e) regulation-making powers.

**Division 9** provides for the following—

- (a) that it is a condition of registration that a registration holder must not carry out approvals work for a person unless the work is carried out under a written contract,
- (b) the effect of lodging a document on the NSW planning portal,
- (c) that a person may apply to the Land and Environment Court to remedy or restrain a contravention of the proposed Act or regulations relating to a building approval or completion approval,
- (d) regulation-making powers.

## **Part 4 Registration for registered work**

**Division 1**—

- (a) defines, for the proposed part, a *relevant offence* as an offence, whether committed in the State or another jurisdiction—
  - (i) involving fraud or dishonesty, or
  - (ii) prescribed by the regulations, and
- (b) enables the Secretary to grant a registration authorising a person to carry out certain registered work, and
- (c) allows the regulations to prescribe different registrations or classes of registrations.

**Division 2**—

- (a) makes it an offence for a person to—
  - (i) carry out unauthorised registered work, or
  - (ii) seek or receive payment for unauthorised registered work, or
  - (iii) falsely represent that the person—
    - (A) is authorised to carry out registered work, or
    - (B) holds a registration or class of registration, or
    - (C) holds the insurance required to carry out registered work, or
  - (iv) falsely represent, to secure work for the person or another person, that work is registered work or another type of work prescribed by the regulations, and
- (b) provides for when a person is authorised to carry out registered work or supervise a person carrying out registered work.

**Division 3** provides for the granting of registrations, including the following—

- (a) applications for a registration, including—
  - (i) how a person may apply for registration, and
  - (ii) the power of the Secretary to obtain information relating to the application from third parties, and

- (iii) how the Secretary may grant, or refuse to grant, a registration, including the grounds that render a person not suitable to carry out registered work,
- (b) the conditions to which a registration is subject,
- (c) the variation, suspension or cancellation of registrations, including the urgent suspension of registrations to prevent significant harm,
- (d) offences for the following—
  - (i) contravening a condition of a registration,
  - (ii) lending a registration to another person,
- (e) a register of registrations.

**Division 4** provides for the following requirements for registration holders—

- (a) insurance requirements,
- (b) a requirement to comply with codes of conduct,
- (c) requirements to notify—
  - (i) certain persons of a suspension, cancellation or, in certain circumstances, variation of a registration, and
  - (ii) the Secretary of certain events or of certain information that must be updated in the registration register,
- (d) requirements to comply with a direction of the Secretary,
- (e) additional requirements for a registered body corporate, including the duties of directors.

**Division 5** provides for the recognition of persons as registered persons and the recognition of professional bodies who may provide the recognition of persons as registered persons.

**Division 6** provides for the giving of information to the Secretary about insurance policies and the recovery of unpaid fees under proposed Part 4.

## Part 5 Disciplinary proceedings

**Part 5** authorises the Secretary to take disciplinary action against a registered person, including a former registered person, on certain grounds and sets out the types of disciplinary action that the Secretary may take. The proposed division also sets out that—

- (a) the Secretary must give written notice to a registered person if there are grounds for disciplinary action (a *show cause notice*), and
- (b) the Secretary has the power to suspend the registration of the registered person after a show cause notice is served.

The proposed part also enables the Secretary to take disciplinary action against a registered body corporate and certain persons associated with the body corporate.

## Part 6 Investigations

**Division 1** contains preliminary provisions that—

- (a) define certain terms and expressions used in the proposed part, and
- (b) sets out the purposes for which authorised officers may exercise their functions under the proposed part (an *authorised purpose*).

**Division 2** enables the Secretary to appoint certain persons as authorised officers to investigate, monitor and enforce compliance with the requirements of the proposed Act and the regulations. The proposed division also sets out the particulars of an authorised person's appointment.

**Division 3** sets out the information gathering powers conferred on an authorised officer. An authorised officer may—

- (a) direct a person to give a document to an authorised officer provided that the document is required for an authorised purpose, and

- (b) require a person to answer questions about a matter in certain circumstances, which may be recorded by an authorised officer.

**Division 4** sets out the powers in relation to premises conferred on an authorised officer.

Proposed Subdivision 1 enables an authorised officer to enter premises, excluding a part of premises used only for residential purposes, with or without a search warrant. An authorised officer may apply to a warrant issuing officer under the *Law Enforcement (Powers and Responsibilities) Act 2002* for a search warrant.

Proposed Subdivision 2 sets out the powers that may be exercised by an authorised officer provided that an authorised officer has lawfully entered premises.

Proposed Subdivision 3 enables an authorised person to require reasonable assistance from a person in the exercise of their functions under the proposed part in certain circumstances.

**Division 5** sets out powers conferred on an authorised officer concerning the seizure and destruction of seized things.

**Division 6** makes it unlawful for a person to obstruct, hinder or interfere with an authorised officer in the exercise of the authorised officer's functions.

## Part 7 Additional powers of Secretary

**Division 1** makes it clear that the proposed part does not limit the powers conferred on the Secretary under the proposed Act, the regulations or by another Act or law.

**Division 2** sets out the additional general powers of the Secretary, which enable the Secretary to—

- (a) investigate certain matters, and
- (b) apply to the Land and Environment Court for an order to remedy or restrain a contravention of the proposed Act or the regulations, and
- (c) publish a notice that warns persons of particular risks arising from dealings with certain persons, and
- (d) conduct audits of certain persons and entities.

**Division 3** sets out provisions relating to undertakings, which—

- (a) enable the Secretary to accept an undertaking from a registered person concerning the carrying out of registered work or the person's business operations and activities, and
- (b) make it unlawful for a person to contravene an undertaking, and
- (c) allow a party to an undertaking to vary or withdraw that undertaking, and
- (d) enable the Secretary to make certain information about an undertaking publicly available.

**Division 4** sets out the Secretary's powers in relation to local councils acting as an approval authority under the proposed Act. The proposed division—

- (a) enables the Secretary to investigate the work and activity of a local council if the work or activity is connected to the council's role as an approval authority, and
- (b) requires the local council to respond to a report prepared by the Secretary after an investigation of that local council, and
- (c) enables the regulations to suspend, or place conditions on, a local council's authorisation to carry out approvals work.

## Part 8 Duty of care

**Part 8** imposes a duty of care on a person who carries out construction work, including a person involved in the manufacture and supply of a building product, to take reasonable care to avoid economic loss caused by defects arising from construction work. The proposed part also—

- (a) provides that the duty of care is owed to current and subsequent owners of the land, who are entitled to damages for breach of duty, and

- (b) makes it clear that the duty of care cannot be delegated and a contract or stipulation cannot alter the operation of the proposed part, and
- (c) enables regulations to extend the operation of the proposed part.

## **Part 9 Miscellaneous**

**Division 1** makes provision in relation to offences under the proposed Act, including the following—

- (a) the offence of disclosing information in connection with the administration or execution of the proposed Act or the regulations,
- (b) the onus of proof for a reasonable excuse in relation to an offence under the proposed Act that provides for a reasonable excuse,
- (c) penalty notices for offences,
- (d) proceedings for offences, including the summary jurisdiction of the Local Court and the Land and Environment Court in relation to offences,
- (e) the liability of directors and managers of a body corporate for a contravention of a provision of the proposed Act or the regulations.

**Division 2** provides for the following—

- (a) the administrative review under the *Administrative Decisions Review Act 1997* of certain decisions under the proposed Act,
- (b) the 10-year limitation on when a civil action for loss or damage due to defective building work may be brought, including when building work is taken to have been completed,
- (c) how documents authorised or required to be given under the proposed Act may be given,
- (d) how the Secretary and a relevant agency may exchange information under an information sharing arrangement for the proposed Act,
- (e) the power of the Minister and the Secretary to delegate functions under the proposed Act or regulations, other than the power to delegate,
- (f) the limitation of personal liability for anything in good faith for the purpose of exercising a function under the proposed Act or regulations,
- (g) the continuing effect of a requirement after a specified time for compliance with the requirement,
- (h) certificate evidence,
- (i) regulation-making powers,
- (j) the 5 year statutory review of the proposed Act,
- (k) the repeal of related legislation.

## **Schedule 1 Savings, transitional and other provisions**

**Schedule 1** enables savings and transitional provisions to be made by the regulations consequent on the enactment of the proposed Act.

## **Schedule 2 Dictionary**

**Schedule 2** contains the dictionary that defines certain words and expressions used in the proposed Act.

### **Schedule 3      Amendment of Environmental Planning and Assessment Act 1979 No 203**

**Schedule 3** makes amendments to the *Environmental Planning and Assessment Act 1979* consequent on the proposed Act, Part 3.

### **Schedule 4      Amendments of other Acts—manufactured homes**

**Schedule 4** omits the definitions of *manufactured home* and *manufactured home estate* from the *Local Government Act 1993* consequent on the proposed Act, Part 3. The proposed schedule also makes consequential amendments to other Acts.

### **Schedule 5      Amendment of other Acts—other amendments**

**Schedule 5** contains consequential amendments to other Acts.



New South Wales

# Building (Approvals and Practitioners) Bill 2026

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*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly*

*Clerk of the Legislative Assembly*



New South Wales

## **Building (Approvals and Practitioners) Bill 2026**

No. \_\_\_\_\_, 2026

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### **A Bill for**

An Act to establish a framework for the approval and oversight of building work; to provide for the registration of certain building professionals; and for other purposes.

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*The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.*

*Legislative Council*

*Clerk of the Parliaments*

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**Tabling copy**

|  |          |
|--|----------|
| <b>The Legislature of New South Wales enacts—</b>  | 1        |
| <b>Part 1 Preliminary</b>  | 2        |
| <b>1 Name of Act</b>   | 3        |
| This Act is the <i>Building (Approvals and Practitioners) Act 2026</i> .   | 4        |
| <b>2 Commencement</b>  | 5        |
| This Act commences as follows—   | 6        |
| (a) for Schedule 3[20] and [45]—on the date of assent to this Act,   | 7        |
| (b) otherwise—on a day or days to be appointed by proclamation.  | 8        |
| <b>3 Definitions</b>   | 9        |
| The dictionary in Schedule 2 defines words used in this Act.   | 10       |
| <b>Note—</b> The <i>Interpretation Act 1987</i> contains definitions and other provisions that affect the interpretation and application of this Act.          | 11<br>12 |
| <b>4 Objects of Act</b>  | 13       |
| The objects of this Act are as follows—  | 14       |
| (a) to establish a framework for the approval and oversight of building work that—   | 15<br>16 |
| (i) is adaptable to emerging construction trends, and  | 17       |
| (ii) improves the quality of the construction of buildings, and  | 18       |
| (iii) promotes public confidence in the quality of the construction of buildings, and  | 19<br>20 |
| (iv) requires design and building work to comply with the <i>National Construction Code</i> ,  | 21<br>22 |
| (b) to foster a professional and capable construction industry by providing for the registration of—   | 23<br>24 |
| (i) persons who carry out functions related to the design and approval of building work and the issuing of declarations for building work, and                 | 25<br>26 |
| (ii) other building professionals,   | 27       |
| (c) to provide proportionate regulatory powers to strengthen accountability and provide public confidence in the regulatory oversight of registration holders, | 28<br>29 |
| (d) to foster an accountable, innovative and competitive construction industry by—   | 30<br>31 |
| (i) ensuring appropriate scrutiny of persons regulated under this Act, and   | 32       |
| (ii) addressing behaviour that does not meet the required standards.   | 33       |
| <b>5 Extraterritorial application</b>  | 34       |
| This Act has extraterritorial application to the extent the legislative powers of the State permit.  | 35<br>36 |
| <b>6 Mutual recognition</b>  | 37       |
| (1) Because of the Mutual Recognition Act and subject to that Act—   | 38       |
| (a) this Act applies to an equivalent interstate licensee in the same way this Act applies to a registration holder, and                                       | 39<br>40 |

|     |  |             |
|-----|--|-------------|
| (b) | a reference to a registration includes a reference to the automatic deemed registration of an equivalent interstate licensee.  | 1<br>2      |
| (2) | This Act must, as far as practicable, be interpreted in a way that is compatible with—   | 3           |
| (a) | the Mutual Recognition Act, and  | 4           |
| (b) | the <i>Trans-Tasman Mutual Recognition Act 1997</i> of the Commonwealth.   | 5           |
| (3) | In this section—   | 6           |
|     | <i>equivalent interstate licensee</i> , in relation to a registration, means a person who, because of the Mutual Recognition Act, is authorised to carry on an occupation in New South Wales that would otherwise require the person to hold the registration. | 7<br>8<br>9 |
|     | <i>Mutual Recognition Act</i> means the <i>Mutual Recognition Act 1992</i> of the Commonwealth.  | 10<br>11    |

## Part 2 Key definitions

### 7 National Construction Code, Building Code and Plumbing Code

- (1) In this Act—
- National Construction Code* means the *National Construction Code*, Volumes 1, 2 and 3—
- (a) published by the Australian Building Codes Board, and
  - (b) as in force from time to time.
- Building Code of Australia* means the *National Construction Code*, Volumes 1 and 2.
- Plumbing Code of Australia* means the *National Construction Code*, Volume 3.
- (2) The regulations may modify the *National Construction Code* for this section, including by specifying provisions that are taken—
- (a) not to be included in Volume 1, 2 or 3, or
  - (b) to be included in Volume 1, 2 or 3, or
  - (c) to substitute provisions in Volume 1, 2 or 3.
- (3) The regulations may specify provisions—
- (a) in the regulations, or
  - (b) by adopting provisions in standards or other documents.

### 8 Approvals work

- In this Act, *approvals work* means the following—
- (a) the issuing of approvals under Part 3, Division 2,
  - (b) the carrying out of inspections required—
    - (i) by this Act or the regulations, or
    - (ii) for the purpose of issuing—
      - (A) an approval under Part 3, Division 2, or
      - (B) a certificate referred to in paragraph (c),
  - (c) the following functions under the *Environmental Planning and Assessment Act 1979*—
    - (i) the issuing of complying development certificates,
    - (ii) the issuing of subdivision works certificates,
    - (iii) the carrying out of inspections of subdivision work,
    - (iv) the issuing of subdivision certificates,
    - (v) the issuing of compliance certificates,
  - (d) the issuing of strata certificates under the *Strata Schemes Development Act 2015*, Part 4,
  - (e) the following functions under the *Swimming Pools Act 1992*, Part 2, Division 5—
    - (i) the inspection of swimming pools,
    - (ii) the issuing of certificates of compliance and notices,
  - (f) other work prescribed by the regulations.

### 9 Building element

- (1) In this Act, *building element*, in relation to a building, means the following—

|           |   |                |
|-----------|---|----------------|
| (a)       | the fire safety systems for the building within the meaning of the <i>Building Code of Australia</i> ,  | 1<br>2         |
| (b)       | waterproofing,  | 3              |
| (c)       | an internal or external load-bearing component of the building that is essential to the stability of the building or a part of the building, including the following—         | 4<br>5<br>6    |
|           | (i) in-ground components and footings,  | 7              |
|           | (ii) floors,  | 8              |
|           | (iii) walls,  | 9              |
|           | (iv) roofs,   | 10             |
|           | (v) columns,  | 11             |
|           | (vi) beams,   | 12             |
| (d)       | a component of the building that is part of the building enclosure,   | 13             |
| (e)       | the aspects of the following for the building that are required to achieve compliance with the <i>Building Code of Australia</i> —  | 14<br>15       |
|           | (i) mechanical services,  | 16             |
|           | (ii) plumbing services,   | 17             |
|           | (iii) electrical services,  | 18             |
| (f)       | other things prescribed by the regulations for this section.  | 19             |
| (2)       | The regulations may exclude things from being building elements for this Act.   | 20             |
| (3)       | In this section—  | 21             |
|           | <i>building enclosure</i> means the parts of the building that physically separate the interior environment of the building from the exterior environment, including—         | 22<br>23       |
|           | (a) roof systems,   | 24             |
|           | (b) walls, including walls below the level of the ground,   | 25             |
|           | (c) windows and doors.  | 26             |
| <b>10</b> | <b>Building work</b>  | 27             |
| (1)       | In this Act, <i>building work</i> means physical activity involved in the erection of a building and includes work prescribed by the regulations.                             | 28<br>29       |
| (2)       | The regulations may exclude work from being building work.  | 30             |
| <b>11</b> | <b>Close associate</b>  | 31             |
| (1)       | In this Act, a person is a <i>close associate</i> of another person if the person—  | 32             |
|           | (a) is a business partner of the other person, or   | 33             |
|           | (b) is, or has been in the previous 12 months, an employee or agent of the other person, or   | 34<br>35       |
|           | (c) is related to the other person—   | 36             |
|           | (i) as a spouse or de facto partner, including a former spouse or de facto partner, or  | 37<br>38       |
|           | (ii) as a child, grandchild, sibling, parent or grandparent, including as a child, grandchild, sibling, parent or grandparent of a person referred to in subparagraph (i), or | 39<br>40<br>41 |
|           | (iii) in a way prescribed by the regulations, or  | 42             |

- (d) is a body corporate, or a member of a body corporate, partnership, trust, syndicate or joint venture, in which the other person or a person referred to in paragraphs (a)–(c) has a beneficial interest, or 1  
2  
3
  - (e) is a body corporate that is a parent company or subsidiary, within the meaning of the Corporations Act, of the other person, or 4  
5
  - (f) holds or will hold a relevant position in the business of the other person, or 6
  - (g) is able to exercise a significant influence, directly or indirectly, over the other person or the operation or management of the other person’s business because of— 7  
8  
9
    - (i) a relevant financial interest, or 10
    - (ii) a relevant power, or 11
  - (h) is a person prescribed by the regulations. 12
- (2) In this section— 13
- business partner***, of a person (the ***first person***), means another person with whom the first person collaborates to trade or do business, including a person with whom the first person has a contractual arrangement or other alliance to trade or do business. 14  
15  
16  
17
- relevant financial interest***, for a business, means— 18
- (a) a share in the capital of the business, or 19
  - (b) an entitlement to receive income derived from the business, whether the entitlement arises at law, in equity or otherwise. 20  
21
- relevant position*** means the following positions, however described— 22
- (a) director, 23
  - (b) manager, 24
  - (c) secretary, 25
  - (d) an executive position. 26
- relevant power*** means a power— 27
- (a) to— 28
    - (i) participate in a directorial, managerial or executive decision, or 29
    - (ii) elect or appoint a person to a relevant position, and 30
  - (b) that may be exercised as follows— 31
    - (i) by voting or otherwise, 32
    - (ii) directly or indirectly, 33
    - (iii) alone or in association. 34
- 12 Prefabricated building** 35
- (1) In this Act, ***prefabricated building*** means the following if manufactured away from the building site— 36  
37
- (a) a substantially complete building or room, 38
  - (b) a building component that— 39
    - (i) is modular, and 40
    - (ii) will become a building element when properly installed, and 41
    - (iii) cannot be inspected without destructive testing or destructive opening when installed on the site, 42  
43
  - (c) anything prescribed by the regulations. 44

|           |   |          |
|-----------|---|----------|
| (2)       | A moveable dwelling is not a prefabricated building.  | 1        |
| (3)       | The regulations may exclude things from being prefabricated buildings.  | 2        |
| (4)       | The Secretary may issue guidelines to assist in deciding whether something is a prefabricated building or not.                          | 3<br>4   |
| (5)       | The guidelines are issued by publication in the Gazette.  | 5        |
| (6)       | A court or the Tribunal must consider the guidelines when making a decision about whether something is a prefabricated building or not. | 6<br>7   |
| (7)       | The regulations may modify how this Act and the <i>Home Building Act 1989</i> apply to—   | 8<br>9   |
|           | (a) prefabricated buildings, and  | 10       |
|           | (b) work involving prefabricated buildings, and   | 11       |
|           | (c) persons carrying out work involving prefabricated buildings.  | 12       |
| <b>13</b> | <b>Registered work</b>  | 13       |
| (1)       | In this Act, <i>registered work</i> means work that may be carried out only under a registration.                                       | 14<br>15 |
| (2)       | The regulations may prescribe the work that may be carried out only under a registration.   | 16<br>17 |

|   |    |
|---|----|
| <b>Part 3 Approvals and other approvals work</b>  | 1  |
| <b>Division 1 Preliminary</b>   | 2  |
| <b>14 Definitions</b>   | 3  |
| In this part—   | 4  |
| <b>local council</b> —  | 5  |
| (a) means, for a local government area, the council for the area, and   | 6  |
| (b) includes—   | 7  |
| (i) for Lord Howe Island—the Lord Howe Island Board, or   | 8  |
| (ii) for land in the Western Division that is not within a local government area—the Planning Minister.                                       | 9  |
| <b>local government area</b> —  | 10 |
| (a) means an area under the <i>Local Government Act 1993</i> , and  | 11 |
| (b) includes—   | 12 |
| (i) Lord Howe Island, and   | 13 |
| (ii) land in the Western Division that is not within an area under the <i>Local Government Act 1993</i> .                                     | 14 |
| <b>prepare</b> , a document, includes coordinating or supervising the preparation of the document.  | 15 |
|   | 16 |
|   | 17 |
|   | 18 |
| <b>Division 2 Approvals</b>   | 19 |
| <b>Subdivision 1 Building approval</b>  | 20 |
| <b>15 Building work requires building approval</b>  | 21 |
| (1) This section applies to the following building work, but only to the extent the building work involves the erection of a building—        | 22 |
| (a) building work carried out under a development consent,  | 23 |
| (b) building work—  | 24 |
| (i) carried out as exempt development, and  | 25 |
| (ii) prescribed by the regulations.   | 26 |
| <b>Note</b> —A building approval is not required under this division for building work carried out under a complying development certificate. | 27 |
| (2) A person must not carry out building work unless the building work is authorised to be carried out by—                                    | 28 |
| (a) a building approval, or   | 29 |
| (b) a complying development certificate.  | 30 |
| Maximum penalty—  | 31 |
| (a) for an individual—2,000 penalty units, or   | 32 |
| (b) otherwise—10,000 penalty units.   | 33 |
| (3) A development consent does not authorise the carrying out of building work.   | 34 |
|   | 35 |
|   | 36 |
|   | 37 |
| <b>16 Building work carried out under building approval or complying development certificate</b>  | 38 |
| (1) A person must not carry out building work under a building approval unless—   | 39 |
| (a) the building work is carried out in accordance with the building approval, and  | 40 |
|   | 41 |

|           |   |                |
|-----------|---|----------------|
| (b)       | if the regulations prescribe additional requirements to be satisfied before the building work may be carried out—the additional requirements have been satisfied. | 1<br>2<br>3    |
|           | Maximum penalty—  | 4              |
| (a)       | for an individual—2,000 penalty units, or   | 5              |
| (b)       | otherwise—10,000 penalty units.   | 6              |
| (2)       | A person must not carry out building work under a complying development certificate unless—   | 7<br>8         |
| (a)       | the building work is carried out in accordance with the complying development certificate, and  | 9<br>10        |
| (b)       | if the regulations prescribe additional requirements to be satisfied before the building work may be carried out—the additional requirements have been satisfied. | 11<br>12<br>13 |
|           | Maximum penalty—  | 14             |
| (a)       | for an individual—2,000 penalty units, or   | 15             |
| (b)       | otherwise—10,000 penalty units.   | 16             |
| <b>17</b> | <b>Applications for building approval—general</b>   | 17             |
| (1)       | An application for a building approval for building work may be made by—  | 18             |
| (a)       | the owner of the land on which the building work will be carried out, or  | 19             |
| (b)       | another person with the consent of the owner.   | 20             |
| (2)       | The application must not be made by a person who will carry out the building work, unless the person is the owner of the land.                                    | 21<br>22       |
|           | Maximum penalty—  | 23             |
| (a)       | for an individual—300 penalty units, or   | 24             |
| (b)       | otherwise—1,500 penalty units.  | 25             |
| (3)       | The application must—   | 26             |
| (a)       | be made using the NSW planning portal, and  | 27             |
| (b)       | be accompanied by—  | 28             |
| (i)       | the prescribed fee, and   | 29             |
| (ii)      | the documents prescribed by the regulations, and  | 30             |
| (c)       | if the regulations prescribe additional requirements—comply with the additional requirements.   | 31<br>32       |
| (4)       | The application must—   | 33             |
| (a)       | if an approval authority is already appointed for the building work—specify that the approval authority is already appointed, or                                  | 34<br>35       |
| (b)       | otherwise—nominate an approval authority.   | 36             |
| (5)       | The nominated approval authority is taken to be appointed for the building work if the approval authority accepts the application.                                | 37<br>38       |
| (6)       | A local council that is nominated cannot refuse to accept the application.  | 39             |
| <b>18</b> | <b>Applications—building work involving building element</b>  | 40             |
| (1)       | This section applies to an application for a building approval for building work involving a building element for a prescribed building.                          | 41<br>42       |

|           |  |    |
|-----------|--|----|
| (2)       | The application must also be accompanied by a regulated design, including the design compliance declaration for the design, for—   | 1  |
|           | (a) the building element, and  | 2  |
|           | (b) other aspects of the building work prescribed by the regulations.  | 3  |
| (3)       | The regulations may prescribe exemptions to this section.  | 4  |
| <b>19</b> | <b>Applications—building work involving performance solution</b>   | 5  |
| (1)       | This section applies to an application for a building approval for building work involving a performance solution.   | 6  |
| (2)       | The application must also be accompanied by a report that—   | 7  |
|           | (a) is in accordance with the <i>Building Code of Australia</i> , and  | 8  |
|           | (b) contains relevant building work plans and specifications that show and describe the physical elements of the performance solution, if possible, and  | 9  |
|           | (c) if the proposed performance solution relates to a fire safety requirement for a building prescribed by the regulations—is developed following consultation with the Fire Commissioner, and | 10 |
|           | (d) complies with other requirements prescribed by the regulations.  | 11 |
| (3)       | If the performance solution is a higher-risk performance solution, the report must—  | 12 |
|           | (a) be prepared by a registration holder whose registration authorises the holder to prepare the report, and   | 13 |
|           | (b) be certified by a declaration (a <i>performance solution report compliance declaration</i> ) that—   | 14 |
|           | (i) is made by a registration holder—  | 15 |
|           | (A) who prepared the report, and   | 16 |
|           | (B) whose registration authorises the holder to make the declaration, and  | 17 |
|           | (ii) states that—  | 18 |
|           | (A) the report complies with the requirements of this section, and   | 19 |
|           | (B) the performance solution complies with the <i>Building Code of Australia</i> , and   | 20 |
|           | (C) building work carried out in accordance with the report will comply with the <i>Building Code of Australia</i> , and   | 21 |
|           | (iii) includes anything else required by the regulations.  | 22 |
| (4)       | In this section—   | 23 |
|           | <i>higher-risk performance solution</i> means a performance solution prescribed by the regulations as a higher-risk performance solution.  | 24 |
| <b>20</b> | <b>Applications—staged building work</b>   | 25 |
| (1)       | This section applies to an application for a building approval for staged building work.   | 26 |
| (2)       | The application for building approval may be made for only part (a <i>stage</i> ) of the staged building work.   | 27 |
| (3)       | A separate application for building approval must be made for each stage of the staged building work.  | 28 |
| (4)       | Each building approval for staged building work relates only to the building work specified for the particular stage.  | 29 |

|           |   |                |
|-----------|---|----------------|
| (5)       | The approval authority must consider the impact of other stages of the building work when deciding each application for a building approval for staged building work.   | 1<br>2         |
| (6)       | The first application for a building approval in relation to staged building work must include a schedule (a <i>staging schedule</i> ) of the proposed stages in which the building work will be carried out. | 3<br>4<br>5    |
| (7)       | The staging schedule must be in an approved form.   | 6              |
| (8)       | The regulations may make provision about staged building work, including by—  | 7              |
| (a)       | specifying the period within which all stages must be completed, and  | 8              |
| (b)       | setting out a process for amending a staging schedule.  | 9              |
| <b>21</b> | <b>Approval authority may require additional information</b>  | 10             |
| (1)       | The appointed approval authority for building work may require an applicant to give the approval authority additional information the approval authority reasonably requires to decide the application.       | 11<br>12<br>13 |
| (2)       | If the additional information is given to the approval authority before the application is decided, the information is taken to form part of the application.   | 14<br>15       |
| <b>22</b> | <b>Deciding applications</b>  | 16             |
| (1)       | An approval authority must not issue a building approval for building work unless—  | 17             |
| (a)       | the application for the approval has been made in accordance with this part, and  | 18<br>19       |
| (b)       | the approval authority is appointed for the building work, and  | 20             |
| (c)       | for building work carried out under a development consent—  | 21             |
| (i)       | the development consent is in force, and  | 22             |
| (ii)      | the building work is consistent with the development consent, and   | 23             |
| (iii)     | the conditions of the development consent required to be complied with before an approval may be issued have been complied with, and  | 24<br>25       |
| (d)       | the building work, if carried out in accordance with the approval, will comply with the <i>Building Code of Australia</i> as in force—  | 26<br>27       |
| (i)       | when the application is made, or  | 28             |
| (ii)      | for staged building work—when the application for the first stage is made, and  | 29<br>30       |
| (e)       | if a long service levy is payable under the <i>Building and Construction Industry Long Service Payments Act 1986</i> , section 34 in relation to the building work—   | 31<br>32       |
| (i)       | the levy has been paid, or  | 33             |
| (ii)      | for a levy payable by instalments—the first instalment of the levy has been paid, and   | 34<br>35       |
| (f)       | if the regulations require a site inspection to be carried out—the site inspection has been carried out at the time required by the regulations, and  | 36<br>37       |
| (g)       | other requirements prescribed by the regulations are satisfied.   | 38             |
|           | Maximum penalty—  | 39             |
| (a)       | for an individual—600 penalty units, or   | 40             |
| (b)       | otherwise—3,000 penalty units.  | 41             |
| (2)       | The regulations may apply a different version of the <i>Building Code of Australia</i> to a building approval rather than the version referred to in subsection (1)(d)(i) or (ii).                            | 42<br>43       |

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| <b>23 Refusing to issue approval</b>  | 1              |
| (1) An approval authority must give an applicant for a building approval written notice (a <i>refusal notice</i> ) if the approval authority refuses to issue the approval.                 | 2<br>3         |
| (2) The refusal notice must set out the reasons why the building approval was not issued.   | 4              |
| (3) The regulations may prescribe other requirements for a refusal notice.  | 5              |
| <b>24 Issue of approval</b>   | 6              |
| (1) The approval authority must, when issuing a building approval for building work—  | 7              |
| (a) issue the approval in an approved form, and   | 8              |
| (b) specify in the approval what the classification of the building will be following the completion of the building work, and  | 9<br>10        |
| <b>Note—</b> The <i>Building Code of Australia</i> allows for different parts of a building to have different classifications.  | 11<br>12       |
| (c) include the following—  | 13             |
| (i) the documents, including designs and declarations, relied on by the approval authority to issue the approval,   | 14<br>15       |
| (ii) a document setting out the nature and timing of the inspections required to be carried out by the approval authority in relation to the building work,                                 | 16<br>17<br>18 |
| (iii) for building work involving a building other than a class 1a building, a class 10 building or a temporary structure—a fire safety schedule for the building, and                      | 19<br>20<br>21 |
| (d) for an approval for a stage of staged building work—  | 22             |
| (i) include the staging schedule for the building work, and   | 23             |
| (ii) specify in the approval the stage to which the approval relates by reference to the staging schedule.  | 24<br>25       |
| Maximum penalty—  | 26             |
| (a) for an individual—300 penalty units, or   | 27             |
| (b) otherwise—1,500 penalty units.  | 28             |
| (2) An earlier fire safety schedule is superseded by a later fire safety schedule and ceases to have effect when the later fire safety schedule is issued.                                  | 29<br>30       |
| (3) The regulations may—  | 31             |
| (a) impose conditions on building approvals, and  | 32             |
| (b) specify circumstances in which a building approval for the first stage of staged building work does not require a fire safety schedule.   | 33<br>34       |
| <b>25 Variation of approval</b>   | 35             |
| (1) A building approval for building work may be varied with the consent of the approval authority appointed for the building work.   | 36<br>37       |
| (2) The approval authority may consent to the variation if satisfied that the building approval would still have been issued if the variation had been included as part of the application. | 38<br>39<br>40 |
| (3) The approval authority must keep a record of variations in accordance with the regulations.   | 41<br>42       |
| (4) The regulations may make provision about variations, including—   | 43             |
| (a) prohibiting certain variations, or  | 44             |

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| (b)       | restricting the circumstances in which consent to a variation may be given, or   | 1              |
| (c)       | imposing requirements about recording variations and giving the Secretary or other persons or agencies access to the records.  | 2<br>3         |
| <b>26</b> | <b>Approval or variation after building work commences</b>   | 4              |
| (1)       | The approval authority must not issue a building approval that applies to building work that has already commenced, except as provided by section 27.  | 5<br>6         |
|           | Maximum penalty—   | 7              |
| (a)       | for an individual—600 penalty units, or  | 8              |
| (b)       | otherwise—3,000 penalty units.   | 9              |
|           | <b>Note—</b> For staged building work, each stage involves different building work and the building approval applies only to the building work carried out during the particular stage to which the building approval relates. | 10<br>11<br>12 |
| (2)       | The approval authority must not consent to a variation of a building approval that applies to building work that has already been carried out, except as provided by section 27.   | 13<br>14<br>15 |
|           | Maximum penalty—   | 16             |
| (a)       | for an individual—600 penalty units, or  | 17             |
| (b)       | otherwise—3,000 penalty units.   | 18             |
| (3)       | An approval issued or varied in contravention of this section is void and has no effect.   | 19             |
| <b>27</b> | <b>Authorisation after building work commences</b>   | 20             |
| (1)       | Despite section 26, the decision-maker may authorise an approval authority to issue or vary a building approval after building work has commenced (a <i>post-commencement authorisation</i> ).                                 | 21<br>22<br>23 |
| (2)       | The post-commencement authorisation may require that conditions and other matters be included in the building approval or the building approval as varied.   | 24<br>25       |
| (3)       | The post-commencement authorisation may be given subject to conditions, including a condition requiring rectification work to be carried out before the authorisation has effect.  | 26<br>27<br>28 |
| (4)       | The regulations may make provision about post-commencement authorisations, including by—   | 29<br>30       |
| (a)       | setting out how an application for an authorisation must be made, including by specifying the information that must accompany the application, and   | 31<br>32       |
| (b)       | specifying the matters that must be considered by the decision-maker in deciding whether to give an authorisation, and   | 33<br>34       |
| (c)       | setting out the time in which the decision-maker must make a decision, and   | 35             |
| (d)       | specifying the rights of review for an applicant whose authorisation is refused or given subject to conditions, and  | 36<br>37       |
| (e)       | modifying the application of this part in relation to the issuing or varying of a building approval in accordance with an authorisation.   | 38<br>39       |
| (5)       | In this section—   | 40             |
|           | <i>decision-maker</i> means—   | 41             |
| (a)       | the Secretary, or  | 42             |
| (b)       | another person or body prescribed by the regulations.  | 43             |

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| <b>28</b> | <b>Effect of post-commencement authorisation</b>   | 1              |
| (1)       | If a building approval is issued for building work in accordance with the post-commencement authorisation, the building work is taken to be carried out under the building approval. | 2<br>3<br>4    |
| (2)       | Authorising the issue of a building approval in accordance with the post-commencement authorisation does not prevent—  | 5<br>6         |
| (a)       | a person from being found guilty of an offence under section 15, or  | 7              |
| (b)       | other action being taken against a person in relation to a contravention of that section.  | 8<br>9         |
| (3)       | An approval authority does not, because of the issuing or varying of a building approval in accordance with the post-commencement authorisation—                                     | 10<br>11       |
| (a)       | commit an offence under section 25, or   | 12             |
| (b)       | incur liability for loss or damage for failure to comply with that section.  | 13             |
| (4)       | A post-commencement authorisation does not otherwise affect the requirements of this subdivision in relation to issuing or varying a building approval.                              | 14<br>15       |
| <b>29</b> | <b>Decision-maker may recover costs</b>  | 16             |
| (1)       | The decision-maker is entitled to recover all reasonable costs incurred by the decision-maker in giving a post-commencement authorisation under section 27.                          | 17<br>18       |
| (2)       | The decision-maker may—  | 19             |
| (a)       | give a written costs assessment to a relevant party that sets out the amount of the costs and the time by which the costs must be paid, and  | 20<br>21       |
| (b)       | recover the costs from the relevant party as a debt in a court of competent jurisdiction if the relevant party does not pay the costs by the time set out in the costs assessment.   | 22<br>23<br>24 |
| (3)       | In this section—   | 25             |
|           | <i>relevant party</i> , for building work carried out without approval on land, means the following—   | 26<br>27       |
| (a)       | the person having the benefit of the development consent for the building work,  | 28<br>29       |
| (b)       | the owner of the land,   | 30             |
| (c)       | the person responsible for carrying out the building work,   | 31             |
| (d)       | the person who carried out the building work.  | 32             |
| <b>30</b> | <b>Documents part of approval and approval part of development consent</b>   | 33             |
| (1)       | The documents, including designs and declarations, relied on by the approval authority to issue or vary a building approval are taken to form part of the building approval.         | 34<br>35<br>36 |
| (2)       | A document varied in accordance with this subdivision replaces the earlier version of the document.  | 37<br>38       |
| (3)       | A building approval for building work is taken to form part of the development consent under which the building work is carried out.   | 39<br>40       |

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| <b>Subdivision 2</b> | <b>Completion approvals</b>   | 1              |
| <b>31</b>            | <b>Requirement for completion approval</b>  | 2              |
| (1)                  | This section applies to building work, or a change of building use not involving building work, under a relevant approval.  | 3<br>4         |
| (2)                  | The person having the benefit of the relevant approval must ensure an application is made for a completion approval for the building work or change of building use—                                    | 5<br>6         |
| (a)                  | in accordance with this subdivision, and  | 7              |
| (b)                  | within the period prescribed by the regulations.  | 8              |
|                      | Maximum penalty—  | 9              |
| (a)                  | for an individual—300 penalty units, or   | 10             |
| (b)                  | otherwise—1,500 penalty units.  | 11             |
| (3)                  | In this section—  | 12             |
|                      | <i>relevant approval</i> means—   | 13             |
| (a)                  | a building approval, or   | 14             |
| (b)                  | a development consent, or   | 15             |
| (c)                  | a complying development certificate.  | 16             |
| <b>32</b>            | <b>Applications for completion approval—general</b>   | 17             |
| (1)                  | An application for a completion approval may be made by—  | 18             |
| (a)                  | the owner of the land, or   | 19             |
| (b)                  | another person with the consent of the owner.   | 20             |
| (2)                  | The application must not be made by a person who carried out the building work to which the application relates, unless the person is the owner of the land.  | 21<br>22       |
|                      | Maximum penalty—  | 23             |
| (a)                  | for an individual—300 penalty units, or   | 24             |
| (b)                  | otherwise—1,500 penalty units.  | 25             |
| (3)                  | An application for a completion approval may be made for a part of a building—  | 26             |
| (a)                  | when the building work or change of building use is completed for the part,<br>and  | 27<br>28       |
| (b)                  | in the same way an application is made for the whole of a building.   | 29             |
| (4)                  | The application must—   | 30             |
| (a)                  | be made using the NSW planning portal, and  | 31             |
| (b)                  | be accompanied by—  | 32             |
| (i)                  | the prescribed fee, and   | 33             |
| (ii)                 | the documents prescribed by the regulations, and  | 34             |
| (c)                  | comply with additional requirements prescribed by the regulations.  | 35             |
| <b>33</b>            | <b>Applications—building work involving building element</b>  | 36             |
| (1)                  | This section applies to an application for a completion approval for building work involving a building element for a prescribed building.  | 37<br>38       |
| (2)                  | Except as provided by the regulations, the application must also be accompanied by a building work compliance declaration for the building work made by the principal contractor for the building work. | 39<br>40<br>41 |

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| (3)       | In this section—  | 1              |
|           | <i>principal contractor</i> , for building work, means the registration holder who entered into a contract to carry out the building work other than as a subcontractor.  | 2<br>3         |
| <b>34</b> | <b>Applications—change of building use not involving building work</b>  | 4              |
| (1)       | This section applies to an application for a completion approval for a change of building use that does not involve building work.  | 5<br>6         |
| (2)       | The application must—   | 7              |
| (a)       | if an approval authority is already appointed for the change of building use—specify that the approval authority is already appointed, or   | 8<br>9         |
| (b)       | otherwise—nominate an approval authority.   | 10             |
| (3)       | The nominated approval authority is taken to be appointed for the change of building use if the approval authority accepts the application.   | 11<br>12       |
| (4)       | A local council that is nominated cannot refuse to accept the application.  | 13             |
| <b>35</b> | <b>Approval authority may require additional information</b>  | 14             |
| (1)       | The appointed approval authority for building work or a change of building use may require an applicant to give the approval authority additional information the approval authority reasonably requires to decide the application. | 15<br>16<br>17 |
| (2)       | If additional information is given to the approval authority before the application is decided, the information is taken to form part of the application.   | 18<br>19       |
| <b>36</b> | <b>Deciding application</b>   | 20             |
| (1)       | An approval authority must not issue a completion approval for building work or a change of building use unless—  | 21<br>22       |
| (a)       | the application for the approval has been made in accordance with this part, and  | 23<br>24       |
| (b)       | the approval authority is appointed for the building work or change of building use, and  | 25<br>26       |
| (c)       | all inspections required for the building work or change of building use have been carried out as required, and   | 27<br>28       |
| (d)       | if the development consent or complying development certificate includes a relevant condition—the relevant condition has been complied with, and  | 29<br>30       |
| (e)       | the building to which the building work or change of building use applies—  | 31             |
| (i)       | is suitable for occupation and use in accordance with the class of the building, and  | 32<br>33       |
| (ii)      | for a building capable of occupation—is otherwise safe to occupy, and   | 34             |
| (f)       | for building work—  | 35             |
| (i)       | the building work has been carried out in accordance with the building approval or complying development certificate that authorised the building work, and   | 36<br>37<br>38 |
| (ii)      | the building work is consistent with the development consent or complying development certificate, and  | 39<br>40       |
| (iii)     | if the building work includes work prescribed by the regulations—the documents required by the regulations have been given to the approval authority, and   | 41<br>42<br>43 |

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| (g)       | for a change of building use—the change of building use has been carried out in accordance with the development consent or complying development certificate that authorised the change of building use, and | 1<br>2<br>3    |
| (h)       | other requirements prescribed by the regulations are satisfied.  | 4              |
|           | Maximum penalty—   | 5              |
| (a)       | for an individual—600 penalty units, or  | 6              |
| (b)       | otherwise—3,000 penalty units.   | 7              |
| (2)       | In this section—   | 8              |
|           | <b>relevant condition</b> —  | 9              |
| (a)       | means a condition required to be complied with before a completion approval is issued, and   | 10<br>11       |
| (b)       | includes a condition prescribed by the regulations, and  | 12             |
| (c)       | does not include—  | 13             |
| (i)       | a condition, other than a condition referred to in paragraph (b), that the approval authority reasonably considers—  | 14<br>15       |
| (A)       | is not possible to comply with before the completion approval is issued, or  | 16<br>17       |
| (B)       | is not relevant to the building work or change of building use to which the completion approval relates, or  | 18<br>19       |
| (ii)      | a condition prescribed by the regulations.   | 20             |
| <b>37</b> | <b>Refusing to issue approval</b>  | 21             |
| (1)       | An approval authority must give an applicant for a completion approval written notice (a <b>refusal notice</b> ) if the approval authority refuses to issue the approval.                                    | 22<br>23       |
| (2)       | The refusal notice must set out the reasons why the completion approval was not issued.  | 24<br>25       |
| (3)       | The regulations may prescribe other requirements for a refusal notice.   | 26             |
| <b>38</b> | <b>Fire safety certificates</b>  | 27             |
| (1)       | This section applies to a building if—   | 28             |
| (a)       | a completion approval is required for the building because of building work or a change of building use, and   | 29<br>30       |
| (b)       | a fire safety schedule was required to be included in—   | 31             |
| (i)       | for building work—the building approval or complying development certificate under which the building work is carried out, or  | 32<br>33       |
| (ii)      | for a change of building use—the development consent or complying development certificate under which the change of building use is carried out.   | 34<br>35<br>36 |
| (2)       | An approval authority must not issue a completion approval in relation to the building unless the approval authority has issued a fire safety certificate for the building.                                  | 37<br>38<br>39 |
|           | Maximum penalty for subsection (2)—  | 40             |
| (a)       | for an individual—300 penalty units, or  | 41             |
| (b)       | otherwise—1,500 penalty units.   | 42             |
| <b>39</b> | <b>Issue of approval</b>   | 43             |
| (1)       | The approval authority must, when issuing a completion approval—   | 44             |

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| (a)       | issue the approval in an approved form, and   | 1              |
| (b)       | include the documents relied on by the approval authority to issue the approval, and  | 2<br>3         |
| (c)       | if a fire safety certificate is required under section 38—include the fire safety certificate.  | 4<br>5         |
|           | Maximum penalty—  | 6              |
| (a)       | for an individual—300 penalty units, or   | 7              |
| (b)       | otherwise—1,500 penalty units.  | 8              |
| (2)       | The regulations may impose conditions on completion approvals.  | 9              |
| <b>40</b> | <b>Effect of approval on earlier approvals</b>  | 10             |
|           | A completion approval—  | 11             |
| (a)       | for a building—revokes an earlier completion approval for the building, or  | 12             |
| (b)       | for a part of a building—revokes an earlier completion approval to the extent the earlier completion approval applies to the part.  | 13<br>14       |
| <b>41</b> | <b>Documents part of approval and approval part of development consent</b>  | 15             |
| (1)       | The documents relied on by the approval authority to issue a completion approval are taken to form part of the completion approval.   | 16<br>17       |
| (2)       | A completion approval for building work or a change of building use is taken to form part of the development consent or complying development certificate under which the building work or change of building use is carried out. | 18<br>19<br>20 |
| <b>42</b> | <b>Occupation of buildings</b>  | 21             |
| (1)       | A person must not occupy a building if—   | 22             |
| (a)       | the building results from building work, and  | 23             |
| (b)       | the building is capable of being occupied, and  | 24             |
| (c)       | the building is not already lawfully occupied, and  | 25             |
| (d)       | an application for a completion approval is required to be made under this subdivision for the building work, and   | 26<br>27       |
| (e)       | a completion approval is not in force for the building.   | 28             |
|           | Maximum penalty—  | 29             |
| (a)       | for an individual—300 penalty units, or   | 30             |
| (b)       | otherwise—1,500 penalty units.  | 31             |
| (2)       | A person must not commence occupation under a new use of a building if—   | 32             |
| (a)       | an application for a completion approval is required to be made under this subdivision for the change of building use, and  | 33<br>34       |
| (b)       | a completion approval is not in force for the change of building use.   | 35             |
|           | Maximum penalty—  | 36             |
| (a)       | for an individual—300 penalty units, or   | 37             |
| (b)       | otherwise—1,500 penalty units.  | 38             |
| (3)       | A building approval or development consent does not authorise a building to be occupied.  | 39<br>40       |

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| <b>Subdivision 3</b> | <b>Crown building work</b>   | 1              |
| <b>43</b>            | <b>Meaning of “Crown building work”</b>  | 2              |
| (1)                  | In this Act, <i>Crown building work</i> —  | 3              |
| (a)                  | means development, or a Division 5.1 activity, by the Crown that comprises—  | 4              |
| (i)                  | the erection of a building, or   | 5              |
| (ii)                 | the doing of anything incidental to the erection of a building, but  | 6              |
| (b)                  | does not include the following—  | 7              |
| (i)                  | exempt development,  | 8              |
| (ii)                 | anything prescribed by the regulations.  | 9              |
| (2)                  | In this section—   | 10             |
|                      | <i>Crown</i> has the meaning prescribed by the regulations.  | 11             |
|                      | <i>Division 5.1 activity</i> means an activity subject to an environmental impact assessment under the <i>Environmental Planning and Assessment Act 1979</i> , Division 5.1. | 12<br>13<br>14 |
| <b>44</b>            | <b>Election to have Crown building work approved under this part</b>   | 15             |
| (1)                  | This division does not apply to Crown building work unless—  | 16             |
| (a)                  | the work is building work to which section 15 applies, and   | 17             |
| (b)                  | an election is made to have the work approved under this part.   | 18             |
| (2)                  | The election is made if an application for an approval to carry out the building work is made in accordance with Subdivision 1.  | 19<br>20       |
| <b>45</b>            | <b>Crown building work not approved under this part</b>  | 21             |
| (1)                  | This section applies to Crown building work for which an election has not been made to have the work approved under this part.   | 22<br>23       |
| (2)                  | The Crown building work cannot be commenced unless—  | 24             |
| (a)                  | the work is certified by the Crown to comply with the <i>Building Code of Australia</i> as in force on—  | 25<br>26       |
| (i)                  | if an invitation for tenders to carry out the work occurred—the date of the invitation for tenders, or   | 27<br>28       |
| (ii)                 | otherwise—the date on which the work commences, and  | 29             |
| (b)                  | for Crown building work involving a building element for a prescribed building—the following are obtained—   | 30<br>31       |
| (i)                  | a regulated design,  | 32             |
| (ii)                 | a design compliance declaration, and   | 33             |
| (c)                  | for Crown building work involving a prefabricated building that, when completed, will be a class 1 building or part of a class 1 building—the following are obtained—        | 34<br>35<br>36 |
| (i)                  | a prefabricated building declaration for the prefabricated building,   | 37             |
| (ii)                 | prefabricated building instructions for the prefabricated building.  | 38             |
| (3)                  | The Crown must obtain a building work compliance declaration for Crown building work involving a building element for a prescribed building.                                 | 39<br>40       |
| <b>46</b>            | <b>Subdivision subject to regulations</b>  | 41             |
|                      | This subdivision may be modified by the regulations.   | 42             |

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| <b>Subdivision 4</b> | <b>Prefabricated buildings</b>   | 1              |
| <b>47</b>            | <b>Definition</b>  | 2              |
|                      | In this part—  | 3              |
|                      | <i>manufacturer</i> , of a prefabricated building, means the person who manufactures the prefabricated building away from the building site.   | 4<br>5         |
| <b>48</b>            | <b>Prefabricated building declaration</b>  | 6              |
| (1)                  | In this Act, a <i>prefabricated building declaration</i> , for a prefabricated building, means a declaration—  | 7<br>8         |
| (a)                  | made by a person who—  | 9              |
| (i)                  | is a manufacturer of the prefabricated building, and   | 10             |
| (ii)                 | if the regulations prescribe additional requirements—satisfies the additional requirements, and  | 11<br>12       |
| (b)                  | that is in an approved form, and   | 13             |
| (c)                  | that declares that the prefabricated building—   | 14             |
| (i)                  | complies with the requirements of the <i>Building Code of Australia</i> , and  | 15             |
| (ii)                 | if the regulations prescribe additional requirements—complies with the additional requirements, and  | 16<br>17       |
| (d)                  | that includes other matters required to be included by the regulations.  | 18             |
| (2)                  | A person who carries out building work involving a prefabricated building is able to reasonably rely on the prefabricated building declaration for the building to be satisfied of the matters to which the declaration relates. | 19<br>20<br>21 |
| <b>49</b>            | <b>Prefabricated building instructions</b>   | 22             |
| (1)                  | In this Act, <i>prefabricated building instructions</i> , for a prefabricated building, means a document prepared by the manufacturer of the prefabricated building that includes the following—                                 | 23<br>24<br>25 |
| (a)                  | instructions about how to transport the prefabricated building to the building site in a way that will ensure the prefabricated building can be erected in compliance with—  | 26<br>27<br>28 |
| (i)                  | the requirements of the <i>Building Code of Australia</i> , and  | 29             |
| (ii)                 | if the regulations prescribe additional requirements—the additional requirements,  | 30<br>31       |
| (b)                  | building and design requirements that support the prefabricated building being erected at the building site in compliance with—  | 32<br>33       |
| (i)                  | the requirements of the <i>Building Code of Australia</i> , and  | 34             |
| (ii)                 | if the regulations prescribe additional requirements—the additional requirements,  | 35<br>36       |
| (c)                  | other matters required to be included by the regulations.  | 37             |
| (2)                  | The regulations may require the prefabricated building instructions to be in an approved form.   | 38<br>39       |
| <b>50</b>            | <b>Conditions of building approval or complying development certificate</b>  | 40             |
| (1)                  | This section applies to building work involving a prefabricated building that, when completed, will be a class 1 building or part of a class 1 building.   | 41<br>42       |

|                      |   |                |
|----------------------|---|----------------|
| (2)                  | The requirements in subsections (3) and (4) are conditions of a building approval or complying development certificate that authorises building work involving a prefabricated building.  | 1<br>2<br>3    |
| (3)                  | Building work involving a prefabricated building must not commence unless the prefabricated building declaration and prefabricated building instructions have been—                       | 4<br>5<br>6    |
| (a)                  | obtained for the prefabricated building, and  | 7              |
| (b)                  | given to the approval authority for the building work using the NSW planning portal.  | 8<br>9         |
| (4)                  | Building work involving a prefabricated building must not be carried out after the approval authority—  | 10<br>11       |
| (a)                  | has been given the prefabricated building declaration and prefabricated building instructions for the prefabricated building, and   | 12<br>13       |
| (b)                  | has notified the person having the benefit of the building approval or complying development certificate that the approval authority is not satisfied the building work will comply with— | 14<br>15<br>16 |
| (i)                  | the <i>Building Code of Australia</i> , or  | 17             |
| (ii)                 | the building approval or complying development certificate.   | 18             |
| <b>51</b>            | <b>Information must be given when supplying prefabricated building</b>  | 19             |
| (1)                  | A person must not supply a prefabricated building to another person unless the other person has been given—   | 20<br>21       |
| (a)                  | the prefabricated building declaration for the building, and  | 22             |
| (b)                  | the prefabricated building instructions for the building, and   | 23             |
| (c)                  | other information prescribed by the regulations.  | 24             |
|                      | Maximum penalty—  | 25             |
| (a)                  | for an individual—600 penalty units, or   | 26             |
| (b)                  | otherwise—3,000 penalty units.  | 27             |
| (2)                  | This section does not apply to the sale of a prefabricated building after the building has been erected.  | 28<br>29       |
| (3)                  | The regulations may prescribe exemptions from this section.   | 30             |
| <b>52</b>            | <b>Prefabricated buildings manufactured outside New South Wales</b>   | 31             |
|                      | The regulations may do the following—   | 32             |
| (a)                  | exempt prefabricated buildings manufactured outside the State from some or all of the provisions of this part and section 45,   | 33<br>34       |
| (b)                  | impose alternative requirements in relation to prefabricated buildings manufactured outside the State.  | 35<br>36       |
| <b>Subdivision 5</b> | <b>Miscellaneous</b>  | 37             |
| <b>53</b>            | <b>Requirements for issue of complying development certificates</b>   | 38             |
| (1)                  | An approval authority must not issue a complying development certificate for complying development involving building work unless satisfied that—   | 39<br>40       |
| (a)                  | the building work will comply with the <i>Building Code of Australia</i> as in force on the day the application for the complying development certificate was made, and                   | 41<br>42<br>43 |

- (b) for building work involving a building element for a prescribed building—the application for the certificate is accompanied by the documents required to accompany an application to which section 18 applies, and 1  
2  
3
  - (c) for building work involving a performance solution—the application for the certificate is accompanied by the documents required to accompany an application to which section 19 applies. 4  
5  
6
- (2) An approval authority must include the following with a complying development certificate for building work or a change of building use for which a completion approval is required— 7  
8  
9
  - (a) a document setting out the nature and timing of the inspections required to be carried out by the approval authority, 10  
11
  - (b) for building work or a change of building use involving a building other than a class 1a building, a class 10 building or a temporary structure—a fire safety schedule for the building. 12  
13  
14
- (3) The regulations may prescribe additional requirements for complying development certificates for complying development involving building work or a change of building use. 15  
16  
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#### **54 Reliance on compliance declaration** 18

- (1) A person who carries out approvals work in reliance on a compliance declaration is entitled to assume— 19  
20
  - (a) that the declaration has been properly made, and 21
  - (b) that all conditions precedent to the issuing of the declaration have been complied with, and 22  
23
  - (c) that all things stated in the declaration are true. 24
- (2) The person is not liable for loss or damage arising from a matter about which the compliance declaration has been issued. 25  
26
- (3) It is a defence to an offence if the person shows that the reason the person committed the offence was because the person carried out work in reliance on the compliance declaration. 27  
28  
29
- (4) This section does not apply to protect a person if— 30
  - (a) the person failed to take reasonable steps to ensure the compliance declaration was made by a person who was authorised to make the declaration, or 31  
32
  - (b) the compliance declaration was made by the person, or 33
  - (c) the person knew, or ought reasonably to have known, that— 34
    - (i) the declaration had not been properly made, or 35
    - (ii) all conditions precedent to the issuing of the declaration had not been complied with, or 36  
37
    - (iii) not all things stated in the declaration were true. 38

### **Division 3 Conflicts of interest** 39

#### **55 Meaning of “conflict of interest”** 40

- (1) In this division, a person carrying out approvals work has a *conflict of interest* in the approvals work if the person is— 41  
42
  - (a) a person who obtains the benefit of the approvals work, or 43
  - (b) a person who has been involved in the construction or design of an aspect of the development or building to which the approvals work relates, or 44  
45

|           |  |                |
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| (c)       | a person who is a close associate of the person for whom the approvals work is being carried out, or   | 1<br>2         |
| (d)       | for approvals work carried out in the local government area of a local council other than for the local council—a person who is a councillor or employee of the local council, or                              | 3<br>4<br>5    |
| (e)       | a person who has a pecuniary interest in the development or building to which the approvals work relates, or   | 6<br>7         |
| (f)       | for approvals work involving the issuing of a strata plan of subdivision, a notice of conversion or a strata certificate for a strata plan—a person who has prepared the plan or notice, or                    | 8<br>9<br>10   |
| (g)       | a person prescribed by the regulations, or   | 11             |
| (h)       | a person who has a relationship, whether family, personal, employment or business, with a person referred to in paragraphs (a)–(f).  | 12<br>13       |
| (2)       | The regulations may specify circumstances where a person referred to in subsection (1)(a)–(h) is taken not to have a conflict of interest.   | 14<br>15       |
| (3)       | In this section—   | 16             |
|           | <i>involved</i> , in the construction or design of an aspect of development or a building—   | 17             |
| (a)       | includes—  | 18             |
| (i)       | providing professional services, or  | 19             |
| (ii)      | anything prescribed by the regulations, but  | 20             |
| (b)       | does not include—  | 21             |
| (i)       | carrying out approvals work, or  | 22             |
| (ii)      | doing something the person carrying out the approvals work is required to do by this Act or the regulations, or  | 23<br>24       |
| (iii)     | anything prescribed by the regulations.  | 25             |
| <b>56</b> | <b>Meaning of “pecuniary interest”</b>   | 26             |
| (1)       | In this division, a person has a <i>pecuniary interest</i> in a development or building if there is a reasonable likelihood or expectation of financial gain to the person or a close associate of the person. | 27<br>28<br>29 |
| (2)       | However, a person does not have a pecuniary interest if—   | 30             |
| (a)       | the interest is so remote or insignificant that the interest could not reasonably be regarded as likely to influence a decision in relation to approvals work, or  | 31<br>32       |
| (b)       | the interest is merely the lawful payment for the carrying out of approvals work.  | 33<br>34       |
| <b>57</b> | <b>Offence of carrying out approvals work with conflict of interest</b>  | 35             |
| (1)       | An individual must not carry out relevant approvals work if the individual has a conflict of interest in the relevant approvals work.<br>Maximum penalty—10,000 penalty units.                                 | 36<br>37<br>38 |
| (2)       | A director or employee of a body corporate must not carry out relevant approvals work if the following have a conflict of interest in the relevant approvals work—   | 39<br>40       |
| (a)       | the body corporate,  | 41             |
| (b)       | another director or employee of the body corporate authorised to do approvals work.  | 42<br>43       |
|           | Maximum penalty—10,000 penalty units.  | 44             |

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| (3)               | A registration authorising an individual to carry out relevant approvals work is automatically suspended if the individual is convicted by a court of an offence under this section.             | 1<br>2<br>3    |
| (4)               | The automatic suspension is for—   | 4              |
| (a)               | 120 days, or   | 5              |
| (b)               | a longer period specified by the Secretary in a written notice given to the individual.  | 6<br>7         |
| (5)               | In this section—   | 8              |
|                   | <i>relevant approvals work</i> means the following—  | 9              |
| (a)               | carrying out an inspection,  | 10             |
| (b)               | issuing a certificate or approval,   | 11             |
| (c)               | approvals work prescribed by the regulations.  | 12             |
| <b>58</b>         | <b>Exemptions</b>  | 13             |
| (1)               | The regulations may create exemptions from the conflict of interest offence.   | 14             |
| (2)               | The Secretary may, on the written application of an individual, exempt the individual from the conflict of interest offence in relation to specified approvals work or a kind of approvals work. | 15<br>16<br>17 |
| (3)               | An exemption under this section may be unconditional or subject to conditions.   | 18             |
| (4)               | An individual who has a conflict of interest in approvals work does not commit a conflict of interest offence if—  | 19<br>20       |
| (a)               | an exemption applies to the approvals work, and  | 21             |
| (b)               | the individual carries out the approvals work in accordance with the conditions to which the exemption is subject.   | 22<br>23       |
| (5)               | In this section—   | 24             |
|                   | <i>conflict of interest offence</i> means an offence in section 57.  | 25             |
| <b>Division 4</b> | <b>Responsibility for approvals work</b>   | 26             |
| <b>59</b>         | <b>Individuals acting for body corporate or local council</b>  | 27             |
| (1)               | This section applies to a registration holder who carries out approvals work for—  | 28             |
| (a)               | a body corporate that holds a registration, or   | 29             |
| (b)               | a local council.   | 30             |
| (2)               | The registration holder—   | 31             |
| (a)               | is not excused from compliance with the person's obligations under this Act or another Act in relation to the approvals work, and  | 32<br>33       |
| (b)               | is subject to the same requirements in relation to carrying out the approvals work as if the person were carrying out the work personally.   | 34<br>35       |
| <b>60</b>         | <b>Functions exercised for council or body corporate</b>   | 36             |
|                   | A reference in this Act to the carrying out of approvals work by a registration holder includes a reference to the carrying out of approvals work for—   | 37<br>38       |
| (a)               | a local council, or  | 39             |
| (b)               | a body corporate that holds a registration.  | 40             |



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| <b>64</b> | <b>Falsely or recklessly making or issuing certain documents</b>   | 1  |
| (1)       | A person must not make or issue a relevant document if the person—   | 2  |
| (a)       | knows or ought to know the document is false or misleading, or   | 3  |
| (b)       | is reckless as to whether the document is false or misleading.   | 4  |
|           | Maximum penalty—   | 5  |
| (a)       | for an individual—600 penalty units, or  | 6  |
| (b)       | otherwise—3,000 penalty units.   | 7  |
| (2)       | A person cannot be prosecuted under this section in relation to a complying development certificate if—  | 8  |
| (a)       | proceedings have been brought under the <i>Environmental Planning and Assessment Act 1979</i> , section 4.31 for an order declaring the certificate to be invalid, and | 9  |
| (b)       | the Land and Environment Court has refused to make the order.  | 10 |
| (3)       | In this section—   | 11 |
|           | <b>relevant document</b> means the following—  | 12 |
| (a)       | a complying development certificate,   | 13 |
| (b)       | a strata certificate under the <i>Strata Schemes Development Act 2015</i> ,  | 14 |
| (c)       | a certificate of compliance under the <i>Swimming Pools Act 1992</i> , Part 2, Division 5,   | 15 |
| (d)       | an approval under this part,   | 16 |
| (e)       | a compliance declaration,  | 17 |
| (f)       | a prefabricated building declaration,  | 18 |
| (g)       | prefabricated building instructions.   | 19 |
| <b>65</b> | <b>Improper influence—approvals work, including making compliance and other declarations</b>   | 20 |
| (1)       | A person who is authorised to carry out approvals work (the <b>approver</b> ) must not—  | 21 |
| (a)       | act other than impartially in carrying out the work, or  | 22 |
| (b)       | seek or accept a benefit from another person on an understanding the approver will act other than impartially in carrying out the work.                                | 23 |
|           | Maximum penalty—10,000 penalty units or imprisonment for 2 years, or both.   | 24 |
| (2)       | A person must not do the following to encourage an approver to act other than impartially in carrying out approvals work—  | 25 |
| (a)       | give or offer a benefit to the approver or another person,   | 26 |
| (b)       | cause or threaten a financial or other detriment to the approver or another person,  | 27 |
| (c)       | otherwise unduly influence the approver or another person,   | 28 |
| (d)       | attempt anything in paragraphs (a)–(c).  | 29 |
|           | Maximum penalty—10,000 penalty units or imprisonment for 2 years, or both.   | 30 |
| (3)       | In this section—   | 31 |
|           | <b>approvals work</b> includes making a compliance declaration.  | 32 |

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| <b>Division 6</b> | <b>Obligations on building practitioners</b>  | 1  |
| <b>66</b>         | <b>Definitions</b>  | 2  |
|                   | In this division—   | 3  |
|                   | <i>building element work</i> means building work involving a building element for a prescribed building, other than work prescribed by the regulations.   | 4  |
|                   | <i>building practitioner</i> —see section 67.   | 5  |
|                   | <i>principal contractor</i> means a person—   | 6  |
|                   | (a) who agrees to do building work under a contract or arrangement (the <i>head contract</i> ), and   | 7  |
|                   | (b) for whom work will be carried out under one or more other contracts or arrangements as part of or incidental to the work carried out under the head contract.                                       | 8  |
|                   | <i>taken to do building work</i> , for a building practitioner, means the practitioner—   | 9  |
|                   | (a) agrees to do building work under a contract or other arrangement, or  | 10 |
|                   | (b) is the principal contractor for the work.   | 11 |
| <b>67</b>         | <b>Meaning of “building practitioner”</b>   | 12 |
| (1)               | In this division, <i>building practitioner</i> means—   | 13 |
|                   | (a) a person who agrees under a contract or other arrangement to do building work, or   | 14 |
|                   | (b) if more than one person agrees to do building work—the person who is the principal contractor for the work.   | 15 |
| (2)               | The regulations may—  | 16 |
|                   | (a) prescribe additional persons as building practitioners for this division, and   | 17 |
|                   | (b) exclude persons from being building practitioners for this division, and  | 18 |
|                   | (c) prescribe circumstances in which a person prescribed as a building practitioner is taken to do building work.   | 19 |
| <b>68</b>         | <b>Building practitioners must ensure compliance with declaration obligations</b>   | 20 |
| (1)               | A building practitioner who carries out building element work must take all reasonable steps to ensure that—  | 21 |
|                   | (a) a regulated design is obtained for the work, and  | 22 |
|                   | (b) a design compliance declaration is obtained for each regulated design.  | 23 |
|                   | Maximum penalty—  | 24 |
|                   | (a) for an individual—600 penalty units, or   | 25 |
|                   | (b) otherwise—3,000 penalty units.  | 26 |
| (2)               | A building practitioner must not, without reasonable excuse, carry out building element work unless the design compliance declaration for the regulated design specifies that the design complies with— | 27 |
|                   | (a) the <i>Building Code of Australia</i> , and   | 28 |
|                   | (b) the requirements of this Act and the regulations.   | 29 |
|                   | Maximum penalty—  | 30 |
|                   | (a) for an individual—600 penalty units, or   | 31 |
|                   | (b) otherwise—3,000 penalty units.  | 32 |

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| (3)               | The regulations may prescribe circumstances in which a building practitioner is not required to comply with this section.   | 1<br>2         |
| <b>69</b>         | <b>Obligations relating to Building Code of Australia</b>   | 3              |
| (1)               | A building practitioner must take all reasonable steps to ensure building element work complies with the <i>Building Code of Australia</i> .  | 4<br>5         |
|                   | Maximum penalty—  | 6              |
| (a)               | for an individual—600 penalty units, or   | 7              |
| (b)               | otherwise—3,000 penalty units.  | 8              |
| (2)               | It is a defence if the defendant proves that—   | 9              |
| (a)               | the defendant reasonably relied on and built in accordance with a regulated design for which a design compliance declaration was obtained, and  | 10<br>11       |
| (b)               | the design compliance declaration specified that the design complies with—  | 12             |
| (i)               | the <i>Building Code of Australia</i> , and   | 13             |
| (ii)              | the requirements of this Act and the regulations.   | 14             |
| <b>70</b>         | <b>Regulations</b>  | 15             |
|                   | The regulations may impose additional obligations on building practitioners, including—   | 16<br>17       |
| (a)               | requirements about giving documents to the Secretary, and   | 18             |
| (b)               | obligations in relation to variations to building work, and   | 19             |
| (c)               | obligations in relation to building work involving ground anchors.  | 20             |
| <b>Division 7</b> | <b>Appeals—local council as approval authority</b>  | 21             |
| <b>71</b>         | <b>Appeals against decisions</b>  | 22             |
| (1)               | An applicant for a building approval or completion approval may appeal to the Land and Environment Court against a decision of a local council to refuse to issue the approval.   | 23<br>24<br>25 |
| (2)               | The regulations may prescribe a time within which the appeal must be made.  | 26             |
| <b>72</b>         | <b>Deemed refusal</b>   | 27             |
| (1)               | For this division, a local council is taken to have refused to issue an approval (a <i>deemed refusal</i> ) to an applicant if the approval is not issued to the applicant within the period prescribed by the regulations. | 28<br>29<br>30 |
| (2)               | The local council may continue to decide the application after the deemed refusal.  | 31             |
| (3)               | A decision made after the deemed refusal does not affect an appeal made under this division in relation to the deemed refusal.  | 32<br>33       |
| (4)               | However, the local council is entitled to have the appeal withdrawn without costs if—   | 34<br>35       |
| (a)               | the local council decides to issue the approval, and  | 36             |
| (b)               | the appeal has not yet been decided, and  | 37             |
| (c)               | the applicant consents to the withdrawal.   | 38             |

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| <b>Division 8</b> | <b>Approval authorities</b>   | 1  |
| <b>73</b>         | <b>Directions by approval authorities</b>   | 2  |
| (1)               | This section applies to building work for which an approval authority is appointed.   | 3  |
| (2)               | If the approval authority becomes aware of non-compliance or potential non-compliance in the building work, the approval authority—   | 4  |
|                   | (a) if required by the regulations—must give a written notice to the person responsible for carrying out the building work, or  | 5  |
|                   | (b) otherwise—may give a written notice to the person responsible for carrying out the building work.   | 6  |
| (3)               | The written notice must—  | 7  |
|                   | (a) identify the non-compliance or potential non-compliance, and  | 8  |
|                   | (b) direct the person to take specified action within a specified period to remedy or prevent the non-compliance.   | 9  |
| (4)               | The person given the notice must not, without reasonable excuse, fail to comply with the directions in the notice.  | 10 |
|                   | Maximum penalty—  | 11 |
|                   | (a) for an individual—300 penalty units, or   | 12 |
|                   | (b) otherwise—1,500 penalty units.  | 13 |
| (5)               | If a direction in a notice is not complied with within the period specified in the notice, the approval authority must, within the time prescribed by the regulations—                          | 14 |
|                   | (a) lodge a copy of the notice on the NSW planning portal, and  | 15 |
|                   | (b) include particulars about the direction that has not been complied with.  | 16 |
| (6)               | The regulations may provide for the following—  | 17 |
|                   | (a) the circumstances in which a notice is required to be given,  | 18 |
|                   | (b) the procedure for giving a notice,  | 19 |
|                   | (c) requirements in relation to follow-up action,   | 20 |
|                   | (d) requirements for lodging notices on the NSW planning portal,  | 21 |
|                   | (e) the keeping of documents in relation to notices given and follow-up action taken,   | 22 |
|                   | (f) requirements for specified persons to be notified of a matter or document relating to a notice or follow-up action.   | 23 |
| (7)               | In this section—  | 24 |
|                   | <i>non-compliance</i> means non-compliance prescribed by the regulations.   | 25 |
| <b>74</b>         | <b>Guidance for approval authorities</b>  | 26 |
|                   | The Minister may give guidance to approval authorities on the exercise of functions under this part.  | 27 |
| <b>75</b>         | <b>Approval authority may be satisfied about certain matters</b>  | 28 |
|                   | For the purposes of an approval authority issuing an approval, a requirement that a consent authority or local council must be satisfied about a matter is taken to have been complied with if— | 29 |
|                   | (a) the requirement arises under the following—   | 30 |
|                   | (i) the <i>Environmental Planning and Assessment Act 1979</i> ,   | 31 |

|           |   |                |
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| (ii)      | the regulations under that Act,   | 1              |
| (iii)     | an environmental planning instrument,   | 2              |
| (iv)      | a development consent, and  | 3              |
| (b)       | the approval authority is satisfied about the matter.   | 4              |
| <b>76</b> | <b>Replacing approval authority</b>   | 5              |
| (1)       | An appointed approval authority may be replaced by another approval authority with the written consent of the Secretary.  | 6<br>7         |
| (2)       | The regulations may make provision about the replacement of an appointed approval authority, including providing for the following—                                     | 8<br>9         |
| (a)       | the circumstances in which an appointed approval authority may be replaced without requiring the written consent of the Secretary,                                      | 10<br>11       |
| (b)       | applications to the Secretary and application fees,   | 12             |
| (c)       | the circumstances in which an application may or may not be made,   | 13             |
| (d)       | the persons who may make an application,  | 14             |
| (e)       | the matters the Secretary must consider in deciding whether to give consent,  | 15             |
| (f)       | reviews of decisions of the Secretary,  | 16             |
| (g)       | notice about the replacement of an approval authority.  | 17             |
| <b>77</b> | <b>Approval authority to notify about certain changes</b>   | 18             |
| (1)       | An approval authority, other than a local council, appointed for building work must give the person who made the appointment written notice of—                         | 19<br>20       |
| (a)       | the suspension or cancellation of the approval authority’s registration, or   | 21             |
| (b)       | a change in the approval authority’s registration, including the conditions of the registration, that would prevent the exercise of the approval authority’s functions. | 22<br>23<br>24 |
|           | Maximum penalty—  | 25             |
| (a)       | for an individual—100 penalty units, or   | 26             |
| (b)       | otherwise—500 penalty units.  | 27             |
| (2)       | The notice must be given within 7 days after the approval authority becomes aware of the matters to which the notice relates.   | 28<br>29       |
| <b>78</b> | <b>Regulations</b>  | 30             |
|           | Regulations may be made about approval authorities, including by prescribing the following—   | 31<br>32       |
| (a)       | when an approval authority may be appointed by the Secretary,   | 33             |
| (b)       | when an approval authority must be appointed in a way prescribed by the regulations, including in accordance with a scheme prescribed by the regulations,               | 34<br>35<br>36 |
| (c)       | when a local council or other person must not refuse to be appointed as an approval authority and when the local council or other person may refuse the appointment,    | 37<br>38<br>39 |
| (d)       | the fees that may be charged by approval authorities, including maximum fees that may be charged,   | 40<br>41       |
| (e)       | when an applicant for an approval may request that a different approval authority be appointed,   | 42<br>43       |
| (f)       | when an appointment of an approval authority may be—  | 44             |

|                   |   |                |
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|                   | (i) terminated, or  | 1              |
|                   | (ii) revoked or changed by the Secretary.   | 2              |
| <b>Division 9</b> | <b>Miscellaneous</b>  | 3              |
| <b>79</b>         | <b>Contracts required for approvals work</b>  | 4              |
| (1)               | It is a condition of a registration that a registration holder must not carry out approvals work for a person unless the work is carried out under a written contract—                                      | 5<br>6         |
|                   | (a) if the person has appointed a local council to carry out the approvals work—between the person and the local council, or  | 7<br>8         |
|                   | (b) if the person has appointed a registered body corporate to carry out the approvals work—between the person and the registered body corporate, or  | 9<br>10        |
|                   | (c) otherwise—between the person and the registration holder.   | 11             |
| (2)               | Regulations may be made about the following—  | 12             |
|                   | (a) requiring contracts to contain provisions prescribed by the regulations,  | 13             |
|                   | (b) providing that contracts must not contain provisions prescribed by the regulations,   | 14<br>15       |
|                   | (c) requiring specified particulars or information to be included in contracts,   | 16             |
|                   | (d) requiring specified information or documents to accompany contracts,<br><b>Example—</b> a document published by the Secretary or another person or body   | 17<br>18       |
|                   | (e) the time or times at which fees and charges under contracts must be paid,   | 19             |
|                   | (f) other requirements for contracts.   | 20             |
| <b>80</b>         | <b>Lodgement on NSW planning portal</b>   | 21             |
| (1)               | A document required by this Act or the regulations to be given to a person using the NSW planning portal is taken to be given to the person when the document is lodged on the NSW planning portal.         | 22<br>23<br>24 |
| (2)               | An application for an approval made using the NSW planning portal is taken to be made to the approval authority appointed for the building work or change of building use to which the application relates. | 25<br>26<br>27 |
| <b>81</b>         | <b>Restraint proceedings for approvals</b>  | 28             |
| (1)               | A person may apply to the Land and Environment Court to remedy or restrain a contravention of this Act or the regulations if the contravention relates to a building approval or completion approval.       | 29<br>30<br>31 |
| (2)               | The court may make the orders the court thinks fit to remedy or restrain the contravention.   | 32<br>33       |
| (3)               | The applicant is not required to show that a right of the applicant has been or may be infringed because of the contravention.  | 34<br>35       |
| (4)               | The application may be made on behalf of—   | 36             |
|                   | (a) the applicant, or   | 37             |
|                   | (b) the applicant and other persons who—  | 38             |
|                   | (i) have a common interest in the application, and  | 39             |
|                   | (ii) consent to the application.  | 40             |
| (5)               | The other persons are entitled to contribute to or provide for the payment of the legal costs and expenses incurred by the applicant.   | 41<br>42       |

- (6) In this section— 1  
*contravention* includes a threatened or apprehended contravention. 2

## 82 Regulations 3

Regulations may be made about the following— 4

- (a) approvals under this part, including— 5
- (i) applications for approvals, including varying and withdrawing applications, and 6
  - (ii) the form of approvals, and 8
  - (iii) the lodging of approvals and related documents, 9
- (b) designs referred to in this part and declarations, including the following— 10
- (i) varying designs and declarations, 11
  - (ii) the keeping of records, 12
  - (iii) the giving of information to the Secretary, 13
  - (iv) the lodging of documents, 14
- (c) compliance declarations, prefabricated building declarations and prefabricated building instructions, including by authorising the Secretary to approve the form of the documents, 15
- (d) inspections of building work and work carried out on prefabricated buildings, including the following— 18
- (i) specifying the stages at which inspections are required (*mandatory inspections*), 20
  - (ii) requiring persons to ensure mandatory inspections are carried out, 22
  - (iii) setting out what must happen if a mandatory inspection is not carried out, 23
  - (iv) prohibiting further work if an approval authority is not satisfied following a mandatory inspection, 25
  - (v) authorising persons who may carry out inspections for an approval authority, 27
- (e) fire safety, including about the following— 29
- (i) fire safety measures, 30
  - (ii) fire safety schedules, 31
  - (iii) the referral of applications for approvals and other matters to the Fire Commissioner, 32
  - (iv) the issue of fire safety certificates, 34
  - (v) maintaining fire safety measures in buildings, 35
  - (vi) the persons who are able to assess fire safety measures, 36
  - (vii) the installation and maintenance of smoke alarms, 37
- (f) energy efficiency and sustainability, 38
- (g) the supply of a prefabricated building, 39
- (h) the erection of a building on land that is not owned by the owner of the building, including by modifying the requirements of this part in relation to the erection of the building, 40
- (i) the relocation of buildings, 43
- (j) the support of buildings that may be impacted by building work on another building, 44

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|-----|---|--------|
| (k) | the use of building products,   | 1      |
| (l) | temporary structures,   | 2      |
| (m) | buildings used for specific purposes, including as entertainment venues,  | 3      |
| (n) | giving documents, including approvals, designs and declarations, and information to the Secretary or lodging the documents. | 4<br>5 |

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| <b>Part 4</b>     | <b>Registration for registered work</b>   | 1              |
| <b>Division 1</b> | <b>Preliminary</b>  | 2              |
| <b>83</b>         | <b>Definition</b>   | 3              |
|                   | In this part—   | 4              |
|                   | <i>relevant offence</i> means the following offences, whether committed in this State or another Australian jurisdiction—   | 5              |
|                   | (a) an offence involving fraud or dishonesty,   | 7              |
|                   | (b) an offence prescribed by the regulations.   | 8              |
| <b>84</b>         | <b>Registration of persons to carry out registered work</b>   | 9              |
| (1)               | The Secretary may, by granting a registration under this part, authorise a person to carry out registered work.   | 10<br>11       |
| (2)               | The registration authorises only the registered work authorised by the registration or class of registration granted.   | 12<br>13       |
| (3)               | The regulations may prescribe different registrations or classes of registration to authorise the carrying out of specified registered work.  | 14<br>15       |
| <b>Division 2</b> | <b>Offences relating to unauthorised registered work</b>  | 16             |
| <b>85</b>         | <b>Offence—unauthorised registered work</b>   | 17             |
|                   | A person must not carry out registered work unless the person is authorised to carry out the registered work.   | 18<br>19       |
|                   | Maximum penalty—  | 20             |
|                   | (a) for an individual—600 penalty units, or   | 21             |
|                   | (b) otherwise—3,000 penalty units.  | 22             |
| <b>86</b>         | <b>Offence—seeking or receiving payment for unauthorised registered work</b>  | 23             |
|                   | A person must not seek or receive payment for the carrying out of registered work if the person who carries out the registered work is not authorised to carry out the registered work. | 24<br>25<br>26 |
|                   | Maximum penalty—  | 27             |
|                   | (a) for an individual—600 penalty units, or   | 28             |
|                   | (b) otherwise—3,000 penalty units.  | 29             |
| <b>87</b>         | <b>Offence—false representation</b>   | 30             |
|                   | A person must not falsely represent that the person—  | 31             |
|                   | (a) is authorised to carry out registered work, or  | 32             |
|                   | (b) holds a registration, or  | 33             |
|                   | (c) holds a registration in a particular class, or  | 34             |
|                   | (d) holds insurance required to carry out registered work.  | 35             |
|                   | Maximum penalty—  | 36             |
|                   | (a) for an individual—600 penalty units, or   | 37             |
|                   | (b) otherwise—3,000 penalty units.  | 38             |

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| <b>88 Offence—falsely representing work</b>   | 1  |
| A person must not, for the purposes of securing work for the person or another person, falsely represent that work is—  | 2  |
| (a) registered work, or   | 3  |
| (b) another type of work prescribed by the regulations.   | 4  |
| Maximum penalty—  | 5  |
| (a) for an individual—600 penalty units, or   | 6  |
| (b) otherwise—3,000 penalty units.  | 7  |
| <b>89 Persons authorised to carry out registered work</b>   | 8  |
| (1) A person is authorised to carry out registered work if—   | 9  |
| (a) the person holds a registration that authorises the person to carry out the registered work, or   | 10 |
| (b) the person is otherwise lawfully authorised to carry out the registered work, or  | 11 |
| (c) for registered work prescribed by the regulations—the person carries out the registered work under the direct supervision of another person who holds a registration of a kind prescribed by the regulations.   | 12 |
| (2) The regulations may specify additional circumstances in which a person is lawfully authorised to—   | 13 |
| (a) carry out registered work, or   | 14 |
| (b) supervise a person carrying out registered work.  | 15 |
| (3) In this section—  | 16 |
| <i>supervise</i> , in relation to work, includes directing, coordinating, managing and having substantive control over the work.  | 17 |
| <b>Division 3 Registration of persons to carry out registered work</b>  | 18 |
| <b>Subdivision 1 Applications for registration</b>  | 19 |
| <b>90 Application for registration</b>  | 20 |
| (1) A person may apply to the Secretary for the grant of a registration.  | 21 |
| <b>Note 1</b> — A partnership is not a person and therefore cannot apply for or hold a registration. An application for the grant of a registration may be made by a body corporate or an individual.   | 22 |
| <b>Note 2</b> — The definition of <i>grant</i> a registration in the dictionary includes granting a renewal or restoration of a registration.   | 23 |
| (2) An application must—  | 24 |
| (a) be in a form approved by the Secretary, and   | 25 |
| (b) include or be accompanied by information or evidence the Secretary reasonably requires to assess the application.   | 26 |
| <b>Note</b> — The <i>Crimes Act 1900</i> , Part 5A contains offences relating to the making of false or misleading applications or providing false or misleading information or documents. The offences have a maximum penalty of imprisonment for 2 years or a fine of 200 penalty units, or both. | 27 |
| (3) The regulations may provide for a fee to be paid for an application for the grant of a registration.  | 28 |
| (4) The Secretary may require the fee to accompany the application.   | 29 |

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|-----------|---|----------------|
| (5)       | The fee may include a component for services provided by the Secretary that are prescribed by the regulations.  | 1<br>2         |
| (6)       | If the Secretary considers it necessary, the Secretary may require the applicant to do one or more of the following—  | 3<br>4         |
| (a)       | give further documents or information,  | 5              |
| (b)       | for an applicant who is an individual—  | 6              |
| (i)       | attend an interview, or   | 7              |
| (ii)      | demonstrate the applicant’s skills, or  | 8              |
| (iii)     | undertake an oral or written examination,   | 9              |
| (c)       | anything else prescribed by the regulations.  | 10             |
| (7)       | A person’s registration is taken to continue in force despite its expiry if—  | 11             |
| (a)       | the person applies for the grant of a renewal of the registration in accordance with this subdivision, and  | 12<br>13       |
| (b)       | the application is made before the expiry of the registration.  | 14             |
| (8)       | The registration is taken to continue in force until the Secretary notifies the person of the Secretary’s decision to grant or refuse the application.  | 15<br>16       |
| <b>91</b> | <b>Secretary may obtain information from third parties</b>  | 17             |
| (1)       | The Secretary may, by written notice, require an applicant or a close associate of the applicant to do the following—   | 18<br>19       |
| (a)       | authorise a person described in the notice—   | 20             |
| (i)       | to give specified information relevant to the investigation of the application, and   | 21<br>22       |
| (ii)      | to produce, in accordance with directions in the notice, specified records relevant to the investigation of the application, and  | 23<br>24       |
| (iii)     | to permit the following—  | 25             |
| (A)       | examination of the records,   | 26             |
| (B)       | taking extracts from the records,   | 27             |
| (C)       | making copies of the records,   | 28             |
| (b)       | give the Secretary specified authorities and consents to enable the Secretary to obtain information, including financial and other confidential information, from other persons about the applicant or close associate. | 29<br>30<br>31 |
| (2)       | If a requirement notified under this section is not complied with, the Secretary may refuse to consider the application while the non-compliance continues.   | 32<br>33       |
| (3)       | A decision of the Secretary to refuse to consider an application under subsection (2) is not a reviewable decision under this Act or another Act.   | 34<br>35       |
| (4)       | A person does not incur a liability to another person for complying with a requirement of a notice under this section.  | 36<br>37       |
| <b>92</b> | <b>Persons not suitable persons to carry out registered work</b>  | 38             |
| (1)       | A person is not a suitable person to carry out registered work if—  | 39             |
| (a)       | the person is disqualified from being registered, or  | 40             |
| (b)       | the person, including, if the person is a body corporate, a director of the body corporate, is—   | 41<br>42       |
| (i)       | an individual who is less than 18 years of age, or  | 43             |
| (ii)      | not a fit and proper person to carry out the registered work, or  | 44             |

- (c) the person does not have the qualifications, skills, knowledge and experience required to carry out the registered work, or 1  
2
  - (d) the person is a mentally incapacitated person, or 3
  - (e) in the Secretary's opinion, the person is not a suitable person to carry out the registered work, or 4  
5
  - Note—** See section 93, which provides for the circumstances in which the Secretary may form an opinion that a person is not a suitable person to carry out registered work. 6  
7
  - (f) the person is a member of a class of persons prescribed by the regulations, or 8
  - (g) other circumstances prescribed by the regulations apply. 9
- (2) For subsection (1)(a), the regulations may prescribe circumstances in which a person is taken to be disqualified from being registered. 10  
11

**93 When Secretary may form opinion that person is not suitable person** 12

- (1) For section 92(1)(e), the Secretary may form an opinion that a person is not a suitable person to carry out registered work in one or more of the following circumstances— 13  
14
- (a) the person, including, if the person is a body corporate, a director of the body corporate, has, within the previous 10 years— 15  
16
    - (i) been convicted of a relevant offence, or 17
    - (ii) been subject to a finding or an opinion by the Independent Commission Against Corruption that the person has engaged in corrupt conduct, 18  
19
  - (b) the person, including, if the person is a body corporate, a director of the body corporate, is— 20  
21
    - (i) an undischarged bankrupt, or 22
    - (ii) insolvent, 23
  - (c) the person, including, if the person is a body corporate, a director of the body corporate, has contravened a requirement imposed— 24  
25
    - (i) by this Act or the regulations, or 26
    - (ii) in relation to registered work under another Act or law, 27
  - (d) the person has contravened a condition of the person's registration, 28
  - (e) a relevant authorisation of the person has been suspended or cancelled, other than at the person's request, under the law of another Australian jurisdiction, 29  
30
  - (f) the person is ineligible to hold, or disqualified from holding, a relevant authorisation under the law of another Australian jurisdiction, other than on the grounds that the person— 31  
32  
33
    - (i) does not reside in the jurisdiction, or 34
    - (ii) is a body corporate, 35
  - (g) a close associate of the person, who would not be a fit and proper person to be registered, exercises a significant influence over— 36  
37
    - (i) the person, or 38
    - (ii) the operation and management of the person's business, 39
  - (h) a circumstance prescribed by the regulations. 40
- (2) The Secretary may form the opinion that the person is not suitable to carry out— 41
- (a) all registered work, or 42
  - (b) particular kinds of registered work, or 43
  - (c) registered work in certain circumstances, including until specified requirements are satisfied. 44  
45

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| <b>94 Grant or refusal of registration</b>   | 1                    |
| (1) The Secretary may, after considering an application for the grant of a registration—   | 2                    |
| (a) grant the registration, or   | 3                    |
| (b) refuse to grant the registration.  | 4                    |
| (2) The Secretary may grant a registration in a class the Secretary considers appropriate even if the application is for a different class of registration.  | 5<br>6               |
| (3) The Secretary must refuse to grant a registration—   | 7                    |
| (a) if the application for the registration does not comply with a requirement imposed by or under this Act, or  | 8<br>9               |
| (b) if the applicant is not a suitable person to carry out the registered work authorised by the registration, or  | 10<br>11             |
| (c) on a ground prescribed by the regulations.   | 12                   |
| (4) The Secretary must give the applicant written notice of a decision to grant or refuse a registration.  | 13<br>14             |
| <b>95 Deemed refusal</b>   | 15                   |
| (1) For the purposes of a review by the Tribunal, the Secretary is taken to have refused to grant a registration (a <i>deemed refusal</i> ) to an applicant if the Secretary fails to give the applicant notice of a decision to grant or refuse the registration within the period prescribed by the regulations. | 16<br>17<br>18<br>19 |
| (2) The Secretary may continue to decide the application after the deemed refusal.   | 20                   |
| (3) A decision made after the deemed refusal does not affect an application (a <i>review application</i> ) made to the Tribunal in relation to the deemed refusal.   | 21<br>22             |
| (4) However, the Secretary is entitled to have the review application withdrawn without costs if—  | 23<br>24             |
| (a) the Secretary decides to grant the registration, and   | 25                   |
| (b) the review application has not yet been decided, and   | 26                   |
| (c) the applicant consents to the withdrawal.  | 27                   |
| <b>96 Duration of registration</b>   | 28                   |
| (1) A registration remains in force for the period specified in the written notice of the Secretary, unless sooner cancelled.  | 29<br>30             |
| (2) The period specified may be 1, 3 or 5 years.   | 31                   |
| (3) A registration has no effect when suspended.   | 32                   |
| <b>97 Registration not transferable</b>  | 33                   |
| A registration cannot be transferred to another person.  | 34                   |
| <b>Subdivision 2 Conditions of registrations</b>   | 35                   |
| <b>98 Conditions of registration</b>   | 36                   |
| (1) A registration is subject to the following conditions—   | 37                   |
| (a) conditions prescribed by this Act or the regulations,  | 38                   |
| (b) conditions imposed by the Secretary.   | 39                   |
| (2) The Secretary may impose conditions on a registration—   | 40                   |

|            |   |          |
|------------|---|----------|
| (a)        | when granting the registration, or  | 1        |
| (b)        | at another time by varying the registration.  | 2        |
| (3)        | A provision of this subdivision that authorises a type of condition to be imposed on a registration does not, unless expressly provided for by this subdivision—  | 3<br>4   |
| (a)        | prevent other types of conditions from being imposed, or  | 5        |
| (b)        | limit the matters that may be provided for by conditions.   | 6        |
| <b>99</b>  | <b>Compliance with standards or methodologies</b>   | 7        |
| (1)        | The conditions of a registration may require the registration holder to carry out registered work in accordance with specified codes, standards or methodologies. | 8<br>9   |
| (2)        | A code, standard or methodology may be prepared or adopted by the Secretary for this section.   | 10<br>11 |
| <b>100</b> | <b>Conditions may provide that authorisation takes effect later</b>   | 12       |
|            | The conditions of a registration may provide that an authorisation conferred by the registration does not take effect until—                                      | 13<br>14 |
| (a)        | the end of a specified period, or   | 15       |
| (b)        | the occurrence of—  | 16       |
| (i)        | a particular event, or  | 17       |
| (ii)       | a specified state of affairs.   | 18       |
|            | <b>Subdivision 3 Variation, suspension or cancellation of registrations</b>   | 19       |
| <b>101</b> | <b>Grounds for variation, suspension or cancellation of registration</b>  | 20       |
| (1)        | Each of the following constitutes grounds for varying, suspending or cancelling a registration—   | 21<br>22 |
| (a)        | the registration holder is not a suitable person to carry out the registered work authorised by the registration,   | 23<br>24 |
| (b)        | the Secretary has decided to vary, suspend or cancel the registration under Part 5,   | 25<br>26 |
| (c)        | the registration holder is not entitled to be registered, including because—  | 27       |
| (i)        | the registration was improperly obtained, or  | 28       |
| (ii)       | when the registration was granted, there were grounds for refusing to grant the registration, or  | 29<br>30 |
| (iii)      | the registration holder is disqualified from holding the registration,  | 31       |
|            | <b>Note—</b> See section 133(1)(f).   | 32       |
| (d)        | the registration holder has applied for the registration to be varied, suspended or cancelled,  | 33<br>34 |
| (e)        | the registration was granted in error,  | 35       |
| (f)        | the Secretary has varied, suspended or cancelled another registration held by the registration holder under this Act,   | 36<br>37 |
| (g)        | another ground prescribed by the regulations.   | 38       |
| (2)        | For subsection (1)(d), Subdivisions 1 and 2 apply to an application by the registration holder to vary the registration.  | 39<br>40 |

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|------------|--|----------------|
| <b>102</b> | <b>Variation of registration</b>   | 1              |
| (1)        | The Secretary may vary the registration of a registration holder if the Secretary is satisfied there are grounds for the variation.  | 2<br>3         |
| (2)        | The variation is made by the Secretary giving written notice of the variation to the registration holder.  | 4<br>5         |
| (3)        | The notice must specify—   | 6              |
| (a)        | the date or time from which the variation takes effect, and  | 7              |
| (b)        | the period of the variation, and   | 8              |
| (c)        | the grounds for the variation, and   | 9              |
| (d)        | information about how the decision to vary the registration may be reviewed.   | 10             |
| (4)        | A registration holder may apply to the Secretary to vary the registration of the registration holder at any time.  | 11<br>12       |
| (5)        | The regulations may make provision about applications to the Secretary under this section, including by prescribing application fees.  | 13<br>14       |
| (6)        | In this section—   | 15             |
|            | <b>vary a registration</b> , for the Secretary, includes—  | 16             |
| (a)        | imposing a condition on the registration, and  | 17             |
| (b)        | varying or revoking a condition of the registration if the condition was imposed by the Secretary.   | 18<br>19       |
| <b>103</b> | <b>Suspension of registration</b>  | 20             |
| (1)        | The Secretary may, by written notice to a registration holder, suspend the registration of the registration holder if the Secretary is satisfied there are grounds for the suspension of the registration. | 21<br>22<br>23 |
| (2)        | Notice of the suspension must specify—   | 24             |
| (a)        | the date or time from which the suspension takes effect, and   | 25             |
| (b)        | the period of the suspension, and  | 26             |
| (c)        | the grounds for the suspension, and  | 27             |
| (d)        | information about how the decision to suspend the registration may be reviewed.  | 28<br>29       |
| <b>104</b> | <b>Urgent suspension of registration to prevent significant harm</b>   | 30             |
| (1)        | The Secretary may suspend a registration holder's registration if the Secretary reasonably believes that—  | 31<br>32       |
| (a)        | there are grounds for suspending or cancelling the registration, and   | 33             |
| (b)        | the grounds are likely to continue, and  | 34             |
| (c)        | there is a risk that a person will suffer significant harm if the registration is not immediately suspended.   | 35<br>36       |
| (2)        | The suspension commences when the Secretary gives written notice of the suspension to the registration holder.   | 37<br>38       |
| (3)        | The suspension is for the period of not more than 60 days specified in the notice.   | 39             |
| (4)        | The Secretary is not required to give notice to the registration holder before suspending the registration.  | 40<br>41       |
| (5)        | The Secretary may revoke the suspension at any time by giving written notice of the revocation to the registration holder.   | 42<br>43       |

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| (6)        | The Secretary must not revoke the suspension unless satisfied that the circumstances giving rise to the suspension no longer exist.   | 1<br>2      |
| (7)        | In this section—<br><i>harm</i> includes loss and damage.   | 3<br>4      |
| <b>105</b> | <b>Cancellation of registration</b>   | 5           |
| (1)        | The Secretary may, by written notice to a registration holder, cancel the registration of the registration holder if the Secretary is satisfied there are grounds for the cancellation of the registration. | 6<br>7<br>8 |
| (2)        | Notice of the cancellation must specify—  | 9           |
| (a)        | the date or time from which the cancellation takes effect, and  | 10          |
| (b)        | the grounds for the cancellation, and   | 11          |
| (c)        | information about how the decision to cancel the registration may be reviewed.  | 12<br>13    |
| <b>106</b> | <b>Suspension or cancellation may be subject to conditions</b>  | 14          |
| (1)        | A registration may be suspended or cancelled—   | 15          |
| (a)        | unconditionally, or   | 16          |
| (b)        | subject to conditions imposed by the Secretary.   | 17          |
| (2)        | The conditions may include conditions to which the registration was subject immediately before the suspension or cancellation.  | 18<br>19    |
| (3)        | The Secretary may vary the conditions of the suspension or cancellation.  | 20          |
| (4)        | The variation may occur at any time by the Secretary giving written notice of the variation to the registration holder or former registration holder.   | 21<br>22    |
| (5)        | A variation to a condition includes the imposition, removal or amendment of a condition.  | 23<br>24    |
|            | <b>Subdivision 4 Miscellaneous</b>  | 25          |
| <b>107</b> | <b>Offence of contravening condition</b>  | 26          |
|            | A registration holder or former registration holder who contravenes the following is guilty of an offence—  | 27<br>28    |
| (a)        | a condition of the holder's registration, other than a condition for which a different maximum penalty is prescribed,   | 29<br>30    |
| (b)        | a condition of a suspension or cancellation of the holder's registration.   | 31          |
|            | Maximum penalty—  | 32          |
| (a)        | for an individual—300 penalty units, or   | 33          |
| (b)        | otherwise—1,500 penalty units.  | 34          |
| <b>108</b> | <b>Offence of lending registration</b>  | 35          |
| (1)        | A registration holder must not—   | 36          |
| (a)        | let out, hire or lend the holder's registration to another person, or   | 37          |
| (b)        | permit another person to use the holder's registration.   | 38          |
|            | Maximum penalty—  | 39          |
| (a)        | for an individual—600 penalty units, or   | 40          |
| (b)        | otherwise—3,000 penalty units.  | 41          |

|            |   |                |
|------------|---|----------------|
| (2)        | The Secretary must cancel the registration of a registration holder who is convicted of an offence against this section.  | 1<br>2         |
| (3)        | In this section—  | 3              |
|            | <i>convicted</i> includes—  | 4              |
| (a)        | a finding by a court that the charge for the offence is proven, or that a person is guilty of the offence, even though the court does not proceed to a conviction, and                                  | 5<br>6<br>7    |
| (b)        | a penalty notice being issued to the registration holder for the offence and the payment by the registration holder of some or all of the amount payable under the penalty notice.                      | 8<br>9<br>10   |
| <b>109</b> | <b>Voluntary surrender or suspension of registration</b>  | 11             |
| (1)        | A registration holder may apply to the Secretary for a cancellation or suspension of a registration held by the registration holder.  | 12<br>13       |
| (2)        | An application must—  | 14             |
| (a)        | be in a form approved by the Secretary, and   | 15             |
| (b)        | include or be accompanied by information or evidence the Secretary reasonably requires to assess the application.   | 16<br>17       |
| (3)        | The regulations may provide for a fee to be paid for an application for the cancellation or suspension of a registration.   | 18<br>19       |
| (4)        | The Secretary may require the fee to accompany the application.   | 20             |
| (5)        | A reference in this section to an application for the suspension of a registration is taken to include a reference to an application to extend, cancel or vary a suspension imposed under this section. | 21<br>22<br>23 |
| <b>110</b> | <b>Registration register</b>  | 24             |
| (1)        | The Secretary must keep a register of registrations (the <i>registration register</i> ).  | 25             |
| (2)        | The registration register must—   | 26             |
| (a)        | be in the form approved by the Secretary, and   | 27             |
| (b)        | include the information required by the regulations, and  | 28             |
| (c)        | be publicly available.  | 29             |
| (3)        | Without limiting subsection (2)(b), the regulations may require that the registration register include the following information in relation to a registration—   | 30<br>31       |
| (a)        | details of the registration, including details of the registration holder,  | 32             |
| (b)        | the results of relevant disciplinary determinations,  | 33             |
| (c)        | the results of prosecutions under this Act or the regulations,  | 34             |
| (d)        | details of penalty notices,   | 35             |
| (e)        | details of orders of a court that the Secretary considers to be relevant to the registration,   | 36<br>37       |
| (f)        | instances of non-compliance with an order of the Secretary or Tribunal to carry out work or to pay money,   | 38<br>39       |
| (g)        | details of conditions on the registration,  | 40             |
| (h)        | details of a cancellation or suspension of the registration,  | 41             |
| (i)        | details of warning notices published under section 167.   | 42             |

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| (4) | The Secretary may remove information from, or otherwise amend, the registration register if the information is, in the Secretary’s opinion—         | 1  |
|     | (a) false, erroneous or misleading, or  | 2  |
|     | (b) unfairly prejudicial to the interests of the registration holder.   | 3  |
| (5) | The regulations may provide for the removal of information from the register in other circumstances.  | 4  |
|     | <b>Example—</b> outdated information  | 5  |
| (6) | More than one register may be kept under this section.  | 6  |
| (7) | No liability is incurred by the State for anything done in good faith for the purposes of making information publicly available under this section. | 7  |
| (8) | No liability is incurred by a person publishing, in good faith, information that has been made publicly available under this section.               | 8  |
| (9) | In this section—  | 9  |
|     | <i>liability</i> includes liability in defamation.  | 10 |
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- (b) the period for which a registration holder must be indemnified, 1
- (c) the amount for which a registration holder must be indemnified, 2
- (d) the risks for which a registration holder must be indemnified, 3
- (e) the nature and terms of the insurance or arrangement, 4
- (f) the obligations on a person or body that provides indemnity, 5
- (g) the issue of indemnity for liability incurred by a person who is a former registration holder. 6  
7

## **Subdivision 2 General requirements** 8

### **113 Codes of conduct** 9

- (1) The regulations may prescribe codes of conduct for registration holders. 10
- (2) A code of conduct may specify requirements relating to the following— 11
  - (a) the carrying out of registered work, 12
  - (b) the operation of a business that carries out registered work, 13
  - (c) professional standards. 14
- (3) The regulations may create offences for failing to comply with a code of conduct or a provision of a code of conduct. 15  
16

### **114 Registration holder to notify other persons of certain changes** 17

- (1) A registration holder who carries out registered work in the course of the registration holder's employment must give the registration holder's employer written notice of— 18  
19  
20
  - (a) the suspension or cancellation of the holder's registration, or 21
  - (b) a change in the holder's registration, including its conditions, that would prevent the registration holder from carrying out the registered work. 22  
23
- (2) A registration holder who carries out registered work under a contract must give each other party to the contract written notice of— 24  
25
  - (a) the suspension or cancellation of the holder's registration, or 26
  - (b) a change in the holder's registration, including its conditions, that would prevent the registration holder from carrying out the registered work. 27  
28
- (3) A registration holder who is required to give notice under this section must give the notice within 7 days after the registration holder becomes aware of the matters to which the notice relates. 29  
30  
31  
Maximum penalty for subsection (3)— 32
  - (a) for an individual—100 penalty units, or 33
  - (b) otherwise—500 penalty units. 34

### **115 Registration holder to notify Secretary of certain events** 35

- (1) A registration holder must give the Secretary written notice of the following matters— 36  
37
  - (a) a relevant authorisation held by the registration holder being suspended or cancelled, other than at the request of the registration holder, 38  
39
  - (b) the registration holder, including, if the registration holder is a body corporate, a director of the body corporate— 40  
41
    - (i) being found guilty of a relevant offence, or 42

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|------------|--|----------------|
| (ii)       | having proceedings for a relevant offence instituted against the registration holder or director, or   | 1<br>2         |
| (iii)      | being investigated in another Australian jurisdiction by a government agency or a body that issues a relevant authorisation in relation to—  | 3<br>4         |
|            | (A) the carrying out of work authorised to be carried out under a relevant authorisation, or   | 5<br>6         |
|            | (B) a failure to comply with a relevant authorisation, or  | 7              |
| (iv)       | becoming bankrupt or making a composition, arrangement or assignment for the benefit of creditors, or  | 8<br>9         |
| (v)        | becoming personally insolvent,   | 10             |
| (c)        | the registration holder no longer being adequately insured in relation to registered work,   | 11<br>12       |
| (d)        | if the registration holder is a body corporate—  | 13             |
|            | (i) the body corporate becoming the subject of a winding-up order, or  | 14             |
|            | (ii) a controller or administrator being appointed for the body corporate, or  | 15             |
|            | (iii) a person becoming or ceasing to be a director or person involved in the management of the body corporate,  | 16<br>17       |
| (e)        | a matter prescribed by the regulations.  | 18             |
| (2)        | The notice must be given within 7 days after the registration holder—  | 19             |
|            | (a) becomes aware of the matter, or  | 20             |
|            | (b) if the registration holder ought to have been aware of the matter before that time—ought to have been aware of the matter.   | 21<br>22       |
|            | Maximum penalty for subsection (2)—  | 23             |
|            | (a) for an individual—200 penalty units, or  | 24             |
|            | (b) otherwise—1,000 penalty units.   | 25             |
| <b>116</b> | <b>Registration holder must notify of changes to information recorded in register</b>  | 26             |
| (1)        | A registration holder must give the Secretary written notice of a matter that requires the information recorded in the registration register in relation to the registration holder to be updated. | 27<br>28<br>29 |
| (2)        | This section does not apply to a matter of which the Secretary has already been notified.  | 30<br>31       |
| (3)        | The notice must be given within 14 days after the registration holder becomes aware of the matter.   | 32<br>33       |
|            | Maximum penalty for subsection (3)—  | 34             |
|            | (a) for an individual—100 penalty units, or  | 35             |
|            | (b) otherwise—500 penalty units.   | 36             |
| <b>117</b> | <b>Directions to prevent use of cancelled, suspended or varied registrations</b>   | 37             |
| (1)        | The Secretary may direct a person whose registration has been cancelled, suspended or varied to take the steps specified in the direction to ensure the person is not able to use—                 | 38<br>39<br>40 |
|            | (a) the cancelled registration, or   | 41             |
|            | (b) the suspended registration during the period of suspension, or   | 42             |
|            | (c) the varied registration as if the registration had not been varied.  | 43             |
| (2)        | The direction—   | 44             |

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|--|--|----------------|
| (a)  | must be written, and   | 1              |
| (b)  | may be included as part of a statement of a decision by the Secretary to take disciplinary action against the person, and  | 2<br>3         |
| (c)  | may be given at any time.  | 4              |
| (3)  | The person must comply with the direction.   | 5              |
|  | Maximum penalty for subsection (3)—  | 6              |
| (a)  | for an individual—100 penalty units, or  | 7              |
| (b)  | otherwise—500 penalty units.   | 8              |
| <b>Subdivision 3 Additional requirements—registered body corporate</b> |  | 9              |
| <b>118</b>   | <b>Duties of directors in relation to registered work</b>  | 10             |
| (1)  | Each director of a registered body corporate that holds a prescribed registration must, in relation to registered work carried out by or for the body corporate, ensure that—                                      | 11<br>12       |
| (a)  | the body corporate complies with the requirements of this Act and other Acts in relation to the carrying out of the registered work, and   | 13<br>14       |
| (b)  | appropriate management systems are in place to ensure the body corporate complies with the requirements, and   | 15<br>16       |
| (c)  | registered work is carried out by a registered individual whose registration authorises the individual to carry out the work, and  | 17<br>18       |
| (d)  | the person for whom the registered work is carried out is kept informed of the identity of the registered individual who is carrying out the registered work.  | 19<br>20       |
|  | Maximum penalty—1,500 penalty units.   | 21             |
| (2)  | Each director of a registered body corporate that holds a prescribed registration must comply with the requirements prescribed by the regulations.   | 22<br>23       |
|  | Maximum penalty—1,500 penalty units.   | 24             |
| (3)  | In this section—   | 25             |
|  | <i>prescribed registration</i> means a registration of a kind prescribed by the regulations.   | 26             |
| <b>119</b>   | <b>Registered work must be carried out by registered individual</b>  | 27             |
| (1)  | A registered body corporate must ensure that registered work is carried out for the body corporate only by an individual who is authorised to carry out the work.  | 28<br>29       |
|  | Maximum penalty—3,000 penalty units.   | 30             |
| (2)  | A reference in this section to registered work carried out for a body corporate includes a reference to registered work carried out for a local council that has engaged the body corporate to carry out the work. | 31<br>32<br>33 |
| <b>120</b>   | <b>Directors must report certain conduct</b>   | 34             |
| (1)  | Each director of a registered body corporate must report the conduct of the following persons to the Secretary if the director suspects, or should reasonably suspect, that the conduct is reportable conduct—     | 35<br>36<br>37 |
| (a)  | the body corporate,  | 38             |
| (b)  | another director of the body corporate,  | 39             |
| (c)  | a registered individual who is carrying out registered work for the body corporate.  | 40<br>41       |
| (2)  | The report must be given as soon as practicable after the director becomes aware of the conduct.   | 42<br>43       |

|   |                |
|---|----------------|
| Maximum penalty—300 penalty units.  | 1              |
| (3) In this section—  | 2              |
| <i>reportable conduct</i> means conduct of a person that is a ground for taking disciplinary action against the person.   | 3<br>4         |
| <b>121 Approvals work—registered body corporate with insufficient registered directors</b>  | 5              |
| (1) A registered body corporate must not carry out approvals work during a period during which the body corporate does not have at least one suitably qualified director.                 | 6<br>7<br>8    |
| Maximum penalty—3,000 penalty units.  | 9              |
| (2) A registered body corporate that has not had at least one suitably qualified director for a continuous period of 3 months must not carry out approvals work until the body corporate— | 10<br>11<br>12 |
| (a) has a suitably qualified director, and  | 13             |
| (b) has given written notice to the Secretary specifying that the body corporate now has a suitably qualified director.   | 14<br>15       |
| Maximum penalty—3,000 penalty units.  | 16             |
| (3) The regulations may require a registered body corporate to have a suitably qualified director in order to carry out registered work other than approvals work.                        | 17<br>18       |
| (4) In this section—  | 19             |
| <i>suitably qualified director</i> , in relation to approvals work, means a director who is a registered individual whose registration authorises the individual to carry out that work.  | 20<br>21<br>22 |
| <b>Division 5 Recognition as registered persons</b>   | 23             |
| <b>122 Recognition procedure</b>  | 24             |
| (1) The regulations may make provision about the recognition of persons who are taken to be registered, including by—   | 25<br>26       |
| (a) recognising persons who—  | 27             |
| (i) hold specified qualifications, or   | 28             |
| (ii) are recognised by a professional body, or  | 29             |
| (iii) are recognised under a law of this State or another Australian jurisdiction, and  | 30<br>31       |
| (b) specifying requirements relating to the recognition processes of professional bodies, including the following—  | 32<br>33       |
| (i) how qualifications and competencies must be assessed,   | 34             |
| (ii) the time in which a decision on recognition must be made,  | 35             |
| (iii) the procedures to be used to monitor and improve recognition processes,   | 36<br>37       |
| (iv) the maximum fees that may be charged,  | 38             |
| (v) requirements relating to continuing professional development,   | 39             |
| (vi) audit requirements, and  | 40             |
| (c) specifying the financial and other facilities a professional body must have and other requirements that must be met before a professional body is able to recognise persons, and      | 41<br>42<br>43 |

|            |   |    |
|------------|---|----|
| (d)        | specifying the qualifications, skills, knowledge and experience required for recognition, and   | 1  |
|            |   | 2  |
| (e)        | specifying the insurance requirements for recognition, and  | 3  |
| (f)        | specifying requirements for applications for recognition and related matters, including conditions of recognition.  | 4  |
|            |   | 5  |
| (2)        | This Act, including Part 5, and the regulations apply to a person who is taken to be registered in the same way they apply to a person who holds a registration.              | 6  |
|            |   | 7  |
| (3)        | In this section—  | 8  |
|            | <b>professional body</b> means a professional body recognised by the Secretary under this division.   | 9  |
|            |   | 10 |
|            | <b>recognition</b> includes a licence, registration or other form of approval given—  | 11 |
| (a)        | by a professional body, or  | 12 |
| (b)        | under a law of this State or another Australian jurisdiction.   | 13 |
| <b>123</b> | <b>Recognition of professional bodies</b>   | 14 |
| (1)        | The Secretary may recognise a professional body if the Secretary is satisfied that—   | 15 |
| (a)        | the professional body is a body corporate, and  | 16 |
| (b)        | the professional body’s recognition or registration scheme—   | 17 |
| (i)        | adequately provides for the assessment of the qualifications and competencies of persons, and   | 18 |
|            |   | 19 |
| (ii)       | has reasonable fees, and  | 20 |
| (iii)      | if appropriate, includes adequate continuing professional development requirements and an effective audit program to ensure continuing registration requirements are met, and | 21 |
|            |   | 22 |
|            |   | 23 |
| (iv)       | meets requirements prescribed by the regulations, and   | 24 |
| (v)        | subject to the regulations, complies with guidelines adopted and published by the Secretary, and  | 25 |
|            |   | 26 |
| (c)        | for assessments of the qualifications and competencies of persons carried out under the professional body’s recognition or registration scheme—the professional body has—     | 27 |
|            |   | 28 |
|            |   | 29 |
| (i)        | adequate procedures for monitoring and improving the assessment process, and  | 30 |
|            |   | 31 |
| (ii)       | the financial capacity and facilities to conduct the assessments, and   | 32 |
| (iii)      | a proven capacity to undertake independent, authoritative and timely assessments.   | 33 |
|            |   | 34 |
| (2)        | The regulations may provide for the recognition of a professional body by the Secretary, including the following—   | 35 |
|            |   | 36 |
| (a)        | applications for recognition and for variations to recognition,   | 37 |
| (b)        | fees for applications,  | 38 |
| (c)        | grounds for refusing, suspending or cancelling recognition, including grounds decided by the Secretary,   | 39 |
|            |   | 40 |
| (d)        | conditions of recognition, including—   | 41 |
| (i)        | conditions about the following—   | 42 |
| (A)        | the keeping of records,   | 43 |
| (B)        | the disclosure of information,  | 44 |
| (C)        | the investigation or auditing of professional bodies, and   | 45 |

|                   |   |                |
|-------------------|---|----------------|
| (ii)              | conditions imposed by the Secretary,  | 1              |
| (e)               | the duration of recognition, including a duration set by the Secretary,   | 2              |
| (f)               | the functions of recognised professional bodies relating to recognising persons under this division,  | 3<br>4         |
| (g)               | the keeping of a register of professional bodies recognised or formerly recognised by the Secretary.  | 5<br>6         |
| <b>124</b>        | <b>Conditions of recognition</b>  | 7              |
| (1)               | The recognition of a professional body is subject to the following conditions—  | 8              |
| (a)               | conditions prescribed by this Act or the regulations,   | 9              |
| (b)               | conditions imposed by the Secretary.  | 10             |
| (2)               | The Secretary may impose conditions on a recognition—   | 11             |
| (a)               | when granting recognition, or   | 12             |
| (b)               | at another time by varying the recognition.   | 13             |
| (3)               | The Secretary may impose conditions on the suspension or cancellation of a recognition.   | 14<br>15       |
| (4)               | A recognised professional body, or former recognised professional body, that contravenes the following is guilty of an offence—   | 16<br>17       |
| (a)               | a condition of the recognition,   | 18             |
| (b)               | a condition of a suspension or cancellation of the recognition.   | 19             |
|                   | Maximum penalty for subsection (4)—3,000 penalty units.   | 20             |
| <b>Division 6</b> | <b>Miscellaneous</b>  | 21             |
| <b>125</b>        | <b>Secretary may require information about insurance policies</b>   | 22             |
| (1)               | The Secretary may direct a person that issues insurance policies to registration holders in relation to registered work ( <i>registration holder policies</i> ) to give the Secretary information about the policies. | 23<br>24<br>25 |
| (2)               | The direction may require the following information about registration holder policies or particular classes of registration holder policies issued by the person to be given to the Secretary—                       | 26<br>27<br>28 |
| (a)               | the terms of the policies,  | 29             |
| (b)               | the premiums payable,   | 30             |
| (c)               | the number of policies issued,  | 31             |
| (d)               | the registration holders to whom policies have been issued,   | 32             |
| (e)               | the number and value of claims made under the policies,   | 33             |
| (f)               | other information prescribed by the regulations.  | 34             |
| (3)               | The direction must be given in writing.   | 35             |
| (4)               | A direction may specify a time within which the information must be given.  | 36             |
| (5)               | A person given a direction must comply with the direction.  | 37             |
|                   | Maximum penalty for subsection (5)—500 penalty units.   | 38             |
| <b>126</b>        | <b>Recovery of unpaid fees</b>  | 39             |
|                   | A fee payable under this part may be recovered by the Secretary as a debt in a court of competent jurisdiction.   | 40<br>41       |

## Part 5 Disciplinary proceedings

### 127 Definitions

In this part—

**approvals legislation** means the following Acts or provisions of Acts and the regulations under the Acts or provisions—

- (a) this Act,
- (b) the *Environmental Planning and Assessment Act 1979*,
- (c) the *Strata Schemes Development Act 2015*, Part 4,
- (d) the *Swimming Pools Act 1992*, Part 2, Division 5,
- (e) an Act, or provision of an Act, prescribed by the regulations.

**disciplinary action** means disciplinary action under this part.

**relevant legislation** means—

- (a) for a registered person authorised to carry out approvals work—the approvals legislation, or
- (b) otherwise—this Act and the regulations.

**show cause notice**—see section 131(1).

### 128 Grounds for taking disciplinary action

(1) The Secretary may take disciplinary action against a registered person on one or more of the following grounds—

- (a) the registered person has engaged in conduct that—
  - (i) is in connection with the carrying out of registered work, and
  - (ii) is not to the standard of competence, diligence and integrity that a member of the public is entitled to expect of a reasonably competent registered person,
- (b) the registered person has contravened the relevant legislation, whether or not the registered person is prosecuted or convicted for the contravention,
- (c) the registered person has contravened an Australian law in relation to the following, regardless of whether the contravention is an offence or the registered person is prosecuted or convicted for the contravention—
  - (i) the carrying out of registered work,
  - (ii) registration,
  - (iii) fraud or dishonesty,
- (d) the registered person has failed to comply with a statutory or other duty, or a contractual obligation, imposed on the registered person under an Australian law in relation to the carrying out of registered work,
- (e) the registered person has wilfully disregarded matters to which the registered person is required to have regard in the carrying out of registered work,
- (f) the registered person has failed to comply with a condition of the person's registration,
- (g) the registered person has contravened an undertaking given by the registered person under Part 7, Division 3,
- (h) the registered person has failed to comply with a direction or requirement under Part 6,
- (i) the registered person has wilfully misled or obstructed the Secretary or an authorised officer in the exercise of a function under this Act,

|            |   |                |
|------------|---|----------------|
| (j)        | the registered person is not a fit and proper person to carry out registered work,  | 1              |
| (k)        | another ground prescribed by the regulations.   | 2              |
| (2)        | In this section—  | 3              |
|            | <i>Australian law</i> means a law of this State or another Australian jurisdiction other than the relevant legislation.   | 4<br>5         |
| <b>129</b> | <b>Disciplinary action may be taken against former registered persons</b>   | 6              |
|            | Disciplinary action may be taken against a registered person even if, when the action is taken, the person is no longer a registered person.  | 7<br>8         |
| <b>130</b> | <b>Approvals work for council or body corporate</b>   | 9              |
|            | A reference in this part, however expressed, to the carrying out of registered work by a registered person includes a reference to the carrying out of approvals work for a local council or registered body corporate. | 10<br>11<br>12 |
| <b>131</b> | <b>Show cause notice</b>  | 13             |
| (1)        | The Secretary may give a written notice (a <i>show cause notice</i> ) to a registered person if, in the Secretary's opinion, there may be grounds for taking disciplinary action against the person.                    | 14<br>15<br>16 |
| (2)        | The show cause notice must—   | 17             |
| (a)        | state the grounds for taking disciplinary action, and   | 18             |
| (b)        | invite the registered person to make submissions to show why the person should not be dealt with under this part, and   | 19<br>20       |
| (c)        | specify the period within which submissions must be made.   | 21             |
| (3)        | The period must not be less than 14 days.   | 22             |
| (4)        | The registered person may, within the period—   | 23             |
| (a)        | make submissions to the Secretary, orally or in writing, and  | 24             |
| (b)        | give the Secretary evidence about the matters to which the show cause notice relates.   | 25<br>26       |
| (5)        | The Secretary may conduct an inquiry or investigation about the matters to which the notice relates.  | 27<br>28       |
| (6)        | The Secretary must not take disciplinary action against the registered person unless the Secretary has considered the submissions made and evidence given by the registered person in accordance with this section.     | 29<br>30<br>31 |
| (7)        | However, the Secretary may take immediate disciplinary action without taking steps under this section if, in the Secretary's opinion, taking immediate action is in the public interest.                                | 32<br>33<br>34 |
| <b>132</b> | <b>Power to suspend registration when show cause notice given</b>   | 35             |
| (1)        | The Secretary may, by written notice to a registered person, suspend the registration of the registered person if—  | 36<br>37       |
| (a)        | a show cause notice has been given to the registered person, and  | 38             |
| (b)        | the grounds for disciplinary action specified in the show cause notice would, if established, justify the suspension or cancellation of the registration, and   | 39<br>40       |
| (c)        | the Secretary has yet to decide whether to take disciplinary action, and  | 41             |
| (d)        | in the Secretary's opinion, there are reasonable grounds to believe that—   | 42             |

|            |   |    |
|------------|---|----|
| (i)        | it is likely the registered person will continue to engage in the conduct that gave rise to the grounds for disciplinary action, and  | 1  |
|            |   | 2  |
| (ii)       | there is a risk a person may suffer significant harm, or significant loss or damage, as a result of the conduct unless action is taken urgently.  | 3  |
|            |   | 4  |
| (2)        | Section 106 applies to the suspension.  | 5  |
| (3)        | A suspension must not be imposed for a period of more than 60 days after the show cause notice is given.  | 6  |
|            |   | 7  |
| (4)        | The period of suspension must be specified in the notice imposing the suspension.   | 8  |
| (5)        | A second suspension may be imposed under this section in relation to the same show cause notice.  | 9  |
|            |   | 10 |
| (6)        | The second suspension—  | 11 |
| (a)        | may be imposed before or after the end of the first suspension, and   | 12 |
| (b)        | must not be imposed for a period of more than 60 days after the end of the first suspension.  | 13 |
|            |   | 14 |
| (7)        | The Secretary is not required to give a person an opportunity to be heard before taking action against the person under this section.   | 15 |
|            |   | 16 |
| (8)        | The Secretary may revoke a suspension under this section at any time by written notice to the suspended person.   | 17 |
|            |   | 18 |
| <b>133</b> | <b>Kinds of disciplinary action Secretary may take</b>  | 19 |
| (1)        | The Secretary may, if satisfied that one or more of the grounds for taking disciplinary action against a registered person have been established, do one or more of the following—  | 20 |
|            |   | 21 |
|            |   | 22 |
| (a)        | decide to take no further action against the registered person,   | 23 |
| (b)        | caution or reprimand the registered person,   | 24 |
| (c)        | require the registered person to pay to the Secretary within a specified time a penalty amount of up to—  | 25 |
|            |   | 26 |
| (i)        | for an individual—\$110,000, or   | 27 |
| (ii)       | otherwise—\$220,000,  | 28 |
| (d)        | impose a condition on the registration of the registered person, including a condition requiring the registered person to undertake specified education or training relating to a particular type of work or business practice within a specified time, | 29 |
|            |   | 30 |
|            |   | 31 |
|            |   | 32 |
| (e)        | vary, suspend or cancel the registration of the registered person in accordance with Part 4,  | 33 |
|            |   | 34 |
| (f)        | disqualify the registered person, either temporarily or permanently, from being registered or being registered in a particular class,   | 35 |
|            |   | 36 |
| (g)        | suspend or cancel the registration of a registered body corporate if the registered person becomes, or continues to be, a director or officer of the body corporate.  | 37 |
|            |   | 38 |
|            |   | 39 |
| (2)        | In deciding the disciplinary action to take, the Secretary—   | 40 |
| (a)        | must take into account other disciplinary action taken against the person under this part, and  | 41 |
|            |   | 42 |
| (b)        | may take into account a written undertaking the person proposes to give under Part 7, Division 3.   | 43 |
|            |   | 44 |

|            |   |                |
|------------|---|----------------|
| (3)        | The Secretary must give a written statement of a decision made under this section to the relevant person as soon as reasonably practicable after the decision is made.  | 1<br>2         |
| (4)        | The statement of a decision must specify—   | 3              |
| (a)        | the decision that has been made, and  | 4              |
| (b)        | if relevant, the date or time on which the decision takes effect, and   | 5              |
| (c)        | the grounds for making the decision.  | 6              |
| <b>134</b> | <b>Disciplinary action against body corporates and directors</b>  | 7              |
| (1)        | The Secretary may take disciplinary action against each of the following if the Secretary is satisfied that grounds for taking disciplinary action against a registered body corporate have been established—           | 8<br>9<br>10   |
| (a)        | the body corporate,   | 11             |
| (b)        | a director of the body corporate,   | 12             |
| (c)        | a former director of the body corporate.  | 13             |
| (2)        | The Secretary must, before taking disciplinary action against a director or former director under this section—   | 14<br>15       |
| (a)        | give the person a show cause notice in accordance with section 131, and   | 16             |
| (b)        | take the other steps required by that section as if the person were a registered person.  | 17<br>18       |
| <b>135</b> | <b>Disciplinary action may be taken against more than one person</b>  | 19             |
|            | The Secretary may take disciplinary action against more than one person in relation to the same act or omission.  | 20<br>21       |
| <b>136</b> | <b>Enforcement of monetary penalties and payment of costs</b>   | 22             |
| (1)        | When a decision of the Secretary to impose a monetary penalty has taken effect and the amount required to be paid has not been paid to the Secretary—   | 23<br>24       |
| (a)        | each registration held by the person who is required to pay is taken to be suspended until the amount is paid to the Secretary, and   | 25<br>26       |
| (b)        | the amount may be recovered by the Secretary as a debt in a court of competent jurisdiction.  | 27<br>28       |
| (2)        | The Secretary may agree in writing to extend the time for payment of the amount.  | 29             |
| (3)        | If the time for payment is extended by the Secretary, subsection (1) applies only after the end of the extended time.   | 30<br>31       |
| (4)        | The Secretary's failure to enter into an agreement to extend the time for payment cannot be reviewed by the Tribunal in an application for an administrative review made under this Act.                                | 32<br>33<br>34 |
| <b>137</b> | <b>Liability for offences not affected</b>  | 35             |
| (1)        | A decision to take disciplinary action against a person does not affect the liability of the person for an offence, even if the offence relates to the same acts or omissions to which the disciplinary action relates. | 36<br>37<br>38 |
| (2)        | The Secretary is not prevented from taking disciplinary action against a person merely because the person—  | 39<br>40       |
| (a)        | is subject to criminal or civil proceedings for the same act or omission to which the disciplinary action relates, or   | 41<br>42       |
| (b)        | has paid an amount under a penalty notice.  | 43             |

- |            |   |        |
|------------|---|--------|
| <b>138</b> | <b>Secretary may decide to take no further action</b>   | 1      |
| (1)        | The Secretary may at any time decide to take no further action under this part in relation to a person. | 2<br>3 |
| (2)        | The Secretary must give the person written notice about the decision.                                   | 4      |

|                   |  |    |
|-------------------|--|----|
| <b>Part 6</b>     | <b>Investigations</b>  | 1  |
| <b>Division 1</b> | <b>Preliminary</b>   | 2  |
| <b>139</b>        | <b>Definitions</b>   | 3  |
|                   | In this part—  | 4  |
|                   | <i>motor vehicle</i> has the same meaning as in the <i>Road Transport Act 2013</i> .   | 5  |
|                   | <i>premises</i> includes—  | 6  |
|                   | (a) a building or structure, and   | 7  |
|                   | (b) land or a place, whether enclosed or built on or not, and  | 8  |
|                   | (c) a mobile plant, motor vehicle, vessel or aircraft.   | 9  |
| <b>140</b>        | <b>Authorised purposes</b>   | 10 |
|                   | An authorised officer may exercise the functions conferred by this part for the following purposes—                          | 11 |
|                   | (a) investigating, monitoring and enforcing compliance with the requirements of this Act and the regulations,                | 13 |
|                   | (b) obtaining documents or other information for purposes connected with the administration of this Act and the regulations, | 15 |
|                   | (c) enforcing, administering or executing this Act and the regulations.  | 16 |
| <b>Division 2</b> | <b>Authorised officers</b>   | 18 |
| <b>141</b>        | <b>Appointment of authorised officers</b>  | 19 |
|                   | (1) The Secretary may appoint the following persons as authorised officers—  | 20 |
|                   | (a) an employee of the Department,   | 21 |
|                   | (b) a person prescribed by the regulations.  | 22 |
|                   | (2) The appointment must be made by a written instrument of appointment.   | 23 |
| <b>142</b>        | <b>Term of appointment as authorised officer</b>   | 24 |
|                   | (1) A person appointed as an authorised officer holds office for a term specified in the person's instrument of appointment. | 25 |
|                   | (2) The Secretary may, by written notice given to the authorised officer—  | 27 |
|                   | (a) amend the term of the officer's appointment, or  | 28 |
|                   | (b) revoke the appointment.  | 29 |
| <b>143</b>        | <b>Scope of authority</b>  | 30 |
|                   | (1) An authorisation of a person as an authorised officer may be given—  | 31 |
|                   | (a) generally, or  | 32 |
|                   | (b) subject to limitations or conditions.  | 33 |
|                   | (2) The authorised officer must not act in contravention of the limitations or conditions.                                   | 34 |
| <b>144</b>        | <b>Identification of authorised officers</b>   | 35 |
|                   | (1) The Secretary must give an authorised officer an identification card as an authorised officer.                           | 36 |
|                   | (2) An authorised officer must produce the officer's identification card if—   | 37 |

- (a) the officer is exercising a function of an authorised officer, and 1
- (b) a person affected by the exercise of the function requests the officer's identification. 2  
3
- (3) The identification card may be produced in digital or electronic form. 4
- (4) A failure by an authorised officer to produce the officer's identification card does not affect the validity of the exercise of the function. 5  
6

### **Division 3 Information gathering powers** 7

#### **145 Exercise in conjunction with other powers** 8

A power conferred by this division may be exercised whether or not a power of entry under Division 4 is being exercised. 9  
10

#### **146 Power of authorised officers to require documents** 11

- (1) An authorised officer may direct a person to give a document to the officer or another authorised officer. 12  
13  
**Note—** The *Interpretation Act 1987*, Schedule 4 defines a document to mean any record of information, including maps, plans, drawings and photographs. 14  
15
- (2) The direction may be given if the authorised officer requires the document for an authorised purpose. 16  
17
- (3) The direction must be in the form of a written order given to the person. 18
- (4) The order must specify— 19
  - (a) the way the document must be given, and 20
  - (b) the form in which the document must be given, and 21
  - (c) a reasonable date by which the document must be given. 22
- (5) The order may only require a person to give existing documents that— 23
  - (a) are in the person's possession, or 24
  - (b) are within the person's power to obtain lawfully. 25
- (6) An authorised officer may make copies of the document. 26
- (7) A person must not, without reasonable excuse, fail to comply with a direction under this section. 27  
28  
Maximum penalty for subsection (7)— 29
  - (a) for an individual—600 penalty units, or 30
  - (b) otherwise—3,000 penalty units. 31**Note—** The *Crimes Act 1900*, Part 5A contains offences relating to providing false or misleading information or documents. The offences have a maximum penalty of imprisonment for 2 years or a fine of \$22,000, or both. 32  
33  
34

#### **147 Power of authorised officers to require answers** 35

- (1) An authorised officer may direct a person to answer questions about a matter if the authorised officer— 36  
37
  - (a) reasonably suspects the person knows about the matter, and 38
  - (b) reasonably requires information about the matter for an authorised purpose. 39
- (2) The direction may require the answers to be— 40
  - (a) in writing, or 41
  - (b) given verbally— 42

|  |                |
|--|----------------|
| (i) in person, or  | 1              |
| (ii) by audio link or audio visual link.   | 2              |
| (3) The authorised officer may direct a body corporate to nominate an individual to answer questions for the body corporate.   | 3<br>4         |
| (4) The nomination must be—  | 5              |
| (a) in writing, and  | 6              |
| (b) given to the authorised officer within the time required in the direction.   | 7              |
| (5) The individual must be a director or other officer of the body corporate.  | 8              |
| (6) Answers given by the individual bind the body corporate.   | 9              |
| (7) The authorised officer may direct the person or nominated individual to attend at a specified place and time to answer questions if—   | 10<br>11       |
| (a) the answers must be given verbally, and  | 12             |
| (b) attendance at the place is reasonably required for the questions to be properly put and answered.  | 13<br>14       |
| (8) The place and time must be reasonable in the circumstances.  | 15             |
| (9) A direction under this section must be in writing.   | 16             |
| (10) A person must not, without reasonable excuse, fail to comply with a direction under this section.   | 17<br>18       |
| Maximum penalty for subsection (10)—   | 19             |
| (a) for an individual—600 penalty units, or  | 20             |
| (b) otherwise—3,000 penalty units.   | 21             |
| <b>Note</b> — The <i>Crimes Act 1900</i> , Part 5A contains offences relating to providing false or misleading information or documents. The offences have a maximum penalty of imprisonment for 2 years or a fine of \$22,000, or both. | 22<br>23<br>24 |
| <b>148 Self-incrimination</b>  | 25             |
| (1) A person is not excused from giving relevant information on the ground that the information may incriminate or make liable to a penalty—   | 26<br>27       |
| (a) the person, or   | 28             |
| (b) another person, including a body corporate that has nominated the person to answer questions under section 147.  | 29<br>30       |
| (2) Relevant information given by an individual is not admissible in evidence in criminal or civil proceedings against the individual.   | 31<br>32       |
| (3) Relevant information given by an individual may be—  | 33             |
| (a) admissible in evidence in criminal or civil proceedings against a body corporate that has nominated the individual to answer questions, or   | 34<br>35       |
| (b) used as a basis for taking disciplinary action under Part 5 against a person, including the individual.  | 36<br>37       |
| (4) In this section—   | 38             |
| <b>give relevant information</b> means—  | 39             |
| (a) give a document under section 146, or  | 40             |
| (b) answer a question under section 147.   | 41             |

|            |   |    |
|------------|---|----|
| <b>149</b> | <b>Recording of evidence</b>  | 1  |
| (1)        | An authorised officer may record a person answering questions under this division if—                                   | 2  |
|            |   | 3  |
|            | (a) the authorised officer informs the person that the record will be made, and   | 4  |
|            | (b) a copy of the record is given to the person as soon as practicable after the record is made.                        | 5  |
|            |   | 6  |
| (2)        | The record may be made using—   | 7  |
|            | (a) sound recording apparatus, or   | 8  |
|            | (b) audio visual apparatus, or  | 9  |
|            | (c) another method decided by the authorised officer.   | 10 |
| (3)        | The record may be made despite the provisions of another law.   | 11 |
|            |   |    |
|            | <b>Division 4 Powers in relation to premises</b>  | 12 |
|            |   |    |
|            | <b>Subdivision 1 Entry</b>  | 13 |
|            |   |    |
| <b>150</b> | <b>Power of authorised officers to enter premises</b>   | 14 |
| (1)        | An authorised officer may enter premises, other than a part of premises used only for residential purposes—             | 15 |
|            |   | 16 |
|            | (a) at a reasonable hour in the day, or   | 17 |
|            | (b) at an hour during which business, including building work, is in progress or is usually carried on at the premises. | 18 |
|            |   | 19 |
| (2)        | The entry may occur with or without a search warrant.   | 20 |
| (3)        | An authorised officer may enter a part of premises used only for residential purposes—                                  | 21 |
|            |   | 22 |
|            | (a) with the permission of the occupier, or   | 23 |
|            | (b) under the authority of a search warrant.  | 24 |
| (4)        | The following are taken not to be a part of premises used only for residential purposes—                                | 25 |
|            |   | 26 |
|            | (a) common property under a strata scheme, or   | 27 |
|            | (b) association property within the meaning of the <i>Community Land Management Act 2021</i> .                          | 28 |
|            |   | 29 |
| <b>151</b> | <b>Means of entry</b>   | 30 |
|            | A power of entry under this division may be exercised in any way, including—  | 31 |
|            | (a) by foot, and  | 32 |
|            | (b) by using a vehicle, vessel or aircraft.   | 33 |
| <b>152</b> | <b>Persons assisting authorised officers</b>  | 34 |
| (1)        | An authorised officer may be accompanied by a person (an <i>assistant</i> ) if the authorised officer—                  | 35 |
|            |   | 36 |
|            | (a) is entering premises under this division, and   | 37 |
|            | (b) considers the assistant to be necessary.  | 38 |
|            | <b>Example—</b> an interpreter  | 39 |
| (2)        | The authorised officer must ensure the assistant—   | 40 |

|                      |  |          |
|----------------------|--|----------|
| (a)                  | does not do anything on the premises that the authorised officer does not have the power to do, unless it is expressly permitted under a search warrant, and | 1<br>2   |
| (b)                  | when on the premises, provides reasonable assistance to the authorised officer as directed by the authorised officer.  | 3<br>4   |
| (3)                  | Anything done lawfully by the assistant is taken to have been done by the authorised officer.  | 5<br>6   |
| <b>153</b>           | <b>Search warrants</b>   | 7        |
| (1)                  | An authorised officer may apply to a warrant issuing officer for a search warrant.   | 8        |
| (2)                  | The authorised officer may make the application if the authorised officer believes on reasonable grounds that—   | 9<br>10  |
| (a)                  | this Act or the regulations is being or has been contravened at premises, or   | 11       |
| (b)                  | something connected with an offence against this Act or the regulations is at the premises.  | 12<br>13 |
| (3)                  | The warrant issuing officer may issue the search warrant if satisfied there are reasonable grounds to issue the warrant.                                     | 14<br>15 |
| (4)                  | The search warrant may authorise an authorised officer named in the warrant to—  | 16       |
| (a)                  | enter the premises, and  | 17       |
| (b)                  | exercise functions of an authorised officer under this part.   | 18       |
| (5)                  | The <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> , Part 5, Division 4, applies to the search warrant.                                       | 19<br>20 |
| (6)                  | Without limiting the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> , section 71, a police officer may—                                       | 21<br>22 |
| (a)                  | accompany an authorised officer executing the search warrant, and  | 23       |
| (b)                  | take all reasonable steps to assist the authorised officer in the exercise of the authorised officer's functions.  | 24<br>25 |
| (7)                  | In this section—   | 26       |
|                      | <i>warrant issuing officer</i> means an authorised officer under the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .                         | 27<br>28 |
| <b>Subdivision 2</b> | <b>Powers exercised on premises</b>  | 29       |
| <b>154</b>           | <b>Exercise of powers on premises</b>  | 30       |
| (1)                  | An authorised officer may exercise a power specified in this subdivision when on premises that have been entered lawfully.                                   | 31<br>32 |
| (2)                  | A power may be exercised in relation to a thing without the consent of the owner of the thing.   | 33<br>34 |
| (3)                  | A power to do something includes a power to arrange for the thing to be done, whether at the premises or elsewhere.  | 35<br>36 |
| <b>155</b>           | <b>Powers of authorised officers—documents</b>   | 37       |
|                      | An authorised officer may—   | 38       |
| (a)                  | direct a person to produce documents for inspection, and   | 39       |
| (b)                  | examine and inspect documents, and   | 40       |
| (c)                  | copy documents.  | 41       |

**Note**— The *Interpretation Act 1987*, Schedule 4 defines a document to mean any record of information, including maps, plans, drawings and photographs.

**156 Powers of authorised officers—examinations, inspections and tests**

- (1) An authorised officer may—
- (a) examine and inspect a thing, and
  - (b) take and remove samples of a thing, and
  - (c) make examinations, inquiries, measurements or tests that the authorised officer considers necessary, and
  - (d) take photographs or other recordings that the authorised officer considers necessary.
- (2) The power to examine and inspect a thing includes a power to use reasonable force to break open or otherwise access a thing, including a floor or wall containing the thing.
- (3) The power to test a thing includes a power to destructively test a thing or a sample of a thing, if that is a reasonable test in the circumstances.

**157 Powers of authorised officers—seizure**

- (1) An authorised officer may—
- (a) seize a thing that the authorised officer has reasonable grounds to believe is connected with a contravention of this Act or the regulations, and
  - (b) move a seized thing from the place where it is seized or leave the seized thing at the place where it is seized and take reasonable action to restrict access to the thing, and
  - (c) direct the occupier of the premises where a thing is seized to keep the thing at—
    - (i) the premises, or
    - (ii) another place under the control of the occupier.
- (2) The power to seize a thing connected with an offence includes a power to seize—
- (a) a thing in relation to which the offence has been committed, and
  - (b) a thing that will afford evidence of the commission of the offence, and
  - (c) a thing that was used for the purpose of committing the offence.
- (3) In this section, a reference to an offence includes a reference to an act or omission that the authorised officer reasonably believes to be an offence.
- (4) A person must not, without reasonable excuse, fail to comply with a direction under this section.
- Maximum penalty for subsection (4)—
- (a) for an individual—200 penalty units, or
  - (b) otherwise—1,000 penalty units.

**158 Powers of authorised officers—other powers**

- An authorised officer may—
- (a) do anything else authorised under this Act and the regulations, and
  - (b) do anything for an authorised purpose that the authorised officer reasonably believes is necessary.

### **Subdivision 3    Miscellaneous**

#### **159    Provision of assistance to authorised officers**

- (1) An authorised officer may direct a person to provide reasonable assistance as specified by the authorised officer if the direction—
- (a) is for the purposes of the authorised officer exercising functions under this division for premises, and
  - (b) is given to a person who is—
    - (i) the owner or occupier of the premises, or
    - (ii) for premises other than a public place—on the premises.
- (2) The direction may be given to the person—
- (a) orally, or
  - (b) by written notice.
- (3) A person must not, without reasonable excuse, fail to comply with a direction under this section.
- Maximum penalty for subsection (3)—
- (a) for an individual—200 penalty units, or
  - (b) otherwise—1,000 penalty units.

### **Division 5    Seizure and destruction**

#### **160    Dealing with seized things**

- (1) An authorised officer who seizes a thing at premises under this part must give the person apparently in charge of the premises a written receipt for the seized thing.
- (2) An authorised officer may keep the seized thing for evidence in court proceedings until—
- (a) the court in which the proceedings are commenced orders the return of the seized thing, or
  - (b) if no order is made—the completion of the proceedings, including an appeal.
- (3) A document may only be kept under this section if, within a reasonable time—
- (a) a copy of the document is made, and
  - (b) an authorised officer certifies the copy is a true copy, and
  - (c) the person from whom the document was seized is given the certified copy.
- (4) The certified copy is, as evidence, of equal validity as the document.

#### **161    Power to destroy seized things**

- (1) An authorised officer may destroy or dispose of a thing if—
- (a) the thing was seized under this part, and
  - (b) the thing is no longer required as evidence in proceedings.
- (2) If the authorised officer decides to destroy or dispose of the thing—
- (a) the thing immediately becomes property of the State, and
  - (b) compensation is not payable for—
    - (i) the transfer of ownership of the thing, or
    - (ii) the destruction or disposal of the thing, and

- (c) duty is not payable for the transfer, and 1
- (d) the authorised officer must, as soon as practicable, tell the person who owned the thing immediately before the thing's seizure, about the destruction or disposal, unless— 2  
3  
4
  - (i) the authorised officer is not able to find the person after making reasonable inquiries, or 5  
6
  - (ii) it is otherwise impracticable or unreasonable to tell the person. 7
- (3) This section does not limit an authorised officer's power to destroy a thing occurring in the exercise of another power for an authorised purpose. 8  
9

**Division 6      Obstruction** 10

**162    Obstruction of authorised officers** 11

A person must not obstruct, hinder or interfere with an authorised officer in the exercise of the authorised officer's functions. 12  
13

Maximum penalty— 14

- (a) for an individual—200 penalty units, or 15
- (b) otherwise—1,000 penalty units. 16

|                   |  |          |
|-------------------|--|----------|
| <b>Part 7</b>     | <b>Additional powers of Secretary</b>  | 1        |
| <b>Division 1</b> | <b>Preliminary</b>   | 2        |
| <b>163</b>        | <b>Part does not limit Secretary's powers</b>  | 3        |
|                   | This part does not limit other powers the Secretary may have under—  | 4        |
|                   | (a) this Act or the regulations, or  | 5        |
|                   | (b) another Act or law.  | 6        |
| <b>Division 2</b> | <b>General powers</b>  | 7        |
| <b>164</b>        | <b>Investigations</b>  | 8        |
|                   | The Secretary, may at any, time investigate the following—   | 9        |
|                   | (a) a person who is or was authorised to carry out registered work,  | 10       |
|                   | (b) the carrying out of registered work,   | 11       |
|                   | (c) another person or matter prescribed by the regulations.  | 12       |
| <b>165</b>        | <b>Complaints</b>  | 13       |
|                   | (1) A person may make a complaint to the Secretary about a matter that the Secretary is authorised to investigate under this division.                               | 14<br>15 |
|                   | (2) The Secretary may require the complaint to be made in a form approved by the Secretary.  | 16<br>17 |
|                   | (3) The Secretary may, but is not required to, investigate the complaint.  | 18       |
| <b>166</b>        | <b>Court orders to restrain or remedy contraventions</b>   | 19       |
|                   | (1) The Secretary may apply to the Land and Environment Court for an order to remedy or restrain a contravention of this Act or the regulations.                     | 20<br>21 |
|                   | (2) The Land and Environment Court may make the order if satisfied that—   | 22       |
|                   | (a) a contravention—   | 23       |
|                   | (i) has been committed, or   | 24       |
|                   | (ii) will be committed, and  | 25       |
|                   | (b) the order will remedy or restrain the contravention.   | 26       |
|                   | (3) The making of the order does not require—  | 27       |
|                   | (a) a likelihood of damage, or   | 28       |
|                   | (b) proceedings to be instituted for an offence.   | 29       |
|                   | (4) The Land and Environment Court may make an interim order before the proceedings are completed if the Court considers it appropriate to do so.                    | 30<br>31 |
|                   | (5) The Land and Environment Court must not require the Secretary or another person to give an undertaking as to damages as a condition of making the interim order. | 32<br>33 |
| <b>167</b>        | <b>Warning notices</b>   | 34       |
|                   | (1) The Secretary may publish a notice (a <i>warning notice</i> ) warning persons of particular risks involved in dealing with—                                      | 35<br>36 |
|                   | (a) a specified registered person or former registered person, or  | 37       |
|                   | (b) another person that the Secretary reasonably believes may have contravened this Act or the regulations.  | 38<br>39 |

|                   |  |    |
|-------------------|--|----|
| (2)               | The Secretary may publish a warning notice in any way the Secretary sees fit.  | 1  |
| (3)               | A warning notice may be published whether or not a complaint has been made.  | 2  |
| (4)               | Before publishing a warning notice about a person, the Secretary must—   | 3  |
| (a)               | conduct an investigation, and  | 4  |
| (b)               | consult with the person by—  | 5  |
| (i)               | giving the person written notice about the proposal to publish the warning notice, and   | 6  |
| (ii)              | inviting the person to make submissions within the time specified in the notice, which must be no less than 2 business days, and | 8  |
| (iii)             | considering submissions made by the person within the specified time.  | 10 |
| (5)               | Consultation with the person is not required if—   | 11 |
| (a)               | the Secretary, after making reasonable efforts to do so, is not able to contact the person promptly, or                          | 12 |
| (b)               | in the Secretary’s opinion, there is an immediate risk to the public.  | 14 |
| (6)               | A person is not entitled to compensation or any other remedy for loss or damage arising as a result of—                          | 15 |
| (a)               | the publication of a warning notice, or  | 17 |
| (b)               | the publication of a fair report or summary of a warning notice.   | 18 |
| <b>168</b>        | <b>Power to conduct audit</b>  | 19 |
|                   | The Secretary may conduct an audit of—   | 20 |
| (a)               | a person who is or was authorised to carry out registered work, or   | 21 |
| (b)               | a local council in the council’s capacity as an approval authority, or   | 22 |
| (c)               | a person prescribed by the regulations.  | 23 |
| <b>Division 3</b> | <b>Undertakings</b>  | 24 |
| <b>169</b>        | <b>Definition</b>  | 25 |
|                   | In this division—  | 26 |
|                   | <i>undertaking</i> means a written undertaking accepted by the Secretary under this division.                                    | 27 |
| <b>170</b>        | <b>Giving undertakings</b>   | 29 |
| (1)               | The Secretary may accept an undertaking from a registered person relating to the following—                                      | 30 |
| (a)               | the carrying out of registered work,   | 32 |
| (b)               | the person’s business operations and activities.   | 33 |
| (2)               | A person must not contravene an undertaking.   | 34 |
|                   | Maximum penalty for subsection (2)—  | 35 |
| (a)               | for an individual—300 penalty units, or  | 36 |
| (b)               | otherwise—1,500 penalty units.   | 37 |
| <b>171</b>        | <b>Variation or withdrawal of undertaking</b>  | 38 |
| (1)               | A party to an undertaking may vary the undertaking with the written agreement of the other party.                                | 39 |
|                   |  | 40 |

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| (2)               | An undertaking may not be varied to provide for a different subject matter.  | 1  |
| (3)               | In this section—   | 2  |
|                   | <i>party</i> , to an undertaking, means—   | 3  |
| (a)               | the Secretary, and   | 4  |
| (b)               | the person who gave the undertaking.   | 5  |
| <b>172</b>        | <b>Undertaking ceasing to have effect</b>  | 6  |
| (1)               | An undertaking ceases to have effect if—   | 7  |
| (a)               | the undertaking is withdrawn, or   | 8  |
| (b)               | acceptance of an undertaking is withdrawn by the Secretary.  | 9  |
| (2)               | An undertaking is withdrawn if—  | 10 |
| (a)               | the person who gave the undertaking seeks the approval of the Secretary for the withdrawal, and  | 11 |
| (b)               | the Secretary gives written approval for the withdrawal.   | 12 |
| (3)               | Acceptance of an undertaking is withdrawn by the Secretary if the Secretary gives written notice of the withdrawal to the person who gave the undertaking. | 13 |
| <b>173</b>        | <b>Making undertakings publicly available</b>  | 14 |
|                   | The Secretary may make some or all of the following information publicly available—  | 15 |
| (a)               | copies of undertakings,  | 16 |
| (b)               | information in relation to undertakings.   | 17 |
| <b>Division 4</b> | <b>Powers in relation to local councils</b>  | 18 |
| <b>174</b>        | <b>Investigation of local council acting as approval authority</b>   | 19 |
| (1)               | This section applies to the work and activity of a local council in the council's capacity as an approval authority.                                       | 20 |
| (2)               | The Secretary may investigate the work and activities of the local council.  | 21 |
| (3)               | The Secretary may make a decision to undertake an investigation under this section—  | 22 |
| (a)               | on the Secretary's own initiative, or  | 23 |
| (b)               | following a complaint to the Secretary relating to the work and activities of the local council.   | 24 |
| (4)               | The Secretary must—  | 25 |
| (a)               | prepare a report of the results of the investigation, and  | 26 |
| (b)               | give a copy of the report to—  | 27 |
| (i)               | the Planning Secretary, and  | 28 |
| (ii)              | the local council.   | 29 |
| <b>175</b>        | <b>Procedure after report given to local council</b>   | 30 |
| (1)               | A report given to the local council under this division must be presented at the next meeting of the local council after the report is received.           | 31 |
| (2)               | Within 40 days after receiving the report, the local council—  | 32 |

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|------------|---|----|
| (a)        | must give written notice of the things done or proposed to be done to give effect to recommendations in the report to—  | 1  |
| (i)        | the Secretary, and  | 2  |
| (ii)       | the Planning Secretary, and   | 3  |
| (b)        | may make submissions about a matter in the report to the Secretary.   | 4  |
| (3)        | The Secretary may, after taking into account submissions received under subsection (2)—   | 5  |
| (a)        | appoint a suitably qualified person to supervise and oversee the local council in the exercise of the local council’s functions as an approval authority, or  | 6  |
| (b)        | revise the report, or   | 7  |
| (c)        | take other action the Secretary considers appropriate, including making recommendations to the Planning Secretary about the local council.  | 8  |
| (4)        | If the Secretary revises the report, the Secretary must give a copy of the revised report to—   | 9  |
| (a)        | the Planning Secretary, and   | 10 |
| (b)        | the local council.  | 11 |
| (5)        | The Secretary must make a copy of the final report publicly available.  | 12 |
| (6)        | Nothing in this division prevents the Secretary from taking disciplinary action against an approval authority under Part 5 if the Secretary is satisfied, as a result of an investigation under this section, that there may be grounds for taking disciplinary action. | 13 |
| <b>176</b> | <b>Regulations</b>  | 14 |
|            | The regulations may enable the Minister to suspend, or place conditions on, a local council’s authorisation to carry out approvals work.  | 15 |
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## Part 8 Duty of care

### 177 Definitions

In this part—

**construction work**—

- (a) means work involved in the following—
  - (i) constructing a building,
  - (ii) altering or adding to a building,
  - (iii) repairing, renovating or providing a protective treatment to a building,
  - (iv) preparing—
    - (A) designs for work referred to in subparagraphs (i)–(iii), or
    - (B) regulated designs,
  - (v) manufacturing or supplying a building product used for work referred to in subparagraphs (i)–(iii),
  - (vi) supervising, coordinating, project managing or otherwise having substantive control over the carrying out of work referred to in subparagraphs (i)–(iii),
  - (vii) work prescribed by the regulations, and
- (b) does not include work that is excluded by the regulations from being construction work.

**manufacturer** has the same meaning as in the *Building Products (Safety) Act 2017*.

**owner**, of land, means the following—

- (a) a person who jointly or severally, or at law or in equity, is entitled—
  - (i) to the land for an estate of freehold, or
  - (ii) to receive rents and profits from the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise,
- (b) for a lot in a strata scheme—the owner of the lot within the meaning of the *Strata Schemes Management Act 2015*,
- (c) for land subject to a strata scheme—the owners corporation for the strata scheme,
- (d) for a development lot or neighbourhood lot in an association scheme—the owner of the lot within the meaning of the *Community Land Management Act 2021*,
- (e) for land subject to an association scheme—the community land association for the scheme,
- (f) a person prescribed by the regulations.

**prepare**, a document, includes coordinating or supervising the preparation of the document.

**supplier** has the same meaning as in the *Building Products (Safety) Act 2017*.

### 178 Carrying out construction work

(1) In this part—

- (a) the manufacturer of the building product carries out the construction work of manufacturing building product, and
- (b) the supplier of the building product carries out the construction work of supplying the building product, and

|            |  |             |
|------------|--|-------------|
| (c)        | the construction work of manufacturing or supplying a building product is taken to be carried out in relation to a building if the building product is used, within the meaning of the <i>Building Products (Safety) Act 2017</i> , in the building. | 1<br>2<br>3 |
| (2)        | The regulations may prescribe—   | 4           |
| (a)        | persons who are taken to carry out construction work, and  | 5           |
| (b)        | the circumstances in which construction work is taken to be carried out in relation to a building.   | 6<br>7      |
| <b>179</b> | <b>Extension of duty of care</b>   | 8           |
| (1)        | A person who carries out construction work has a duty to exercise reasonable care to avoid economic loss caused by defects—  | 9<br>10     |
| (a)        | in or related to a building for which the construction work is carried out, and  | 11          |
| (b)        | arising from the construction work.  | 12          |
| (2)        | The duty of care is owed to—   | 13          |
| (a)        | each owner of the land in relation to which the construction work is carried out, and  | 14<br>15    |
| (b)        | each subsequent owner of the land.   | 16          |
| (3)        | A person to whom the duty of care is owed is entitled to damages for breach of the duty as if the duty were a duty established by the common law.  | 17<br>18    |
| (4)        | The duty of care is owed to an owner whether or not the construction work was carried out—   | 19<br>20    |
| (a)        | under a contract or other arrangement entered into with the owner or another person, or  | 21<br>22    |
| (b)        | otherwise than under a contract or arrangement.  | 23          |
| <b>180</b> | <b>Economic loss suffered by owners corporations and community land associations</b>   | 24          |
| (1)        | In this part, an owners corporation or a community land association is taken to suffer economic loss if—   | 25<br>26    |
| (a)        | the corporation or association bears the cost of rectifying defects, including damage caused by defects, and   | 27<br>28    |
| (b)        | the defects are the subject of a breach of the duty of care imposed under this part.   | 29<br>30    |
| (2)        | The economic loss includes the reasonable costs of providing alternative accommodation if necessary.   | 31<br>32    |
| (3)        | It is not relevant whether or not the owners corporation or community land association was the owner of the land when the building work was carried out.   | 33<br>34    |
| (4)        | This section does not limit the economic loss for which an owners corporation, community land association or owner may claim damages under this part.  | 35<br>36    |
| <b>181</b> | <b>Duty cannot be delegated</b>  | 37          |
|            | A person who owes a duty of care under this part cannot delegate the duty.   | 38          |
| <b>182</b> | <b>No contracting out of part</b>  | 39          |
| (1)        | This part applies despite a contract or stipulation to the contrary made after the commencement of this part.  | 40<br>41    |
| (2)        | No contract or agreement made or entered into, or amended, after the commencement of this part operates to annul, vary or exclude a provision of this part.  | 42<br>43    |

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|------------|---|----------------|
| <b>183</b> | <b>Relationship with other duties of care and laws</b>  | 1              |
| (1)        | The provisions of this part—  | 2              |
| (a)        | operate in addition to duties, statutory warranties or other obligations imposed under this Act, other Acts or the common law, and  | 3<br>4         |
| (b)        | do not limit the duties, statutory warranties or other obligations imposed under this Act, other Acts or the common law.  | 5<br>6         |
| (2)        | This part does not limit damages or other compensation that may be available to a person under this Act, another Act or the common law because of a breach of a duty by a person who carries out construction work. | 7<br>8<br>9    |
| (3)        | This part is subject to—  | 10             |
| (a)        | section 192, and  | 11             |
| (b)        | the <i>Civil Liability Act 2002</i> .   | 12             |
|            | <b>Note—</b> Actions under this part are subject to applicable limitation periods established under the <i>Limitation Act 1969</i> .  | 13<br>14       |
| <b>184</b> | <b>Regulations</b>  | 15             |
|            | The regulations may provide how the duty of care extends—   | 16             |
| (a)        | to construction work involving prefabricated buildings, including by prescribing whether the duty of care continues if the prefabricated building is relocated after the construction work is completed, or         | 17<br>18<br>19 |
| (b)        | in circumstances where the owner of a building, including a prefabricated building, is different from the owner of the land.  | 20<br>21       |

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| <b>Part 9</b>     | <b>Miscellaneous</b>   | 1  |
| <b>Division 1</b> | <b>Offences</b>  | 2  |
| <b>185</b>        | <b>Disclosure and misuse of information</b>  | 3  |
|                   | A person must not disclose information obtained in connection with the administration or execution of this Act or the regulations unless the disclosure is made—   | 4  |
|                   | (a) with the consent of the person from whom the information was obtained, or  | 5  |
|                   | (b) in connection with the administration or execution of this Act or the regulations, or  | 6  |
|                   | (c) for the purposes of disciplinary or legal proceedings arising out of this Act or the regulations or of a report of the proceedings, or   | 7  |
|                   | (d) in accordance with a requirement imposed under the <i>Ombudsman Act 1974</i> , or  | 8  |
|                   | (e) with another lawful excuse.  | 9  |
|                   | Maximum penalty—1,000 penalty units.   | 10 |
| <b>186</b>        | <b>Onus of proof for reasonable excuse</b>   | 11 |
| (1)               | This section applies to an offence against this Act or the regulations that provides for a reasonable excuse.  | 12 |
| (2)               | The defendant must satisfy a court that the defendant had a reasonable excuse.   | 13 |
| <b>187</b>        | <b>Penalty notices</b>   | 14 |
| (1)               | A penalty notice officer may issue a penalty notice to a person if—  | 15 |
|                   | (a) the officer believes the person has committed an offence against this Act or the regulations, and  | 16 |
|                   | (b) the offence is prescribed by the regulations as a penalty notice offence.  | 17 |
| (2)               | The <i>Fines Act 1996</i> applies to the penalty notice.   | 18 |
|                   | <b>Note—</b> The <i>Fines Act 1996</i> provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to further proceedings for the alleged offence. | 19 |
| (3)               | The amount payable under the penalty notice is the amount prescribed for the offence by the regulations.   | 20 |
| (4)               | The amount prescribed must not be more than the maximum monetary penalty that may be imposed for the offence by a court.   | 21 |
| (5)               | In this section—   | 22 |
|                   | <b>penalty notice officer</b> means a person designated by the Secretary as a penalty notice officer who is—   | 23 |
|                   | (a) a member of staff of the Department, or  | 24 |
|                   | (b) a person prescribed by the regulations.  | 25 |
| <b>188</b>        | <b>Proceedings for offences</b>  | 26 |
| (1)               | Proceedings for an offence against this Act may be dealt with summarily by—  | 27 |
|                   | (a) the Local Court, or  | 28 |
|                   | (b) the Land and Environment Court.  | 29 |
| (2)               | Proceedings for an offence against the regulations may be dealt with summarily by the Local Court.   | 30 |

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| (3)        | The maximum monetary penalty that may be imposed for an offence is—   | 1              |
| (a)        | for the Local Court—the lesser of—  | 2              |
| (i)        | 1,000 penalty units, or   | 3              |
| (ii)       | the maximum monetary penalty provided for the offence, or   | 4              |
| (b)        | for the Land and Environment Court—the maximum penalty provided for the offence.  | 5<br>6         |
| (4)        | Proceedings for an offence against this Act or the regulations may be commenced not later than—   | 7<br>8         |
| (a)        | 3 years after the date alleged to be the date on which the offence was committed, or  | 9<br>10        |
| (b)        | at a later date if—   | 11             |
| (i)        | the date is not later than 2 years after the notification date for the offence, and   | 12<br>13       |
| (ii)       | the court gives leave to commence the proceedings.  | 14             |
| (5)        | Subsection (4) has effect despite the <i>Criminal Procedure Act 1986</i> or another Act.  | 15             |
| (6)        | If subsection (4)(b) is relied on, the court attendance notice or summons commencing proceedings—   | 16<br>17       |
| (a)        | must specify the notification date for the offence, and   | 18             |
| (b)        | is not required to specify the date on which the offence was committed.   | 19             |
| (7)        | The date specified as the notification date for the offence in the court attendance notice or summons commencing proceedings for the offence is taken to be the notification date for the offence unless the contrary is established. | 20<br>21<br>22 |
| (8)        | In this section—  | 23             |
|            | <i>notification date</i> , for an offence, means the date on which evidence of an act or omission constituting the alleged offence first came to the attention of an authorised officer.  | 24<br>25<br>26 |
| <b>189</b> | <b>Directors and managers liable for offences by bodies corporate</b>   | 27             |
| (1)        | An individual is taken to have contravened a provision of this Act or the regulations if—   | 28<br>29       |
| (a)        | a body corporate contravenes the provision, and   | 30             |
| (b)        | the individual is—  | 31             |
| (i)        | a director of the body corporate, or  | 32             |
| (ii)       | involved in the management of the body corporate, and   | 33             |
| (c)        | the individual knowingly authorised or permitted the contravention by the body corporate.   | 34<br>35       |
| (2)        | The individual may be proceeded against and convicted whether or not the body corporate has been proceeded against or convicted.  | 36<br>37       |
| (3)        | Nothing in this section affects the liability of the body corporate for the commission of the offence.  | 38<br>39       |
| <b>190</b> | <b>Multiple monetary penalties not to be imposed</b>  | 40             |
|            | A person is not liable to pay more than one monetary penalty if more than one offence or contravention of this Act or the regulations arises from the same act or omission.   | 41<br>42<br>43 |

## **Division 2      Miscellaneous**

### **191    Review by Tribunal**

- (1) A person aggrieved by the following decisions may apply to the Tribunal for an administrative review of the decision under the *Administrative Decisions Review Act 1997*—
- (a) a decision referred to in subsection (2),
  - (b) another decision prescribed by the regulations.
- (2) The following decisions of the Secretary are decisions to which subsection (1)(a) applies—
- (a) refusing an application for the grant of a registration,
  - (b) refusing an application to vary a registration,
  - (c) varying a registration, unless the holder applied for the variation,
  - (d) refusing an application for the suspension or cancellation of a registration,
  - (e) refusing to recognise a professional body,
  - (f) suspending or cancelling—
    - (i) a registration, or
    - (ii) the recognition of a professional body,
  - (g) imposing, varying or revoking a condition on—
    - (i) a registration, or
    - (ii) the recognition of a professional body, or
    - (iii) the suspension or cancellation of a registration or recognition,
  - (h) taking disciplinary action under Part 5.
- (3) The application must be made within 28 days after the decision.
- (4) The application does not stay the decision unless the Tribunal orders otherwise.
- (5) When reviewing the decision, the Tribunal must consider the matters the Secretary was required to consider in making the decision.

### **192    Time for bringing action for defective building work**

- (1) A civil action for loss or damage arising out of or in connection with defective building work may not be brought more than 10 years after the date of completion of the work.
- (2) Building work is taken to be completed on—
- (a) if a completion approval is issued for the building work—the date on which the approval is issued, or
  - (b) if a completion approval is required but not issued and a required inspection of the completed building work is carried out by the approval authority—the date on which the inspection is carried out, or
  - (c) otherwise—the date on which the building for which the work was carried out is first occupied or used.
- (3) This section has effect despite another Act or law, but does not operate to extend a period of limitation under the following—
- (a) this Act,
  - (b) the *Home Building Act 1989*,
  - (c) the *Limitation Act 1969*.

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|------------|--|----------------|
| (4)        | This section does not limit a right to recover damages for death or personal injury arising out of or concerning defective building work.  | 1<br>2         |
| (5)        | In this section—   | 3              |
|            | <b>building work</b> includes—   | 4              |
| (a)        | the erection of a building within the meaning of the <i>Environmental Planning and Assessment Act 1979</i> , and   | 5<br>6         |
| (b)        | designing or inspecting building work, and   | 7              |
| (c)        | issuing a complying development certificate for building work, and   | 8              |
| (d)        | granting an approval under Part 3 for building work.   | 9              |
|            | <b>civil action</b> includes a counterclaim.   | 10             |
| <b>193</b> | <b>Act to bind Crown</b>   | 11             |
|            | This Act binds the Crown—  | 12             |
| (a)        | in right of New South Wales, and   | 13             |
| (b)        | as far as the legislative power of the State permits, in all other capacities.   | 14             |
| <b>194</b> | <b>Giving documents</b>  | 15             |
| (1)        | A document that is authorised or required by this Act or the regulations to be given to a person may be given in one or more of the following ways—  | 16<br>17       |
| (a)        | by sending the document to a postal address or email address specified by the person for receiving documents of that kind,   | 18<br>19       |
| (b)        | for an individual—by personal delivery to the individual,  | 20             |
| (c)        | for an individual who has not specified an address—by sending the document by post to the residential or business address of the person last known to the person giving the document,                      | 21<br>22<br>23 |
| (d)        | for a body corporate—  | 24             |
| (i)        | by sending the document by post to an office of the body corporate, or   | 25             |
| (ii)       | by leaving the document with an individual who—  | 26             |
| (A)        | is at an office of the body corporate, and   | 27             |
| (B)        | appears to be over 16 years of age,  | 28             |
| (e)        | in another way authorised by—  | 29             |
| (i)        | the regulations, or  | 30             |
| (ii)       | another Act or law, including rules of a court.  | 31             |
| (2)        | In this section—   | 32             |
|            | <b>give</b> includes serve and send.   | 33             |
|            | <b>office</b> , of a body corporate, means the registered office or another office.  | 34             |
| <b>195</b> | <b>Exchange of information</b>   | 35             |
| (1)        | The Secretary may enter into an arrangement (an <b>information sharing arrangement</b> ) with a relevant agency for the purposes of sharing or exchanging information held by the Secretary or the agency. | 36<br>37<br>38 |
| (2)        | Under an information sharing arrangement, the Secretary and the relevant agency are, despite another Act or law, authorised to—  | 39<br>40       |
| (a)        | request information held by the other party to the arrangement, and  | 41             |
| (b)        | give information to the other party, and   | 42             |
| (c)        | receive information given under paragraph (b).   | 43             |

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| (3)        | The information that may be requested by, and given to, the Secretary is—   | 1  |
| (a)        | information the Secretary reasonably requires to properly exercise the Secretary's functions under this Act or the regulations, or                    | 2  |
| (b)        | other information prescribed by the regulations.  | 3  |
| (4)        | The information that may be requested by, and given to, a relevant agency is—   | 4  |
| (a)        | information the relevant agency reasonably requires to properly exercise the agency's functions, or   | 5  |
| (b)        | other information prescribed by the regulations.  | 6  |
| (5)        | In this section—  | 7  |
|            | <b>relevant agency</b> means the following—   | 8  |
| (a)        | a government sector agency within the meaning of the <i>Government Sector Employment Act 2013</i> ,   | 9  |
| (b)        | a NSW Government agency,  | 10 |
| (c)        | a local council,  | 11 |
| (d)        | a statutory body,   | 12 |
| (e)        | the NSW Self Insurance Corporation,   | 13 |
| (f)        | the Tribunal,   | 14 |
| (g)        | the Australian Prudential Regulation Authority,   | 15 |
| (h)        | the Australian Securities and Investments Commission,   | 16 |
| (i)        | the Australian Taxation Office,   | 17 |
| (j)        | an agency of an Australian or other jurisdiction that, under legislation, exercises functions similar to the functions exercised by the Secretary,    | 18 |
| (k)        | a person prescribed by the regulations.   | 19 |
| <b>196</b> | <b>Delegation</b>   | 20 |
| (1)        | The Minister may delegate the Minister's functions under this Act or the regulations to—  | 21 |
| (a)        | a person employed in the Department, or   | 22 |
| (b)        | a person prescribed by the regulations.   | 23 |
| (2)        | The Secretary may delegate the Secretary's functions under this Act or the regulations to—  | 24 |
| (a)        | a person employed in the Department, or   | 25 |
| (b)        | a person prescribed by the regulations.   | 26 |
| (3)        | The power of delegation under this section cannot be delegated.   | 27 |
| (4)        | A delegation must be done by a written instrument of delegation.  | 28 |
| (5)        | A person may delegate a function delegated to the person if the instrument of delegation specifically authorises the person to delegate the function. | 29 |
| <b>197</b> | <b>Personal liability</b>   | 30 |
| (1)        | A protected person is not personally subject to liability for anything done—  | 31 |
| (a)        | in good faith, and  | 32 |
| (b)        | for the purpose of exercising a function under this Act or the regulations.   | 33 |
| (2)        | The liability instead attaches to the Crown.  | 34 |

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| (3)        | In this section—   | 1  |
|            | <i>done</i> includes omitted to be done.   | 2  |
|            | <i>liability</i> means civil liability and includes action, claim and demand.  | 3  |
|            | <i>protected person</i> means—   | 4  |
|            | (a) an authorised officer, or  | 5  |
|            | (b) a person acting under the direction of an authorised officer.  | 6  |
| <b>198</b> | <b>Continuing effect of requirements</b>   | 7  |
| (1)        | A requirement imposed under this Act or the regulations continues to have effect until the requirement is complied with regardless of whether— | 8  |
|            | (a) a time was specified for compliance, and   | 9  |
|            | (b) that time has passed.  | 10 |
| (2)        | This section does not apply to the extent the requirement is revoked.  | 11 |
| <b>199</b> | <b>Certificate evidence</b>  | 12 |
| (1)        | A document certifying a relevant matter—   | 13 |
|            | (a) is admissible in criminal or civil proceedings under this Act or the regulations, and  | 14 |
|            | (b) is evidence of the relevant matter unless there is evidence to the contrary.   | 15 |
| (2)        | The document must be signed by—  | 16 |
|            | (a) the Secretary, or  | 17 |
|            | (b) an employee of the Department prescribed by the regulations, or  | 18 |
|            | (c) another person prescribed by the regulations.  | 19 |
| (3)        | In this section—   | 20 |
|            | <i>relevant matter</i> means—  | 21 |
|            | (a) whether, at a time or during a period—   | 22 |
|            | (i) a person was a registration holder, or   | 23 |
|            | (ii) a registration held by a person authorised the carrying out of particular work, or  | 24 |
|            | (iii) a registration held by a person was—   | 25 |
|            | (A) cancelled, or  | 26 |
|            | (B) surrendered, or  | 27 |
|            | (C) suspended, or  | 28 |
|            | (D) subject to a specified condition, or   | 29 |
|            | (iv) a professional body was recognised by the Secretary, or   | 30 |
|            | (v) a recognition held by a professional body was—   | 31 |
|            | (A) cancelled, or  | 32 |
|            | (B) surrendered, or  | 33 |
|            | (C) suspended, or  | 34 |
|            | (D) subject to a specified condition, or   | 35 |
|            | (vi) a person was an authorised officer, or  | 36 |
|            | (vii) a notice required to be given to or by the Secretary was given, or   | 37 |
|            | (viii) information or another matter was included on a register, or  | 38 |
|            | (b) another matter prescribed by the regulations.  | 39 |
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| <b>200 Regulations</b>  | 1  |
| (1) The Governor may make regulations about the following matters—  | 2  |
| (a) a matter that is required or permitted by this Act to be prescribed,  | 3  |
| (b) a matter that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.  | 4  |
| (2) Without limiting subsection (1), the regulations may make provision about the following—  | 6  |
| (a) the registration of persons to carry out registered work, including variations to a registration,   | 8  |
| (b) the carrying out of registered work,  | 9  |
| (c) continuing professional development,  | 10 |
| (d) additional standards or other requirements, including the completion of specified courses of training for—  | 11 |
| (i) persons applying for registration, and  | 12 |
| (ii) holders of registration,   | 13 |
| (e) staged building work,   | 14 |
| (f) building manuals,   | 15 |
| (g) advertisements and the display of signs relating to registered work,  | 16 |
| (h) agreements or arrangements relating to registered work,   | 17 |
| (i) fire and building safety, including prescribing functions to be exercised only by a holder of a registration,   | 18 |
| (j) the keeping of records and the provision of information to the Secretary by persons carrying out registered work under this Act,  | 19 |
| (k) the qualifications, skills, knowledge and experience required for a registration, including the approval of—  | 20 |
| (i) persons to assess the qualifications, skills, knowledge and experience of applicants for registration, and  | 21 |
| (ii) training, including approving persons to conduct the training and to assess persons undergoing the training,   | 22 |
| (l) forms, records, notices and returns,  | 23 |
| (m) appeals and show cause proceedings,   | 24 |
| (n) the keeping of trust accounts by registration holders and former registration holders,  | 25 |
| (o) the conduct of examinations,  | 26 |
| (p) matters required to be taken into account by the Secretary in deciding whether special circumstances exist,   | 27 |
| (q) fees payable under this Act or the regulations,   | 28 |
| (r) the waiver, reduction, postponement or refund by the Secretary of fees payable or paid under this Act or the regulations,   | 29 |
| (s) the keeping of public registers,  | 30 |
| (t) exemptions from requirements of this Act or the regulations, whether or not subject to conditions.  | 31 |
| (3) Without limiting subsection (2)(k), the regulations may authorise the Secretary to approve persons and training under that paragraph by order published in the Gazette. | 32 |
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| (4)        | A regulation may apply, adopt or incorporate a publication as in force at a particular time or as in force from time to time.           | 1<br>2   |
| (5)        | A regulation may create an offence punishable by a penalty not exceeding—   | 3        |
| (a)        | for an individual—400 penalty units, or   | 4        |
| (b)        | otherwise—800 penalty units.  | 5        |
| <b>201</b> | <b>Review of Act</b>  | 6        |
| (1)        | The Minister must review this Act to decide whether—  | 7        |
| (a)        | the policy objectives of the Act remain valid, and  | 8        |
| (b)        | the terms of the Act remain appropriate for achieving the objectives.   | 9        |
| (2)        | The review must be undertaken as soon as possible after the period of 5 years from the commencement of this section.                    | 10<br>11 |
| (3)        | A report on the outcome of the review must be tabled in each House of Parliament within 2 years after the end of the period of 5 years. | 12<br>13 |
| <b>202</b> | <b>Repeals</b>  | 14       |
|            | The following are repealed—   | 15       |
| (a)        | the <i>Building and Development Certifiers Act 2018</i> ,   | 16       |
| (b)        | the <i>Building and Development Certifiers Regulation 2020</i> ,  | 17       |
| (c)        | the <i>Design and Building Practitioners Act 2020</i> ,   | 18       |
| (d)        | the <i>Design and Building Practitioners Regulation 2021</i> ,  | 19       |
| (e)        | the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> .                          | 20<br>21 |

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| <b>Schedule 1</b> | <b>Savings, transitional and other provisions</b>  | 1        |
| <b>Part 1</b>     | <b>General</b>   | 2        |
| <b>1</b>          | <b>Regulations</b>   | 3        |
| (1)               | The regulations may contain provisions of a savings or transitional nature consequent on the commencement of—                                  | 4<br>5   |
| (a)               | a provision of this Act, or  | 6        |
| (b)               | a provision amending this Act.   | 7        |
| (2)               | A savings or transitional provision consequent on the commencement of a provision must not be made more than 2 years after the commencement.   | 8<br>9   |
| (3)               | A savings or transitional provision made consequent on the commencement of a provision is repealed 2 years after the commencement.             | 10<br>11 |
| (4)               | A savings or transitional provision made consequent on the commencement of a provision may take effect before the commencement but not before— | 12<br>13 |
| (a)               | for a provision of this Act—the date of assent to this Act, or   | 14       |
| (b)               | for a provision amending this Act—the date of assent to the amending Act.  | 15       |
| (5)               | A savings or transitional provision taking effect before publication on the NSW legislation website does not—                                  | 16<br>17 |
| (a)               | affect the rights of a person existing before the publication in a way prejudicial to the person, or   | 18<br>19 |
| (b)               | impose liabilities on a person for anything done or omitted to be done before that publication.  | 20<br>21 |
| (6)               | In this section—   | 22       |
|                   | <i>person</i> does not include the State or an authority of the State.   | 23       |

## Schedule 2 Dictionary

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| <b>change of building use</b> means a change of the use of a building—  | 1        |
| (a) from a use as a class of building recognised by the <i>National Construction Code</i> , and   | 2        |
| (b) to a use as a different class of building recognised by the <i>National Construction Code</i> .   | 3        |
| <b>class</b> , of a building, means the class of the building under the <i>National Construction Code</i> .   | 4        |
| <b>class</b> , of registration, means a class of registration prescribed under section 84(3).   | 5        |
| <b>close associate</b> —see section 11.   | 6        |
| <b>community land association</b> means an association within the meaning of the <i>Community Land Management Act 2021</i> .  | 7<br>8   |
| <b>completion approval</b> means an approval required to be sought under Part 3, Division 2, Subdivision 2 when building work or a change of building use has been completed. | 9<br>10  |
| <b>compliance declaration</b> means the following—  | 11       |
| (a) a design compliance declaration,  | 12       |
| (b) a building work compliance declaration,   | 13       |
| (c) a performance solution report compliance declaration.   | 14       |
| <b>complying development</b> has the same meaning as in the <i>Environmental Planning and Assessment Act 1979</i> .   | 15<br>16 |
| <b>complying development certificate</b> has the same meaning as in the <i>Environmental Planning and Assessment Act 1979</i> .   | 17<br>18 |
| <b>conflict of interest</b> , for Part 3, Division 3—see section 55.  | 19       |
| <b>construction work</b> , for Part 8—see section 177.  | 20       |
| <b>corporation</b> has the same meaning as in the Corporations Act.   | 21       |
| <b>Corporations Act</b> means the <i>Corporations Act 2001</i> of the Commonwealth.   | 22       |
| <b>Crown building work</b> —see section 43.   | 23       |
| <b>Department</b> means the department in which this Act is administered.   | 24       |
| <b>design</b> includes a plan or specification and a report detailing a design.   | 25       |
| <b>design compliance declaration</b> , for a regulated design, means a declaration that—  | 26       |
| (a) is made by a registration holder—   | 27       |
| (i) who prepared the regulated design, and  | 28       |
| (ii) whose registration authorises the holder to make the declaration, and  | 29       |
| (b) states the design complies with—  | 30       |
| (i) the requirements of this Act and the regulations, and   | 31       |
| (ii) the <i>Building Code of Australia</i> , and  | 32       |
| (c) includes anything else required by the regulations.   | 33       |
| <b>development consent</b> has the same meaning as in the <i>Environmental Planning and Assessment Act 1979</i> , but does not include a complying development certificate.   | 34<br>35 |
| <b>disciplinary action</b> , for Part 5—see section 127.  | 36       |
| <b>erection</b> , of a building, includes the following—  | 37       |
| (a) rebuilding the building,  | 38       |
| (b) altering the building,  | 39       |
| (c) enlarging or extending the building.  | 40       |
| <b>exempt development</b> has the same meaning as in the <i>Environmental Planning and Assessment Act 1979</i> .  | 41<br>42 |
| <b>exercise</b> , a function, includes perform a duty.  | 43       |
| <b>Fire Commissioner</b> means the Commissioner of Fire and Rescue NSW.   | 44       |
| <b>fire safety certificate</b> , for a building, means a certificate—   | 45       |

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| (a) | in the approved form, and  | 1  |
| (b) | issued by an approval authority, and   | 2  |
| (c) | certifying that each fire safety measure specified in the current fire safety schedule for the building—   | 3  |
|     | (i) has been assessed by a properly qualified person, and  | 4  |
|     | (ii) is capable of performing to at least the standard required by the current fire safety schedule, and   | 5  |
| (d) | containing other matters prescribed by the regulations.  | 6  |
|     | <b>fire safety measure</b> , for a building, means a measure, including an item of equipment, form of construction or fire safety strategy, that is, or is proposed to be, implemented for the building to ensure the safety of persons using the building if there is a fire. | 7  |
|     | <b>fire safety requirement</b> means a requirement of the <i>Building Code of Australia</i> relating to—   | 8  |
| (a) | a fire safety system within the meaning of the <i>Building Code of Australia</i> , or  | 9  |
| (b) | the safety of persons if there is a fire, or   | 10 |
| (c) | the prevention, detection or suppression of fire.  | 11 |
|     | <b>fire safety schedule</b> , for a building, means a document—  | 12 |
| (a) | in the approved form, and  | 13 |
| (b) | containing the matters relating to fire safety prescribed by the regulations, and  | 14 |
| (c) | that has not been superseded by a later fire safety schedule for the building.   | 15 |
|     | <b>function</b> includes a power, authority or duty.   | 16 |
|     | <b>grant</b> , a registration, includes grant a renewal or restoration of a registration.  | 17 |
|     | <b>insolvent</b> means—  | 18 |
| (a) | for an individual—the individual is personally insolvent, or   | 19 |
| (b) | for a corporation—the corporation is a Chapter 5 body corporate within the meaning of the Corporations Act, or   | 20 |
| (c) | for other bodies corporate—the body corporate—   | 21 |
|     | (i) under the <i>Bankruptcy Act 1966</i> of the Commonwealth—  | 22 |
|     | (A) is bankrupt, or  | 23 |
|     | (B) is a party to a debt agreement as a debtor, or   | 24 |
|     | (C) is a party to an insolvency agreement as a debtor and the obligations created by the agreement remain undischarged, or   | 25 |
|     | (D) authorises a controlling trustee to control the individual’s property, whether or not the individual has entered into a personal insolvency agreement as a debtor, or  | 26 |
|     | (ii) has a status under a law of a foreign country substantially similar to a status referred to in subparagraph (i), or   | 27 |
|     | (iii) otherwise applies to take the benefit of a law for the relief of bankrupt or insolvent debtors.  | 28 |
|     | <b>local council</b> —   | 29 |
| (a) | for Part 3—see section 14, or  | 30 |
| (b) | otherwise—means, for a local government area, the council for the area.  | 31 |
|     | <b>local government area</b> —   | 32 |
| (a) | for Part 3—see section 14, or  | 33 |
| (b) | otherwise—means an area under the <i>Local Government Act 1993</i> .   | 34 |
|     | <b>manufacturer</b> —  | 35 |

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| (a) for Part 3—see section 47, or  | 1  |
| (b) for Part 8—see section 177.  | 2  |
| <b>motor vehicle</b> , for Part 6—see section 139.   | 3  |
| <b>moveable dwelling</b> has the same meaning as in the <i>Local Government Act 1993</i> .   | 4  |
| <b>National Construction Code</b> —see section 7.  | 5  |
| <b>NSW planning portal</b> has the same meaning as in the <i>Environmental Planning and Assessment Act 1979</i> .  | 6  |
| <b>owner</b> —   | 7  |
| (a) for Part 8—see section 177, or   | 8  |
| (b) otherwise—has the same meaning as in the <i>Local Government Act 1993</i> and includes a person prescribed by the regulations.                                     | 9  |
| <b>owners corporation</b> has the same meaning as in the <i>Strata Schemes Management Act 2015</i> .   | 10 |
| <b>pecuniary interest</b> , for Part 3, Division 3—see section 56.   | 11 |
| <b>performance solution</b> has the same meaning as in the <i>National Construction Code</i> .   | 12 |
| <b>performance solution report compliance declaration</b> —see section 19(3)(b).   | 13 |
| <b>Planning Minister</b> means the Minister administering the <i>Environmental Planning and Assessment Act 1979</i> .  | 14 |
| <b>Planning Secretary</b> has the same meaning as in the <i>Environmental Planning and Assessment Act 1979</i> .   | 15 |
| <b>Plumbing Code of Australia</b> —see section 7.  | 16 |
| <b>post-commencement authorisation</b> —see section 27.  | 17 |
| <b>prefabricated building</b> —see section 12.   | 18 |
| <b>prefabricated building declaration</b> —see section 48(1).  | 19 |
| <b>prefabricated building instructions</b> —see section 49(1).   | 20 |
| <b>premises</b> , for Part 6—see section 139.  | 21 |
| <b>prepare</b> —   | 22 |
| (a) for Part 3—see section 14, or  | 23 |
| (b) for Part 8—see section 177.  | 24 |
| <b>prescribed building</b> , for a building element, means a building prescribed by the regulations.   | 25 |
| <b>principal contractor</b> , for Part 3, Division 6—see section 66.   | 26 |
| <b>publicly available</b> means freely available on the internet for inspection by the public.   | 27 |
| <b>registered body corporate</b> means a body corporate that is a registration holder.   | 28 |
| <b>registered individual</b> means an individual who is a registration holder.   | 29 |
| <b>registered work</b> —see section 13.  | 30 |
| <b>registration</b> means a registration granted under this Act and in force.  | 31 |
| <b>registration holder</b> means the holder of a registration.   | 32 |
| <b>registration register</b> —see section 110(1).  | 33 |
| <b>regulated design</b> means a design—  | 34 |
| (a) in the approved form, and  | 35 |
| (b) containing sufficient detail for the person who carries out the building work to carry the work out in compliance with the <i>Building Code of Australia</i> , and | 36 |
| (c) containing—  | 37 |
| (i) the matters prescribed by the regulations, and   | 38 |
| (ii) other matters specified by the Secretary in an order published in the Gazette, and  | 39 |
| (d) certified by a design compliance declaration.  | 40 |
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| <b>relevant authorisation</b> means a licence, accreditation, registration or other authorisation or qualification that—                                 | 1  |
|  | 2  |
| (a) is issued or conferred under the laws of another jurisdiction, and   | 3  |
| (b) the Secretary considers authorises the holder to carry out work that is similar to registered work.  | 4  |
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| <b>relevant legislation</b> , for Part 5—see section 127.  | 6  |
| <b>relevant offence</b> , for Part 4—see section 83.   | 7  |
| <b>Secretary</b> means the Secretary of the Department.  | 8  |
| <b>show cause notice</b> , for Part 5—see section 127.   | 9  |
| <b>staged building work</b> means building work carried out in stages where an application for an approval may relate to only part of the building work. | 10 |
|  | 11 |
| <b>staging schedule</b> —see section 20(6).  | 12 |
| <b>strata scheme</b> has the same meaning as in the <i>Strata Schemes Development Act 2015</i> .   | 13 |
| <b>supplier</b> , for Part 8—see section 177.  | 14 |
| <b>taken to do building work</b> , for Part 3, Division 6—see section 66.  | 15 |
| <b>temporary structure</b> has the same meaning as in the <i>Environmental Planning and Assessment Act 1979</i> .  | 16 |
|  | 17 |
| <b>Tribunal</b> means the Civil and Administrative Tribunal.   | 18 |
| <b>undertaking</b> , for Part 7, Division 3—see section 169.   | 19 |
| <b>Western Division</b> has the same meaning as in the <i>Crown Land Management Act 2016</i> .   | 20 |

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| <b>Schedule 3</b>                  | <b>Amendment of Environmental Planning and Assessment Act 1979 No 203</b>  | 1  |
|                                    |  | 2  |
| <b>[1] Section 1.4 Definitions</b> |  | 3  |
|                                    | Omit “manufactured home,” from section 4(1), definition of <i>building</i> .   | 4  |
| <b>[2] Section 1.4(1)</b>          |  | 5  |
|                                    | Omit the definitions of <i>Building Code of Australia</i> , <i>building work</i> , <i>certifier</i> , <i>change of building use</i> , <i>registered certifier</i> , <i>Registration Secretary</i> , <i>subdivision of land</i> and <i>subdivision work</i> . | 6  |
|                                    | Insert in alphabetical order—  | 9  |
|                                    | <i>approval authority</i> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .  | 10 |
|                                    | <i>Building Code of Australia</i> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .  | 11 |
|                                    | <i>building work</i> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .   | 12 |
|                                    | <i>certifier</i> means—  | 13 |
|                                    | (a) a council, or  | 14 |
|                                    | (b) a registered certifier, or   | 15 |
|                                    | (c) for development for which the Minister granted development consent—the council, a registered certifier or the Minister.  | 16 |
|                                    | change of building use has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .   | 17 |
|                                    | class, of a building, has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .  | 18 |
|                                    | <i>compliance certificate</i> , for Part 6—see section 6.1.  | 19 |
|                                    | <i>Crown building work</i> , for Part 6—see section 6.1.   | 20 |
|                                    | <i>principal certifier</i> , for Part 6—see section 6.1.   | 21 |
|                                    | <i>registered certifier</i> means a person registered under the <i>Building (Approvals and Practitioners) Act 2026</i> , whose registration—   | 22 |
|                                    | (a) is in force, and   | 23 |
|                                    | (b) authorises the person—   | 24 |
|                                    | (i) to carry out work under this Act that is approvals work within the meaning of the <i>Building (Approvals and Practitioners) Act 2026</i> , and   | 25 |
|                                    | (ii) to carry out the work unsupervised.   | 26 |
|                                    | <i>subdivision</i> —see section 6.2.   | 27 |
|                                    | <i>subdivision certificate</i> , for Part 6—see section 6.1.   | 28 |
|                                    | <i>subdivision work</i> , for Part 6—see section 6.1.  | 29 |
|                                    | <i>subdivision works certificate</i> , for Part 6—see section 6.1.   | 30 |
| <b>[3] Section 1.4(1)</b>          |  | 31 |
|                                    | Omit the following—  | 32 |
|                                    | <i>construction certificate</i> , <i>subdivision works certificate</i> , <i>occupation certificate</i> , <i>subdivision certificate</i> , <i>compliance certificate</i> —see Part 6.   | 33 |
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| <b>[4] Section 1.4(1), definition of “premises”, paragraph (b)</b>  | 1  |
| Omit “manufactured home,”.  | 2  |
| <b>[5] Section 1.6 Exempt development</b>   | 3  |
| Omit section 1.6(1)(d).   | 4  |
| Insert instead—   | 5  |
| (d) a certificate under Part 6, or  | 6  |
| (e) a building approval or completion approval under the <i>Building (Approvals and Practitioners) Act 2026</i> , Part 3, except as otherwise provided by that Act.   | 7  |
| <b>Note—</b> See that Act, section 15(1)(b).  | 8  |
|   | 9  |
|   | 10 |
| <b>[6] Section 4.15 Evaluation</b>  | 11 |
| Omit section 4.15(4) and (5).   | 12 |
| <b>[7] Section 4.16 Determination</b>   | 13 |
| Omit section 4.16(12).  | 14 |
| <b>[8] Section 4.16A</b>  | 15 |
| Insert after section 4.16—  | 16 |
| <b>4.16A Effect of issuing building approval</b>  | 17 |
| (1) A building approval issued under the <i>Building (Approvals and Practitioners) Act 2026</i> is taken to form part of the development consent to which the building approval relates, except for the purposes of section 4.55. | 18 |
|   | 19 |
|   | 20 |
| (2) A reference in this section to a building approval includes—  | 21 |
| (a) plans and specifications issued with the building approval, and   | 22 |
| (b) variations to the building approval, including the plans and specifications, made in accordance with the <i>Building (Approvals and Practitioners) Act 2026</i> .   | 23 |
|   | 24 |
|   | 25 |
| <b>[9] Section 4.19</b>   | 26 |
| Omit the section.   | 27 |
| Insert instead—   | 28 |
| <b>4.19 Consent for erection of building authorises use of building</b>   | 29 |
| (1) A development consent that authorises the erection of a building also authorises the use of the building for a purpose once erected if—   | 30 |
|   | 31 |
| (a) the use of the building for the purpose is authorised by the development consent, or  | 32 |
|   | 33 |
| (b) the development consent does not prohibit the use of the building for the purpose and the purpose was specified in the application for development consent.   | 34 |
|   | 35 |
|   | 36 |
| (2) This section does not authorise the occupation of a building if a completion approval is required under the <i>Building (Approvals and Practitioners) Act 2026</i> , Part 3.  | 37 |
|   | 38 |
|   | 39 |

|  |                   |
|--|-------------------|
| <b>[10] Section 4.26 Carrying out of complying development</b>   | 1                 |
| Insert after section 4.26(1)(b)(i)—  | 2                 |
| (ia) the requirements of the <i>Building (Approvals and Practitioners) Act 2026</i> , Part 3, and  | 3<br>4            |
| <b>[11] Section 4.26(1A)</b>   | 5                 |
| Insert after section 4.26(1)—  | 6                 |
| (1A) If the complying development relates to building work for which standards are specified under the <i>Building (Approvals and Practitioners) Act 2026</i> , the complying development certificate must set out the standards of building work that apply to the development. | 7<br>8<br>9<br>10 |
| <b>[12] Section 4.26A</b>  | 11                |
| Insert after section 4.26—   | 12                |
| <b>4.26A Applications—building work or change of building use</b>  | 13                |
| (1) This section applies to an application for a complying development certificate for complying development involving—  | 14<br>15          |
| (a) building work, or  | 16                |
| (b) a change of building use that does not involve building work.  | 17                |
| (2) The application must also—   | 18                |
| (a) if an approval authority is already appointed for the building work or change of building use—specify that the approval authority is already appointed, or   | 19<br>20<br>21    |
| (b) otherwise—nominate an approval authority.  | 22                |
| (3) The nominated approval authority is taken to be appointed for the building work if the approval authority accepts the application.   | 23<br>24          |
| (4) A local council that is nominated cannot refuse to accept the application.   | 25                |
| <b>[13] Section 4.27 What is a “complying development certificate”?</b>  | 26                |
| Omit section 4.27(1).  | 27                |
| Insert instead—  | 28                |
| (1) A complying development certificate is a certificate that states—  | 29                |
| (a) that specified development is complying development, and   | 30                |
| (b) that if the development is carried out as specified in the certificate, the development will comply with all of the following—   | 31<br>32          |
| (i) the development standards applicable to the development,   | 33                |
| (ii) other requirements prescribed by the regulations, and   | 34                |
| (c) for development involving the erection of a building—the class of the building.  | 35<br>36          |
| (1A) A complying development certificate must also include the matters required under the <i>Building (Approvals and Practitioners) Act 2026</i> , section 53.   | 37<br>38          |
| <b>[14] Section 4.27(3)</b>  | 39                |
| Omit “section 6.9”.  | 40                |
| Insert instead “the <i>Building (Approvals and Practitioners) Act 2026</i> ”.  | 41                |

|  |    |
|--|----|
| <b>[15] Section 4.27(3), note</b>  | 1  |
| Omit the note.   | 2  |
| <b>[16] Section 4.28 Process for obtaining complying development certificates</b>  | 3  |
| Omit “conditions.” from section 4.28(3)(c).  | 4  |
| Insert instead—  | 5  |
| conditions, and  | 6  |
| (d) for development involving building work—whether the requirements of the <i>Building (Approvals and Practitioners) Act 2026</i> , section 53 are satisfied. | 7  |
|  | 8  |
|  | 9  |
| <b>[17] Section 4.28(4)</b>  | 10 |
| Omit section 4.28(4) and (5).  | 11 |
| Insert instead—  | 12 |
| (4) A council or registered certifier must refuse to issue a complying development certificate for proposed development if—                                    | 13 |
|  | 14 |
| (a) the proposed development involves building work, and   | 15 |
| (b) the requirements of the <i>Building (Approvals and Practitioners) Act 2026</i> , section 53 are not satisfied.   | 16 |
|  | 17 |
| <b>[18] Section 4.28(7)</b>  | 18 |
| Omit the subsection.   | 19 |
| Insert instead—  | 20 |
| (7) The council or registered certifier must not refuse to issue a complying development certificate if—   | 21 |
|  | 22 |
| (a) the proposed development complies with—  | 23 |
| (i) the development standards applicable to the development, and   | 24 |
| (ii) other requirements prescribed by the regulations relating to the issue of a complying development certificate, and  | 25 |
|  | 26 |
| (b) for development involving building work—the requirements of the <i>Building (Approvals and Practitioners) Act 2026</i> , section 53 are satisfied.         | 27 |
|  | 28 |
|  | 29 |
| <b>[19] Section 4.29 Duration of complying development certificate</b>   | 30 |
| Omit “date endorsed on the certificate” wherever occurring in section 4.29(1)–(3).   | 31 |
| Insert instead “date on which the certificate is issued”.  | 32 |
| <b>[20] Section 4.33A</b>  | 33 |
| Insert after section 4.33—   | 34 |
| <b>4.33A Manufactured homes taken to be buildings</b>  | 35 |
| (1) The Crown is permitted to carry out development for the purposes of manufactured homes on land on which residential accommodation is permitted.            | 36 |
|  | 37 |
|  | 38 |
| (2) A manufactured home is taken to be a building for the purposes of development carried out by the Crown.  | 39 |
|  | 40 |

|             |   |    |
|-------------|---|----|
| <b>[21]</b> | <b>Section 4.33A Manufactured homes taken to be buildings, as inserted by item [20]</b>   | 1  |
|             | Omit the section.   | 2  |
| <b>[22]</b> | <b>Section 4.64 Regulations—Part 4</b>  | 3  |
|             | Omit section 4.64(4).   | 4  |
| <b>[23]</b> | <b>Section 5.22 Application of other provisions of Act</b>  | 5  |
|             | Omit the note.  | 6  |
| <b>[24]</b> | <b>Part 6, heading</b>  | 7  |
|             | Omit “ <b>Building and subdivision certification</b> ”.   | 8  |
|             | Insert instead “ <b>Subdivision certificates and building information certificates</b> ”.   | 9  |
| <b>[25]</b> | <b>Section 6.1</b>  | 10 |
|             | Omit the section.   | 11 |
|             | Insert instead—   | 12 |
|             | <b>6.1 Definitions</b>  | 13 |
|             | In this part—   | 14 |
|             | <i>compliance certificate</i> —see section 6.4(4).  | 15 |
|             | <i>Crown building work</i> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .  | 16 |
|             | <i>principal certifier</i> , for subdivision work, means the certifier appointed as the principal certifier for the subdivision work under section 6.12(1).   | 17 |
|             | <i>subdivision certificate</i> —see section 6.4(2).   | 18 |
|             | <i>subdivision work</i> means any physical activity authorised to be carried out in connection with a subdivision under the conditions of—  | 19 |
|             | (a) a development consent for the subdivision of land, or   | 20 |
|             | (b) an approval for State significant infrastructure if—  | 21 |
|             | (i) the approval provides for the subdivision of land, and  | 22 |
|             | (ii) the regulations under Part 5 apply this part to the subdivision work under the approval.   | 23 |
|             | <i>subdivision works certificate</i> —see section 6.4(1).   | 24 |
| <b>[26]</b> | <b>Sections 6.3(1)(a) and (c) and 6.5(1) and (4)</b>  | 25 |
|             | Omit the provisions.  | 26 |
| <b>[27]</b> | <b>Section 6.4</b>  | 27 |
|             | Omit the section.   | 28 |
|             | Insert instead—   | 29 |
|             | <b>6.4 Kinds of certificates</b>  | 30 |
|             | (1) In this part, <i>subdivision works certificate</i> means a certificate that certifies that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the regulations. | 31 |
|             | (2) In this part, <i>subdivision certificate</i> means a certificate that authorises the registration of a plan of subdivision under the <i>Conveyancing Act 1919</i> , Part 23.  | 32 |

|             |   |         |
|-------------|---|---------|
| (3)         | A subdivision certificate is taken to be part of the development consent that authorised the carrying out of the subdivision. | 1<br>2  |
| (4)         | In this part, a <i>compliance certificate</i> means a certificate that certifies that—  | 3       |
| (a)         | completed subdivision work complies with—   | 4       |
| (i)         | particular plans and specifications, or   | 5       |
| (ii)        | particular standards or requirements, or  | 6       |
| (b)         | a condition in relation to subdivision work and attached to a planning approval has been complied with, or                    | 7<br>8  |
| (c)         | an aspect of development, including the design of the development, complies with particular standards or requirements.        | 9<br>10 |
| <b>[28]</b> | <b>Division 6.3 Building work and certificates related to building</b>  | 11      |
|             | Omit the division.  | 12      |
| <b>[29]</b> | <b>Section 6.12 Requirements before subdivision work commences</b>  | 13      |
|             | Omit “Registration Secretary” wherever occurring in section 6.12(4A)(a) and (g).  | 14      |
|             | Insert instead “Secretary”.   | 15      |
| <b>[30]</b> | <b>Section 6.12(5)</b>  | 16      |
|             | Omit the subsection.  | 17      |
|             | Insert instead—   | 18      |
| (5)         | This section does not apply to Crown building work.   | 19      |
| <b>[31]</b> | <b>Section 6.13 Requirement for subdivision works certificate</b>   | 20      |
|             | Omit section 6.13(2)(b).  | 21      |
|             | Insert instead—   | 22      |
| (b)         | Crown building work.  | 23      |
| <b>[32]</b> | <b>Section 6.16 Requirement for compliance certificate</b>  | 24      |
|             | Omit “building work or” wherever occurring in section 6.16(1) and (3).  | 25      |
| <b>[33]</b> | <b>Section 6.16(1), note</b>  | 26      |
|             | Omit the note.  | 27      |
| <b>[34]</b> | <b>Section 6.18 Restriction on issue of compliance certificates</b>   | 28      |
|             | Omit “building work or”.  | 29      |
| <b>[35]</b> | <b>Section 6.18</b>   | 30      |
|             | Omit “building or”.   | 31      |
| <b>[36]</b> | <b>Part 6, Division 6.6, heading</b>  | 32      |
|             | Omit “building or”.   | 33      |
| <b>[37]</b> | <b>Section 6.19 Definitions</b>   | 34      |
|             | Omit the definition of <i>building work</i> .   | 35      |

|             |   |    |
|-------------|---|----|
| <b>[38]</b> | <b>Section 6.20, heading</b>  | 1  |
|             | Omit “ <b>building or</b> ”.  | 2  |
| <b>[39]</b> | <b>Sections 6.20(1) and 6.21</b>  | 3  |
|             | Omit “defective building work or” wherever occurring.   | 4  |
| <b>[40]</b> | <b>Section 6.20(2)</b>  | 5  |
|             | Omit the subsection.  | 6  |
| <b>[41]</b> | <b>Section 6.20(4)</b>  | 7  |
|             | Omit “or the <i>Home Building Act 1989</i> ”.   | 8  |
| <b>[42]</b> | <b>Section 6.25 Issue, nature and effect of building information certificate</b>  | 9  |
|             | Omit “this Act or the <i>Local Government Act 1993</i> ” wherever occurring in section 6.25(1)(a), (3)(a) and (4)(a).                                       | 10 |
|             | Insert instead “a relevant Act”.  | 11 |
| <b>[43]</b> | <b>Section 6.25(7)</b>  | 12 |
|             | Insert after section 6.25(6)—   | 13 |
|             | (7) In this section—  | 14 |
|             | <i>relevant Act</i> means the following—  | 15 |
|             | (a) this Act,   | 16 |
|             | (b) the <i>Local Government Act 1993</i> ,  | 17 |
|             | (c) the <i>Building (Approvals and Practitioners) Act 2026</i> .  | 18 |
| <b>[44]</b> | <b>Section 6.27 Owners building manual</b>  | 19 |
|             | Omit the section.   | 20 |
| <b>[45]</b> | <b>Section 6.28 Crown subdivision, building, demolition and incidental work</b>   | 21 |
|             | Insert after section 6.28(4)—   | 22 |
|             | (4A) For this section and section 6.1, definition of <i>Crown building work</i> , a manufactured home is taken to be a building.                            | 23 |
| <b>[46]</b> | <b>Section 6.28, as amended by item [45]</b>  | 24 |
|             | Omit the section.   | 25 |
|             | Insert instead—   | 26 |
| <b>6.28</b> | <b>Crown subdivision work</b>   | 27 |
|             | (1) A reference in this part to a certifier in relation to subdivision work carried out by the Crown includes a reference to a person acting for the Crown. | 28 |
|             | (2) The application of this section is subject to the regulations.  | 29 |
| <b>[47]</b> | <b>Section 6.31 Directions by principal certifiers</b>  | 30 |
|             | Insert after section 6.31(2)—   | 31 |
|             | (2A) This section does not apply to building work.  | 32 |

|  |    |
|--|----|
| <b>[48] Section 6.32</b>   | 1  |
| Omit the section.  | 2  |
| Insert instead—  | 3  |
| <b>6.32 Validity of certificates</b>   | 4  |
| (1) The Court may, by order under section 9.46(1), declare that a certificate under this part is invalid if—   | 5  |
| (a) proceedings for the order are brought within 3 months after the issue of the certificate, and  | 6  |
| (b) the plans and specifications or standards of subdivision work specified in the certificate are not consistent with the development consent for the subdivision work. | 7  |
| (2) This section does not limit section 9.46(1).   | 8  |
| <b>[49] Section 6.33 Regulations: Part 6</b>   | 9  |
| Omit “building work or” wherever occurring in section 6.33(1).   | 10 |
| <b>[50] Section 6.33(1)(f)</b>   | 11 |
| Omit the paragraph.  | 12 |
| <b>[51] Section 6.33(1)(g) and (l)</b>   | 13 |
| Omit “building work and” wherever occurring.   | 14 |
| <b>[52] Section 6.34 Regulations: smoke alarms in buildings providing sleeping accommodation</b>   | 15 |
| Omit “manufactured home,” from section 6.34(3), definition of <i>building</i> .  | 16 |
| <b>[53] Section 8.16 Appeals against failure or refusal to issue certificate under Part 6</b>  | 17 |
| Omit “construction certificate, occupation certificate,” from section 8.16(1)(a).  | 18 |
| <b>[54] Section 8.17 Deemed refusal for purposes of appeal</b>   | 19 |
| Omit “construction certificate, occupation certificate,” from section 8.17(2).   | 20 |
| <b>[55] Section 9.3 Action that may be taken against council following investigation</b>   | 21 |
| Omit the section.  | 22 |
| <b>[56] Section 9.33 Accredited certifiers</b>   | 23 |
| Omit the section.  | 24 |
| <b>[57] Section 9.34 Orders that may be given</b>  | 25 |
| Insert after section 9.34(3)(c)—   | 26 |
| (c1) a building approval or completion approval under the <i>Building (Approvals and Practitioners) Act 2026</i> ,   | 27 |
|  | 28 |
| <b>[58] Section 10.13 Regulations</b>  | 29 |
| Omit section 10.13(1)(d).  | 30 |

|  |    |
|--|----|
| <b>[59] Schedule 3 NSW planning portal and online delivery of planning services and information</b>  | 1  |
| Insert “or another Act” after “this Act” in clause 1(2)(a).  | 2  |
|  | 3  |
| <b>[60] Schedule 5 Development control orders</b>  | 4  |
| Insert “, the <i>Building (Approvals and Practitioners) Act 2026</i> ” before “or the <i>Local Government Act 1993</i> ” in Part 1, item 1, Column 2.  | 5  |
|  | 6  |
| <b>[61] Schedule 5, Part 1, item 2, Columns 1 and 2</b>  | 7  |
| Insert “or the <i>Building (Approvals and Practitioners) Act 2026</i> ” after “this Act” wherever occurring.   | 8  |
|  | 9  |
| <b>[62] Schedule 5, Part 1, item 3, Column 2</b>   | 10 |
| Omit “in contravention of this Act”.   | 11 |
| Insert instead “in contravention of this Act or the <i>Building (Approvals and Practitioners) Act 2026</i> ”.  | 12 |
|  | 13 |
| <b>[63] Schedule 5, clause 9(2) and (3)</b>  | 14 |
| Omit the subclauses.   | 15 |
| <b>[64] Schedule 5, clauses 9A and 9B</b>  | 16 |
| Insert after clause 9—   | 17 |
| <b>9A Notice of development control order for subdivision work</b>   | 18 |
| (1) A council must give a principal certifier for subdivision work notice of the council’s intention to give a development control order if—   | 19 |
|  | 20 |
| (a) the council proposes to give the development control order in relation to the subdivision work, and  | 21 |
|  | 22 |
| (b) the council is not the certifier for the subdivision work.   | 23 |
| (2) The Minister or Planning Secretary must give a principal certifier for subdivision work notice of the Minister’s or Planning Secretary’s intention to give a development control order if— | 24 |
|  | 25 |
| (a) the Minister or Planning Secretary proposes to give the development control order in relation to the subdivision work, and   | 26 |
|  | 27 |
| (b) a council is not the principal certifier for the subdivision work.   | 28 |
|  | 29 |
| <b>9B Notice of development control order for building work</b>  | 30 |
| (1) A council must give an approval authority for building work notice of the council’s intention to give a development control order if—  | 31 |
|  | 32 |
| (a) the council proposes to give the development control order in relation to the building work, and   | 33 |
|  | 34 |
| (b) the council is not the approval authority for the building work.   | 35 |
| (2) The Minister or Planning Secretary must give an approval authority for building work notice of the Minister’s or Planning Secretary’s intention to give a development control order if—    | 36 |
|  | 37 |
| (a) the Minister or Planning Secretary proposes to give the development control order in relation to the building work, and  | 38 |
|  | 39 |
| (b) a council is not the approval authority for the work.  | 40 |
|  | 41 |

**[65] Schedule 5, clause 29**

1

Insert “or the *Building (Approvals and Practitioners) Act 2026*” after “this Act”.

2

## Schedule 4 Amendment of other Acts—manufactured homes 1

### 4.1 Conveyancing Act 1919 No 6 2

#### Section 23H 3

Omit the section. 4

Insert instead— 5

#### 23H Meaning of “plan of subdivision for lease purposes” 6

(1) In this division, *plan of subdivision for lease purposes* means a plan of subdivision if— 7

(a) the subdivision is of land within a caravan park or manufactured home estate, and 8

(b) the plan is marked, in accordance with the regulations, to indicate that development consent to the subdivision— 11

(i) has been granted under the *Environmental Planning and Assessment Act 1979*, and 13

(ii) is subject to the condition that the subdivision is a subdivision for lease purposes. 14

(2) In this section— 17

*caravan park* means land on which caravans, or caravans and other moveable dwellings, are installed or placed. 18

*manufactured home*— 19

(a) means a self-contained dwelling that— 20

(i) includes at least one kitchen, bathroom, bedroom and living area, and 21

(ii) includes toilet and laundry facilities, and 22

(iii) comprises one or more major sections, and 23

(iv) is not a motor vehicle, trailer or other registrable vehicle within the meaning of the *Road Transport Act 2013*, and 24

(b) includes any associated structures that form part of the dwelling. 25

*manufactured home estate* means land on which manufactured homes are, or are to be, erected. 26

*moveable dwelling* has the same meaning as in the *Local Government Act 1993*. 27

*plan of subdivision* has the same meaning as in Part 23, Division 3. 28

### 4.2 Duties Act 1997 No 123 34

#### [1] Section 65 Exemptions from duty 35

Omit section 65(8), definitions of *manufactured home* and *manufactured home estate*. 36

Insert in alphabetical order— 37

*manufactured home estate* means land on which manufactured homes are, or are to be, erected. 38

#### [2] Dictionary 39

Omit “within the meaning of the *Local Government Act 1993*” from the definition of *lease of a moveable dwelling site*, paragraph (a). 40

|   |          |
|---|----------|
| <b>[3] Dictionary</b>   | 1        |
| Insert in alphabetical order—   | 2        |
| <b><i>manufactured home</i></b> —   | 3        |
| (a) means a self-contained dwelling that—   | 4        |
| (i) includes at least one kitchen, bathroom, bedroom and living area,<br>and  | 5<br>6   |
| (ii) includes toilet and laundry facilities, and  | 7        |
| (iii) comprises one or more major sections, and   | 8        |
| (iv) is not a motor vehicle, trailer or other registrable vehicle within<br>the meaning of the <i>Road Transport Act 2013</i> , and | 9<br>10  |
| (b) includes any associated structures that form part of the dwelling.  | 11       |
| <b><i>moveable dwelling</i></b> has the same meaning as in the <i>Local Government Act 1993</i> and includes a manufactured home.   | 12<br>13 |
| <br>  |          |
| <b>4.3 First Home Owner Grant and Shared Equity Act 2000 No 21</b>  | 14       |
| <b>Section 6D Purchase of manufactured home</b>   | 15       |
| Omit section 6D(2), definition of <b><i>manufactured home</i></b> .   | 16       |
| Insert instead—   | 17       |
| <b><i>manufactured home</i></b> —   | 18       |
| (a) means a self-contained dwelling that—   | 19       |
| (i) includes at least one kitchen, bathroom, bedroom and living area,<br>and  | 20<br>21 |
| (ii) includes toilet and laundry facilities, and  | 22       |
| (iii) comprises one or more major sections, and   | 23       |
| (iv) is not a motor vehicle, trailer or other registrable vehicle within<br>the meaning of the <i>Road Transport Act 2013</i> , and | 24<br>25 |
| (b) includes any associated structures that form part of the dwelling.  | 26       |
| <br>  |          |
| <b>4.4 Local Government Act 1993 No 30</b>  | 27       |
| <b>[1] Section 68 What activities, generally, require the approval of the council?</b>  | 28       |
| Omit the Table, Part A.   | 29       |
| Insert instead—   | 30       |
| <b>Part A Moveable dwellings and associated structures</b>  | 31       |
| 1                      Install a moveable dwelling or associated structure on land  | 32       |
| <br>  |          |
| <b>[2] Section 68, Table, Part F, item 3</b>  | 33       |
| Omit the item.  | 34       |
| <br>  |          |
| <b>[3] Section 124 Orders</b>   | 35       |
| Omit “ground, caravan park or manufactured home estate” from the Table, item 5(a),<br>Column 1.                                     | 36<br>37 |
| Insert instead “ground or caravan park”.  | 38       |

|  |    |
|--|----|
| <b>[4] Section 124, Table, item 5(b), Column 1</b>   | 1  |
| Omit “or manufactured home”.   | 2  |
| <b>[5] Dictionary</b>  | 3  |
| Omit the definitions of <i>manufactured home</i> and <i>manufactured home estate</i> .                 | 4  |
| <b>[6] Dictionary, definition of “moveable dwelling”</b>   | 5  |
| Omit paragraph (b).  | 6  |
| <b>4.5 Residential (Land Lease) Communities Act 2013 No 97</b>   | 7  |
| <b>[1] Section 4 Definitions</b>   | 8  |
| Omit section 4(1), definition of <i>community</i> or <i>residential community</i> , note.              | 9  |
| <b>[2] Section 4(1), definition of “home”, paragraph (b)</b>   | 10 |
| Omit the paragraph.  | 11 |
| Insert instead—  | 12 |
| (b) a manufactured home, or  | 13 |
| <b>[3] Section 4(1)</b>  | 14 |
| Insert in alphabetical order—  | 15 |
| <i>manufactured home</i> —   | 16 |
| (a) means a self-contained dwelling that—  | 17 |
| (i) includes at least one kitchen, bathroom, bedroom and living area,                                  | 18 |
| and  | 19 |
| (ii) includes toilet and laundry facilities, and   | 20 |
| (iii) comprises one or more major sections, and  | 21 |
| (iv) is not a motor vehicle, trailer or other registrable vehicle within                               | 22 |
| the meaning of the <i>Road Transport Act 2013</i> , and  | 23 |
| (b) includes any associated structures that form part of the dwelling.                                 | 24 |
| <i>manufactured home estate</i> means land on which manufactured homes are, or                         | 25 |
| are to be, erected.  | 26 |
| <b>4.6 Rural Fires Act 1997 No 65</b>  | 27 |
| <b>Section 100P Definitions</b>  | 28 |
| Omit “the <i>Local Government Act 1993</i> ” from the definition of <i>residential accommodation</i> , | 29 |
| paragraph (d).   | 30 |
| Insert instead “ <i>State Environmental Planning Policy (Housing) 2021</i> , Schedule 7”.              | 31 |

|                   |  |    |
|-------------------|--|----|
| <b>Schedule 5</b> | <b>Amendment of other Acts—other amendments</b>  | 1  |
| <b>5.1</b>        | <b>Boarding Houses Act 2012 No 74</b>  | 2  |
|                   | <b>Section 16 Requirement to inspect certain registered boarding houses within 12 months of registration</b>   | 3  |
|                   | Insert “, the <i>Building (Approvals and Practitioners) Act 2026</i> ” after “the <i>Local Government Act 1993</i> ” in section 16(3).                       | 4  |
|                   |  | 5  |
|                   |  | 6  |
| <b>5.2</b>        | <b>Building and Construction Industry Long Service Payments Act 1986 No 19</b>   | 7  |
|                   |  | 8  |
| <b>[1]</b>        | <b>Sections 37(1)(a) and 40(1)</b>   | 9  |
|                   | Omit “construction certificate” wherever occurring.  | 10 |
|                   | Insert instead “building approval”.  | 11 |
| <b>[2]</b>        | <b>Section 37 Person liable to pay long service levy</b>   | 12 |
|                   | Insert “or the <i>Building (Approvals and Practitioners) Act 2026</i> ” after “ <i>Environmental Planning and Assessment Act 1979</i> ” in section 37(1)(a). | 13 |
|                   |  | 14 |
| <b>5.3</b>        | <b>Building Products (Safety) Act 2017 No 69</b>   | 15 |
|                   |  |    |
| <b>[1]</b>        | <b>Section 3 Definitions</b>   | 16 |
|                   | Omit section 3(1), definition of <i>National Construction Code</i> , as inserted by the <i>Building Legislation Amendment Act 2023</i> , Schedule 2.1[1].    | 17 |
|                   | Insert instead—  | 18 |
|                   | <i>National Construction Code</i> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .                                    | 19 |
|                   |  | 20 |
|                   |  | 21 |
| <b>[2]</b>        | <b>Section 85 Act prevails over National Construction Code</b>   | 22 |
|                   | Omit section 85(3).  | 23 |
|                   | Insert instead—  | 24 |
|                   | (3) In this section—   | 25 |
|                   | <i>National Construction Code</i> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .                                    | 26 |
|                   |  | 27 |
| <b>5.4</b>        | <b>Civil and Administrative Tribunal Act 2013 No 2</b>   | 28 |
|                   |  |    |
| <b>[1]</b>        | <b>Schedule 5 Occupational Division</b>  | 29 |
|                   | Omit the following from clause 4(1)—   | 30 |
|                   | <i>Building and Development Certifiers Act 2018</i>  | 31 |
|                   | <i>Design and Building Practitioners Act 2020</i>  | 32 |
| <b>[2]</b>        | <b>Schedule 5, clause 4(1)</b>   | 33 |
|                   | Insert in alphabetical order—  | 34 |
|                   | <i>Building (Approvals and Practitioners) Act 2026</i> , other than Part 7   | 35 |

|   |             |
|---|-------------|
| <b>[3] Schedule 5, clause 28(1)(b)</b>  | 1           |
| Omit the paragraph.   | 2           |
| Insert instead—   | 3           |
| (b) a decision for the purposes of the <i>Building (Approvals and Practitioners) Act 2026</i> about a registration holder or former registration holder,                            | 4<br>5<br>6 |
| <b>[4] Schedule 5, clause 28(1)(e)</b>  | 7           |
| Omit “practitioner,”. Insert instead “practitioner.”.   | 8           |
| <b>[5] Schedule 5, clause 28(1)(f)</b>  | 9           |
| Omit the paragraph.   | 10          |
| <b>[6] Schedule 5, clause 29(1)(c)</b>  | 11          |
| Omit the paragraph.   | 12          |
| Insert instead—   | 13          |
| (c) a decision for the purposes of the <i>Building (Approvals and Practitioners) Act 2026</i> , other than Part 7,  | 14<br>15    |
| <b>[7] Schedule 5, clause 29(1)(h)</b>  | 16          |
| Omit “2003,”. Insert instead “2003.”.   | 17          |
| <b>[8] Schedule 5, clause 29(1)(i)</b>  | 18          |
| Omit the paragraph.   | 19          |
| <b>5.5 Community Land Management Act 2021 No 7</b>  | 20          |
| <b>[1] Section 14 Documents and records to be provided to association at first AGM</b>  | 21          |
| Omit “occupation certificates or other certificates” from section 14(1)(a).   | 22          |
| Insert instead “approvals for building work, certificates”.   | 23          |
| <b>[2] Section 14(4)</b>  | 24          |
| Insert in alphabetical order—   | 25          |
| <i>approvals for building work</i> means the following under the <i>Building (Approvals and Practitioners) Act 2026</i> —   | 26<br>27    |
| (a) a building approval,  | 28          |
| (b) a completion approval.  | 29          |
| <b>[3] Dictionary</b>   | 30          |
| Omit “occupation certificates (within the meaning of the <i>Environmental Planning and Assessment Act 1979</i> )” from the definition of <i>initial period</i> , paragraph (c)(ii). | 31<br>32    |
| Insert instead “completion approvals, within the meaning of the <i>Building (Approvals and Practitioners) Act 2026</i> ,”.  | 33<br>34    |
| <b>5.6 Conveyancing Act 1919 No 6</b>   | 35          |
| <b>Section 66ZS Rescission under sunset clauses</b>   | 36          |
| Omit section 66ZS(1), definition of <i>sunset event</i> .   | 37          |

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|--|----|
| Insert instead—  | 1  |
| <i>sunset event</i> means—   | 2  |
| (a) the creation of the subject lot, or  | 3  |
| (b) the issue of the completion approval under the <i>Building (Approvals and Practitioners) Act 2026</i> in relation to the subject lot, or | 4  |
| (c) another event prescribed by the regulations.   | 5  |
| <b>5.7 Crown Land Management Act 2016 No 58</b>  | 7  |
| <b>Schedule 3 Land in Western Division</b>   | 8  |
| Omit clause 21, definition of <i>Building Code of Australia</i> .  | 9  |
| Insert instead—  | 10 |
| <i>Building Code of Australia</i> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .                    | 11 |
| <b>5.8 Drug Misuse and Trafficking Act 1985 No 226</b>   | 13 |
| <b>Section 36F Restrictions on issue of licence</b>  | 14 |
| Omit section 36F(4).   | 15 |
| Insert instead—  | 16 |
| (4) In this section—   | 17 |
| <i>building</i> has the same meaning as in the <i>Environmental Planning and Assessment Act 1979</i> .                                       | 18 |
| <i>Building Code of Australia</i> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .                    | 19 |
| <i>building work</i> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .                                 | 20 |
|  | 21 |
|  | 22 |
|  | 23 |
| <b>5.9 Home Building Act 1989 No 147</b>   | 24 |
| <b>[1] Section 3B Date of completion of residential building work</b>  | 25 |
| Omit “an occupation certificate under the <i>Environmental Planning and Assessment Act 1979</i> ” from section 3B(3)(c).                     | 26 |
| Insert instead “a completion approval”.  | 27 |
| <b>[2] Section 3C Date of completion of new buildings in strata schemes</b>  | 28 |
| Omit “an occupation certificate” wherever occurring in section 3C(1), (2)(a), (5), definition of <i>building</i> and note.                   | 29 |
| Insert instead “a completion approval”.  | 30 |
| <b>[3] Section 3C(5)</b>   | 31 |
| Omit the definition of <i>occupation certificate</i> .   | 32 |
| <b>[4] Section 15A Unqualified mechanical services and medical gas work</b>  | 33 |
| Omit section 15A(5)(d).  | 34 |
| <b>[5] Section 18F Defences</b>  | 35 |
| Omit section 18F(4).   | 36 |
|  | 37 |
|  | 38 |

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| Insert instead—  | 1  |
| (4) In this section—   | 2  |
| <b>relevant professional</b> means a person who represents that the person—  | 3  |
| (a) is an architect, engineer or surveyor, or  | 4  |
| (b) is authorised under the <i>Building (Approvals and Practitioners) Act 2026</i> to issue a compliance declaration, or   | 5  |
| (c) has expert or specialised qualifications or knowledge in relation to—  | 7  |
| (i) residential building work, or  | 8  |
| (ii) a particular aspect of residential building work, or  | 9  |
| (d) is engaged in a profession or has a qualification that is recognised by the regulations as qualifying the person as a relevant professional.   | 10 |
| <b>[6] Sections 33E(1A)(a) and 33F(1A)(a)</b>  | 12 |
| Omit “Certificate IV in Plumbing” wherever occurring.  | 13 |
| Insert instead “Certificate IV in Plumbing and Services (Operations)”.   | 14 |
| <b>[7] Section 129 Stop work orders</b>  | 15 |
| Omit section 129(1) and (2).   | 16 |
| Insert instead—  | 17 |
| (1) The Secretary may give a developer in relation to residential building work a written order (a <b>stop work order</b> ) requiring that the developer ensure the building work stops. | 18 |
| (2) The Secretary may give the stop work order if, in the Secretary’s opinion, the residential building work is, or is likely to be, carried out in a way that may—                      | 21 |
| (a) result in significant harm or loss to the public or occupiers or potential occupiers of the building to which the work relates, or   | 23 |
| (b) result in significant damage to property, or   | 24 |
| (c) if there is a change in approval authority or building practitioner for the work—prevent the valid issue, under the <i>Building (Approvals and Practitioners) Act 2026</i> , of—     | 26 |
| (i) a building work compliance declaration, or   | 27 |
| (ii) a completion approval.  | 28 |
| <b>[8] Section 129(7)(b)</b>   | 31 |
| Omit the paragraph.  | 32 |
| Insert instead—  | 33 |
| (b) if the local council is not the approval authority for the building work—the approval authority.   | 34 |
| <b>[9] Section 129(10)</b>   | 35 |
| Omit the definitions of <b>building practitioner</b> and <b>principal certifier</b> .  | 37 |
| Insert in alphabetical order—  | 38 |
| <b>approval authority</b> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .  | 39 |
| <b>building practitioner</b> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> , Part 3, Division 6.   | 40 |
|  | 41 |
|  | 42 |

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| <b>[10] Schedule 1 Definitions and other interpretative provisions</b>   | 1              |
| Omit clause 1(1), definitions of <i>Building Code of Australia</i> , <i>close associate</i> , <i>National Construction Code</i> and <i>registered certifier</i> .                                | 2<br>3         |
| Insert in alphabetical order—  | 4              |
| <i>Building Code of Australia</i> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .  | 5<br>6         |
| <i>close associate</i> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .   | 7<br>8         |
| <i>completion approval</i> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .   | 9<br>10        |
| <i>National Construction Code</i> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .  | 11<br>12       |
| <i>registered certifier</i> means a person registered under the <i>Building (Approvals and Practitioners) Act 2026</i> , whose registration—   | 13<br>14       |
| (a) is in force, and   | 15             |
| (b) authorises the person—   | 16             |
| (i) to carry out approvals work within the meaning of the <i>Building (Approvals and Practitioners) Act 2026</i> , and   | 17<br>18       |
| (ii) to carry out the work unsupervised.   | 19             |
| <b>[11] Schedule 1, clause 2(3)(b)</b>   | 20             |
| Omit “(other than a moveable dwelling that is a manufactured home within the meaning of that Act)”.  | 21<br>22       |
| <b>[12] Schedule 1, clause 2(3)(c)</b>   | 23             |
| Omit the paragraph.  | 24             |
| <b>[13] Schedule 1, clause 5</b>   | 25             |
| Omit the clause.   | 26             |
| <b>[14] Schedule 2 Terms to be included in certain contracts</b>   | 27             |
| Omit “ <i>Environmental Planning and Assessment Act 1979</i> ” wherever occurring in clauses 2(1)(a) and 4(1)(a).  | 28<br>29       |
| Insert instead “ <i>Building (Approvals and Practitioners) Act 2026</i> ”.   | 30             |
| <b>[15] Schedule 2, clause 2A(2)</b>   | 31             |
| Omit “(subject to section 6.6 (4A) or 6.12 (4A) of the <i>Environmental Planning and Assessment Act 1979</i> )”.   | 32<br>33       |
| Insert instead “, subject to the <i>Building (Approvals and Practitioners) Act 2026</i> ”.   | 34             |
| <b>5.10 Hunter Water Act 1991 No 53</b>  | 35             |
| <b>Section 69 Work for water supply, sewerage or drainage</b>  | 36             |
| Omit section 69(3).  | 37             |
| Insert instead—  | 38             |
| (3) For subsection (2), the regulations may apply, adopt or incorporate the <i>Plumbing Code of Australia</i> within the meaning of the <i>Building (Approvals and Practitioners) Act 2026</i> . | 39<br>40<br>41 |

|   |          |
|---|----------|
| <b>5.11 Independent Commission Against Corruption Act 1988 No 35</b>  | 1        |
| <b>Section 3 Definitions</b>  | 2        |
| Omit section 3(1), definition of <i>public official</i> , paragraph (k1).   | 3        |
| Insert instead—   | 4        |
| (k1) a person authorised to carry out approvals work under the <i>Building (Approvals and Practitioners) Act 2026</i> ,             | 5<br>6   |
| <b>5.12 Land and Environment Court Act 1979 No 204</b>  | 7        |
| <b>[1] Section 18 Class 2—local government and miscellaneous appeals and applications</b>   | 8        |
| Omit section 18(k).   | 9        |
| <b>[2] Section 20 Class 4—environmental planning and protection, development contract and strata renewal plan civil enforcement</b> | 10<br>11 |
| Omit section 20(1)(de).   | 12       |
| Insert instead—   | 13       |
| (de) proceedings under the <i>Building (Approvals and Practitioners) Act 2026</i> , section 81 or 166,                              | 14<br>15 |
| <b>[3] Section 20(1)(dk)</b>  | 16       |
| Omit the paragraph.   | 17       |
| <b>[4] Section 20(3)(a)</b>   | 18       |
| Insert in alphabetical order—   | 19       |
| <i>Building (Approvals and Practitioners) Act 2026</i> , Part 3,  | 20       |
| <b>[5] Section 21 Class 5—environmental planning and protection summary enforcement</b>   | 21       |
| Omit section 21(hg), where firstly occurring, and (hfa).  | 22       |
| Insert instead—   | 23       |
| (hfa) proceedings under the <i>Building (Approvals and Practitioners) Act 2026</i> , section 188,                                   | 24<br>25 |
| <b>5.13 Law Enforcement (Powers and Responsibilities) Act 2002 No 103</b>   | 26       |
| <b>Schedule 2 Search warrants under other Acts</b>  | 27       |
| Omit the following—   | 28       |
| <i>Building and Development Certifiers Act 2018</i> , section 96  | 29       |
| <i>Design and Building Practitioners Act 2020</i> , section 75  | 30       |
| Insert in alphabetical order—   | 31       |
| <i>Building (Approvals and Practitioners) Act 2026</i> , section 153  | 32       |
| <b>5.14 Lord Howe Island Act 1953 No 39</b>   | 33       |
| <b>[1] Section 15A Application of EPA Act</b>   | 34       |
| Omit section 15A(1).  | 35       |
| Insert instead—   | 36       |

|             |  |    |
|-------------|--|----|
| (1)         | The following provisions of the <i>Environmental Planning and Assessment Act 1979</i> apply to the Island as if a reference to the consent authority were a reference to the Board—  | 1  |
|             |  | 2  |
|             |  | 3  |
| (a)         | Parts 4–6,   | 4  |
| (b)         | Division 9.3,  | 5  |
| (c)         | Schedule 5.  | 6  |
| <b>[2]</b>  | <b>Section 15B, heading</b>  | 7  |
|             | Omit “Act No 80, 1974”.  | 8  |
|             | Insert instead “National Parks and Wildlife Act 1974”.   | 9  |
| <b>5.15</b> | <b>Ombudsman Act 1974 No 68</b>  | 10 |
|             | <b>Section 5 Definitions</b>   | 11 |
|             | Omit section 5(1), definition of <i>public authority</i> , paragraph (f1).   | 12 |
|             | Insert instead—  | 13 |
| (f1)        | a person authorised to carry out approvals work under the <i>Building (Approvals and Practitioners) Act 2026</i> ,   | 14 |
|             |  | 15 |
| <b>5.16</b> | <b>Plumbing and Drainage Act 2011 No 59</b>  | 16 |
|             | <b>Section 3 Definitions</b>   | 17 |
|             | Omit section 3(1), definition of <i>Plumbing Code of Australia</i> .   | 18 |
|             | Insert instead—  | 19 |
|             | <i>Plumbing Code of Australia</i> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .  | 20 |
|             |  | 21 |
| <b>5.17</b> | <b>Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 No 9</b>   | 22 |
|             |  | 23 |
| <b>[1]</b>  | <b>Section 3 Definitions</b>   | 24 |
|             | Omit section 3(1), definition of <i>approved plans</i> .   | 25 |
|             | Insert in alphabetical order—  | 26 |
|             | <i>approval authority</i> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .  | 27 |
|             |  | 28 |
|             | <i>approved plans</i> , for building work, means the following—  | 29 |
| (a)         | plans, designs and specifications included in a building approval for the building work under the <i>Building (Approvals and Practitioners) Act 2026</i> , including variations to the designs, plans and specifications made in accordance with that Act, | 30 |
|             |  | 31 |
|             |  | 32 |
|             |  | 33 |
| (b)         | plans and specifications approved for a complying development certificate for the building work under the <i>Environmental Planning and Assessment Act 1979</i> , including variations to the plans and specifications made in accordance with that Act,   | 34 |
|             |  | 35 |
|             |  | 36 |
|             |  | 37 |
| (c)         | other plans for the building work prescribed by the regulations.   | 38 |
| <b>[2]</b>  | <b>Section 3(1), definition of “building element”</b>  | 39 |
|             | Omit “ <i>Design and Building Practitioners Act 2020</i> ”.  | 40 |

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| Insert instead “ <i>Building (Approvals and Practitioners) Act 2026</i> ”.   | 1  |
| <b>[3] Section 3(1), definition of “completion”</b>  | 2  |
| Omit “occupation certificate”.   | 3  |
| Insert instead “completion approval”.  | 4  |
| <b>[4] Section 3(1)</b>  | 5  |
| Omit the definition of <i>occupation certificate</i> .   | 6  |
| Insert in alphabetical order—  | 7  |
| <i>completion approval</i> has the same meaning as in the <i>Building (Approvals and Practitioners) Act 2026</i> .                         | 8  |
|  | 9  |
| <b>[5] Section 6 Act applies only to residential apartment building work</b>   | 10 |
| Omit section 6(1).   | 11 |
| Insert instead—  | 12 |
| (1) The exercise of a function under this Act applies only to relevant building work in relation to a residential apartment building that— | 13 |
| (a) is not completed, or   | 14 |
| (b) was completed less than 10 years before the exercise of the function.  | 15 |
|  | 16 |
| <b>[6] Section 6(3)</b>  | 17 |
| Insert after section 6(2)—   | 18 |
| (3) In this section—   | 19 |
| <i>relevant building work</i> means building work authorised by, or required to be authorised by—  | 20 |
| (a) a building approval for the building work under the <i>Building (Approvals and Practitioners) Act 2026</i> , or                        | 21 |
| (b) a complying development certificate for the building work under the <i>Environmental Planning and Assessment Act 1979</i> .            | 22 |
|  | 23 |
|  | 24 |
|  | 25 |
| <b>[7] Section 7 Notification to Secretary of intended completion of building work</b>   | 26 |
| Omit “an occupation certificate” from section 7(1).  | 27 |
| Insert instead “a completion approval”.  | 28 |
| <b>[8] Section 7(2) and (3)</b>  | 29 |
| Omit “the occupation certificate” wherever occurring.  | 30 |
| Insert instead “the completion approval”.  | 31 |
| <b>[9] Section 8 Notification of change to expected date</b>   | 32 |
| Omit “the occupation certificate” from section 8(1).   | 33 |
| Insert instead “the completion approval”.  | 34 |
| <b>[10] Section 9, heading</b>   | 35 |
| Omit “Occupation certificates”.  | 36 |
| Insert instead “Completion approvals”.   | 37 |

|   |          |
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| <b>[11] Section 9(1)</b>  | 1        |
| Omit “an occupation certificate”.   | 2        |
| Insert instead “a completion approval”.   | 3        |
| <b>[12] Section 9(1)(a) and (b)</b>   | 4        |
| Omit “the occupation certificate” wherever occurring.   | 5        |
| Insert instead “the completion approval”.   | 6        |
| <b>[13] Section 9(3)(b)</b>   | 7        |
| Omit the paragraph.   | 8        |
| Insert instead—   | 9        |
| (b) if the local council is not the approval authority for the building work—<br>the approval authority,                          | 10<br>11 |
| <b>[14] Section 9(6)</b>  | 12       |
| Omit “An occupation certificate”.   | 13       |
| Insert instead “A completion approval”.   | 14       |
| <b>[15] Section 9(7)</b>  | 15       |
| Omit the subsection, including the penalty.   | 16       |
| Insert instead—   | 17       |
| (7) An approval authority, other than a council, must not issue a completion<br>approval in contravention of a prohibition order. | 18<br>19 |
| Maximum penalty for subsection (7)—   | 20       |
| (a) for a body corporate—1,000 penalty units, or  | 21       |
| (b) otherwise—200 penalty units.  | 22       |
| <b>[16] Section 29 Stop work orders</b>   | 23       |
| Omit section 29(6)(b).  | 24       |
| Insert instead—   | 25       |
| (b) if the local council is not the approval authority for the building work—<br>the approval authority.                          | 26<br>27 |
| <b>[17] Section 37, heading</b>   | 28       |
| Omit the heading.   | 29       |
| Insert instead—   | 30       |
| <b>37 Notice of order to be given to other persons</b>  | 31       |
| <b>[18] Section 37(1)(b)</b>  | 32       |
| Omit the paragraph.   | 33       |
| Insert instead—   | 34       |
| (b) if the local council is not the approval authority for the building work—<br>the approval authority,                          | 35<br>36 |

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| <b>[19] Section 45, heading</b>  | 1              |
| Omit the heading.  | 2              |
| Insert instead—  | 3              |
| <b>45 Notice of proposed order to be given to other persons</b>  | 4              |
| <b>[20] Section 45(1)(b)</b>   | 5              |
| Omit the paragraph.  | 6              |
| Insert instead—  | 7              |
| (b) if the local council is not the approval authority for the building work—<br>the approval authority,   | 8<br>9         |
| <b>[21] Section 68 Regulations</b>   | 10             |
| Insert after section 68(2)—  | 11             |
| (2A) The regulations may establish a scheme for dispute resolution by the Secretary<br>for disputes involving building work and related work, including by making<br>regulations about the following—              | 12<br>13<br>14 |
| (a) specifying the disputes to which the scheme applies,   | 15             |
| (b) enabling or requiring the scheme to be used before disputes go before a<br>court or tribunal and providing for limitation times to be extended to<br>account for the diversion of the dispute into the scheme, | 16<br>17<br>18 |
| (c) providing how a dispute enters the scheme, whether by applications to<br>the Secretary or otherwise,   | 19<br>20       |
| (d) establishing a dispute resolution process,   | 21             |
| (e) giving the Secretary powers for the purpose of resolving disputes and<br>enforcing compliance,   | 22<br>23       |
| (f) providing when a dispute must no longer be dealt with under the<br>scheme,   | 24<br>25       |
| (g) funding the scheme, including by charging fees to participants in the<br>scheme,   | 26<br>27       |
| (h) providing whether the <i>Home Building Act 1989</i> , Part 3A, Division 2<br>applies to a dispute dealt with under the scheme,   | 28<br>29       |
| (i) enabling the Secretary to investigate and prepare reports about disputes,<br>including disputes to which the scheme does not apply,  | 30<br>31       |
| (j) requiring courts or tribunals to admit the reports prepared by the<br>Secretary as evidence in proceedings related to the dispute.   | 32<br>33       |
| <b>5.18 Residential (Land Lease) Communities Act 2013 No 97</b>  | 34             |
| <b>[1] Section 13 Relationship of Act with other laws</b>  | 35             |
| Omit section 13(3).  | 36             |
| Insert instead—  | 37             |
| (3) Nothing in this Act limits a requirement imposed by or under the following—  | 38             |
| (a) the <i>Building (Approvals and Practitioners) Act 2026</i> ,   | 39             |
| (b) the <i>Environmental Planning and Assessment Act 1979</i> ,  | 40             |
| (c) the <i>Local Government Act 1993</i> .   | 41             |

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|--|----|
| <b>[2] Section 42 Alterations and additions to, and replacement of, homes</b>  | 1  |
| Omit section 42(3B) and (5)–(7).   | 2  |
| <b>[3] Sections 42A and 42B</b>  | 3  |
| Insert after section 42—   | 4  |
| <b>42A Home on residential site is not fixture</b>   | 5  |
| (1) A home located on a residential site is not a fixture, regardless of the way in which the home is attached to the land.                        | 6  |
| (2) This section applies despite another Act or law.   | 8  |
| (3) This section does not apply to a home owned by the owner of the community.   | 9  |
| <b>42B Fixtures on residential sites</b>   | 10 |
| (1) A fixture added to a residential site by a home owner—   | 11 |
| (a) remains the property of the home owner, and  | 12 |
| (b) does not become part of the land.  | 13 |
| (2) The home owner may—  | 14 |
| (a) remove the fixture at any time, or   | 15 |
| (b) sell the fixture as part of the home.  | 16 |
| <b>5.19 Strata Schemes Development Act 2015 No 51</b>  | 17 |
| <b>[1] Section 4 Definitions</b>   | 18 |
| Omit section 4(1), definition of <i>registered certifier</i> .   | 19 |
| Insert instead—  | 20 |
| <i>registered certifier</i> means a person registered under the <i>Building (Approvals and Practitioners) Act 2026</i> , whose registration—       | 21 |
| (a) is in force, and   | 23 |
| (b) authorises the person—   | 24 |
| (i) to carry out work under this Act that is approvals work within the meaning of the <i>Building (Approvals and Practitioners) Act 2026</i> , and | 25 |
| (ii) to carry out the work unsupervised.   | 26 |
| <b>[2] Section 54 Strata certificate for strata plans and subdivision of development lots</b>  | 29 |
| Omit “a construction certificate has been issued under the <i>Environmental Planning and Assessment Act 1979</i> ” from section 54(1)(b)(i).       | 30 |
| Insert instead “a building approval has been issued under the <i>Building (Approvals and Practitioners) Act 2026</i> ”.                            | 32 |
| <b>[3] Section 54(1)(b)(ii)</b>  | 34 |
| Omit “construction certificate”.   | 35 |
| Insert instead “building approval”.  | 36 |
| <b>[4] Section 58 Strata certificate for strata plans and subdivision of development lots</b>  | 37 |
| Omit “a construction certificate has been issued under the <i>Environmental Planning and Assessment Act 1979</i> ” from section 58(1)(d)(i).       | 38 |
|  | 39 |

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|--|----------|
| Insert instead “a building approval has been issued under the <i>Building (Approvals and Practitioners) Act 2026</i> ”.  | 1<br>2   |
| <b>[5] Section 58(1)(d)(ii)</b>  | 3        |
| Omit “construction certificate”.   | 4        |
| Insert instead “building approval”.  | 5        |
| <b>5.20 Strata Schemes Management Act 2015 No 50</b>   | 6        |
| <b>[1] Section 16 Documents and records to be provided to owners corporation at first AGM</b>  | 7<br>8   |
| Omit “occupation certificates or other certificates” from section 16(1)(a).  | 9        |
| Insert instead “approvals for building work, certificates”.  | 10       |
| <b>[2] Section 16(4)</b>   | 11       |
| Insert after section 16(3)—  | 12       |
| (4) In this section—   | 13       |
| <i>approval for building work</i> means the following under the <i>Building (Approvals and Practitioners) Act 2026</i> —                                       | 14<br>15 |
| (a) a building approval,   | 16       |
| (b) a completion approval.   | 17       |
| <b>[3] Section 123 Access for fire safety inspections</b>  | 18       |
| Omit section 123(1) and (2).   | 19       |
| Insert instead—  | 20       |
| (1) A person may direct an owners corporation to ensure access to a building or premises that is part of a strata scheme for the purposes of an inspection if— | 21<br>22 |
| (a) the person is proposing to carry out the inspection for purposes relating to fire safety, and  | 23<br>24 |
| (b) the person is authorised to carry out the inspection under—  | 25       |
| (i) the <i>Building (Approvals and Practitioners) Act 2026</i> , or  | 26       |
| (ii) the <i>Environmental Planning and Assessment Act 1979</i> .   | 27       |
| (1A) The direction must—   | 28       |
| (a) be given by written order to the owners corporation, and   | 29       |
| (b) specify the common property and lots to be inspected, and  | 30       |
| (c) specify a period during which, or a time at which, the inspection will take place.   | 31<br>32 |
| (2) The owners corporation must comply with the direction.   | 33       |
| Maximum penalty—20 penalty units.  | 34       |
| <b>[4] Section 207 Bond to be given</b>  | 35       |
| Omit “an occupation certificate under the <i>Environmental Planning and Assessment Act 1979</i> ” from section 207(1).   | 36<br>37 |
| Insert instead “a completion approval under the <i>Building (Approvals and Practitioners) Act 2026</i> ”.  | 38<br>39 |

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| <b>[5] Section 211AA Definitions</b>   | 1  |
| Omit “ <i>Design and Building Practitioners Act 2020</i> ” from section 211AA(1), definition of <i>building element</i> .                          | 2  |
| Insert instead “ <i>Building (Approvals and Practitioners) Act 2026</i> ”.   | 3  |
|  | 4  |
| <b>5.21 Swimming Pools Act 1992 No 49</b>  | 5  |
| <b>[1] Section 3 Definitions</b>   | 6  |
| Omit section 3(1), definition of <i>relevant occupation certificate</i> .  | 7  |
| Insert in alphabetical order—  | 8  |
| <i>relevant completion approval</i> , for a swimming pool, means a completion approval—  | 9  |
| (a) issued under the <i>Building (Approvals and Practitioners) Act 2026</i> , and  | 10 |
| (b) that is less than 3 years old, and   | 11 |
| (c) that authorises the use of the swimming pool.  | 12 |
|  | 13 |
| <b>[2] Section 22A Definition</b>  | 14 |
| Omit the definition of <i>registered certifier</i> .   | 15 |
| Insert instead—  | 16 |
| <i>registered certifier</i> means a person registered under the <i>Building (Approvals and Practitioners) Act 2026</i> , whose registration—       | 17 |
| (a) is in force, and   | 18 |
| (b) authorises the person—   | 19 |
| (i) to carry out work under this Act that is approvals work within the meaning of the <i>Building (Approvals and Practitioners) Act 2026</i> , and | 20 |
| (ii) to carry out the work unsupervised.   | 21 |
|  | 22 |
|  | 23 |
|  | 24 |
| <b>[3] Section 22B Mandatory pool inspection program by local authority</b>  | 25 |
| Omit “a relevant occupation certificate” from section 22B(3).  | 26 |
| Insert instead “a relevant completion approval”.   | 27 |
| <b>[4] Section 25 Defences to offences under Part</b>  | 28 |
| Omit “relevant occupation certificate” from section 25(2)(a).  | 29 |
| Insert instead “relevant completion approval”.   | 30 |
|  | 31 |
| <b>5.22 Sydney Olympic Park Authority Act 2001 No 57</b>   | 31 |
| <b>[1] Section 24 Certification of development</b>   | 32 |
| Omit “Part 4A of the <i>Environmental Planning and Assessment Act 1979</i> ” from section 24(1).   | 33 |
| Insert instead “the <i>Environmental Planning and Assessment Act 1979</i> , Part 6”.   | 34 |
|  | 35 |
| <b>[2] Section 24A</b>   | 36 |
| Insert after section 24—   | 37 |

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|--|-------------|
| <b>24A Approval of building work</b>   | 1           |
| (1) An approval authority may delegate the approval authority’s functions under the <i>Building (Approvals and Practitioners) Act 2026</i> , Part 3 in relation to Sydney Olympic Park to the Authority. | 2<br>3<br>4 |
| (2) The Authority is taken to be an approval authority for that Act when exercising the delegated functions.   | 5<br>6      |
| <b>5.23 Sydney Water Act 1994 No 88</b>  | 7           |
| <b>Section 106 Regulations</b>   | 8           |
| Omit section 106(5)(b).  | 9           |
| Insert instead—  | 10          |
| (b) the <i>Plumbing Code of Australia</i> within the meaning of the <i>Building (Approvals and Practitioners) Act 2026</i> .   | 11<br>12    |