



New South Wales

Strata Schemes Management Amendment (Building Defects Scheme) Bill 2018

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Strata Schemes Management Act 2015* (the **SSM Act**), in relation to the scheme for rectifying building defects in new strata schemes, as follows:

- (a) to increase the maximum penalty that a developer of a strata scheme may be liable to pay for the offence of failing to provide the security (**building bond**) that is required by the SSM Act to secure payment for defective building work,
- (b) to make it an offence for a developer to knowingly give false or misleading information to the Commissioner for Fair Trading (the **Secretary**) in relation to the amount required to be secured by a building bond,
- (c) to provide that, in cases where the developer and owners corporation fail to agree on the amount secured by a building bond that may be claimed for payment to meet the costs of rectifying defective building work, the Secretary is to determine the amount to be claimed,
- (d) to enable the Secretary, for the purposes of determining the amount to be claimed in those cases, to arrange for an appropriately qualified person to provide the Secretary with a report (paid for by the owners corporation and developer) on the work required or costs involved in rectifying the defective building work,
- (e) to enable an amount secured by a building bond to be claimed to meet certain unpaid costs that would otherwise be payable under the building defects scheme by a developer, but only if the developer has died or ceased to exist, is bankrupt or insolvent or (after due search and inquiry) cannot be found in Australia,
- (f) to extend the period within which a building bond may be claimed,

- (g) to enable the cancellation of a building bond in certain circumstances, including if an interim report on the building work concerned does not identify any defective building work,
- (h) to limit the circumstances in which a developer may apply to the Civil and Administrative Tribunal for an order specifying the amount of the contract price of building work (for the purposes of determining the amount required to be secured by a building bond) to the circumstances specified in the regulations,
- (i) to enable the Secretary to recover from a developer any amount required to be secured by a building bond if the developer fails to give the Secretary a building bond or gives a building bond that secures a lesser amount than is required,
- (j) to confer investigative and enforcement powers on authorised officers who are appointed by the Secretary,
- (k) to protect building inspectors, professional associations and others from liability for acts or omissions done in good faith,
- (l) to protect the Secretary and others from personal liability for acts or omissions done in good faith,
- (m) to extend the regulation-making power, including by enabling regulations to be made dealing with conditions that may be imposed on building inspectors, and with the functions of professional associations with respect to determining whether persons are qualified to carry out functions as building inspectors,
- (n) to make amendments in the nature of statute law revision, and other minor and consequential amendments.

The Bill also provides for a consequential amendment to the *Law Enforcement (Powers and Responsibilities) Act 2002*.

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Strata Schemes Management Act 2015 No 50

Offences relating to building bond

Schedule 1 [11] increases the maximum penalty that a developer may be liable to pay for the offence of failing to give the Secretary a building bond that secures the amount required by the SSM Act (generally, 2% of the contract price for the building work concerned). The proposed amendment increases the maximum penalty from 200 penalty units (currently \$22,000) to 10,000 penalty units (currently \$1.1 million) and also imposes an additional daily penalty of up to 200 penalty units for a continuing offence. **Schedule 1 [34]** makes a consequential amendment.

Schedule 1 [12] makes it an offence for a developer to knowingly give false or misleading information to the Secretary about the contract price of building work or the amount required to be secured by a building bond. The maximum penalty, if the developer is a corporation, is 1,000 penalty units (currently \$110,000) or 200 penalty units (currently \$22,000) in any other case.

Claiming and payment of amount secured by building bond

An amount secured by a building bond may be claimed for payment to an owners corporation either with the consent of the developer or to meet the costs of rectifying building work that a final report of a building inspector has identified as defective. **Schedule 1 [16]** ensures that the amount

that may be claimed to meet the costs of rectifying that building work is either the amount agreed to by the owners corporation and developer or the amount determined by the Secretary.

Schedule 1 [21] enables the Secretary, for the purpose of making a determination about the amount, to arrange for an appropriately qualified person to provide the Secretary with a report on the work required or costs involved in rectifying the defective building work. The report must be paid for by the owners corporation and developer. The Secretary may also require the owners corporation or developer to provide information or reports.

Currently, an amount secured by a building bond may only be claimed for payment to an owners corporation. **Schedule 1 [15]** enables an amount to be claimed for payment to the following persons for unpaid costs that would otherwise be payable by the developer concerned:

- (a) a building inspector for the costs of an inspection or report,
- (b) a person who has prepared a report for provision to the Secretary (whether arranged by the Secretary or required by the Secretary to be provided by the developer) under the amendment made by **Schedule 1 [21]**.

Schedule 1 [17] provides that the amount may be claimed for payment to those persons only if the developer has died or ceased to exist, is bankrupt or insolvent or (after due search and inquiry) cannot be found in Australia.

An amount secured by a building bond can only be claimed within 2 years after completion of the building work concerned or 60 days after the final report of the building inspector for the building work is given to the Secretary, whichever is the later. **Schedule 1 [19]** alters that time frame by enabling an amount secured by a building bond to be claimed within 90 days (rather than 60 days) after the final report is given to the Secretary.

Schedule 1 [22] omits a provision consequent on the amendment made by **Schedule 1 [15]** and also makes an amendment in the nature of statute law revision.

Cancellation of building bond

Schedule 1 [24] enables the Secretary to facilitate the cancellation of a building bond, by providing the developer concerned with a release:

- (a) if an interim report on the building work concerned does not identify defective building work, or
- (b) on application by the developer (with the agreement of the owners corporation) if part of the amount secured by the bond has been claimed.

Order of Tribunal in relation to contract price of building work

Schedule 1 [27] provides that a developer may apply to the Civil and Administrative Tribunal for an order specifying the amount of the contract price of building work (for the purposes of determining the amount required to be secured by a building bond) only in the circumstances prescribed by the regulations.

Debt recovery where building bond not provided or insufficient

Schedule 1 [28] enables the Secretary to recover from a developer any amount required to be secured by a building bond if the developer fails to give the Secretary a building bond or gives a building bond that secures a lesser amount than is required. The owners corporation concerned may claim a recovered amount from the Secretary to meet the costs of rectifying defective building work.

Other amendments relating to building bonds

Schedule 1 [9] requires a developer to give a building bond before an application is made for an occupation certificate under the *Environmental Planning and Assessment Act 1979*, rather than (as is currently the case) before the application is determined. The bond must be in terms acceptable to the Secretary.

Schedule 1 [13] and [14] ensure that a building bond may be in the form of a bank guarantee or bond only if issued by an authorised deposit-taking institution or an approved insurer, respectively.

Investigative and enforcement powers

Schedule 1 [29] inserts a new Division 3A in Part 11 of the SSM Act, which confers investigative and enforcement powers on authorised officers.

Authorised officers are appointed by the Secretary (proposed section 211B).

Authorised officers may exercise functions conferred by the proposed Division 3A for an *authorised purpose*, which includes investigating, monitoring and enforcing compliance with the requirements relating to the building defects scheme that are set out in Part 11 of the SSM Act (proposed section 211C).

The powers conferred on an authorised officer include the following:

- (a) to require a person to provide information and records that are in the person's possession or that are within the person's power to obtain lawfully (proposed section 211D),
- (b) to require a person to answer questions in relation to matters for which information is reasonably required for an authorised purpose (proposed section 211E),
- (c) to enter premises to carry out certain inspections and seize certain things (proposed sections 211G and 211J),
- (d) to apply for a search warrant if the authorised officer believes on reasonable grounds that Part 11 of the SSM Act has been or is being contravened (proposed section 211H),
- (e) to require an owner or occupier of premises, or an owners corporation, to provide reasonable assistance and facilities for the purposes of exercising the other powers conferred on the authorised officer in connection with the premises (proposed section 211I).

Proposed section 211K specifies how things that have been seized are to be dealt with.

Proposed section 211L makes it an offence for a person, without reasonable excuse, to refuse or fail to comply with a requirement made of the person under proposed Division 3A.

Proposed section 211M makes it an offence for a person, without reasonable excuse, to delay, hinder or obstruct an authorised officer in the exercise of the officer's powers under proposed Division 3A.

Protection from liability

Schedule 1 [31] (proposed section 213A) protects building inspectors, and persons acting under the direction of building inspectors, from personal liability for acts or omissions done in good faith for the purpose of executing functions under Part 11 of the SSM Act.

Schedule 1 [31] (proposed section 213B) protects professional associations, and individuals acting under the direction of professional associations, from liability for acts or omissions done in good faith for the purpose of executing functions under Part 11 of the SSM Act.

Schedule 1 [37] excludes the Secretary, and persons acting under the direction of the Secretary, from personal liability for acts or omissions done in good faith for the purpose of executing functions under the SSM Act. **Schedule 1 [38]** makes a consequential amendment.

Regulation-making powers

Schedule 1 [32] enables regulations to be made dealing with conditions that may be imposed on building inspectors, and with the functions of professional associations with respect to determining whether persons are qualified to carry out functions as building inspectors.

Schedule 1 [33] enables regulations to be made dealing with the procedures to be followed by the Secretary in determining, under the provision inserted by **Schedule 1 [16]**, the amount secured by a building bond that may be claimed to meet the costs of rectifying defective building work.

Schedule 1 [39] enables the regulations to create offences that have a maximum penalty of 200 penalty units (currently \$22,000).

Proceedings for offences

Schedule 1 [35] enables the Supreme Court to deal with offences under the SSM Act or regulations in its summary jurisdiction. **Schedule 1 [36]** limits the maximum monetary penalty that the Local Court may impose in proceedings for an offence under the SSM Act or the regulations to 1,000 penalty units (currently \$110,000).

Other amendments

Schedule 1 [8] requires the developer of a strata scheme to provide a building inspector appointed to inspect building work for the scheme with documents identifying building defects of which the developer is aware.

Schedule 1 [1]–[7], [10], [18], [20], [23], [25] and [30] make amendments in the nature of statute law revision.

Schedule 1 [26] inserts a note.

Schedule 2 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103

Schedule 2 makes an amendment to the *Law Enforcement (Powers and Responsibilities) Act 2002* that is consequent on the insertion of proposed section 211H (relating to search warrants) of the SSM Act by **Schedule 1 [29]**.



New South Wales

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Contents

		Page
	1 Name of Act	2
	2 Commencement	2
Schedule 1	Amendment of Strata Schemes Management Act 2015 No 50	3
Schedule 2	Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103	13



New South Wales

Strata Schemes Management Amendment (Building Defects Scheme) Bill 2018

No. , 2018

A Bill for

An Act to amend the *Strata Schemes Management Act 2015* to make further provision with respect to the rectification of building defects in new strata schemes; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Strata Schemes Management Amendment (Building Defects Scheme) Act 2018*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

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Schedule 1	Amendment of Strata Schemes Management Act 2015 No 50	1
		2
[1] Section 4 Definitions		3
	Insert in alphabetical order in section 4 (1):	4
	<i>Department</i> means the Department of Finance, Services and Innovation.	5
[2] Section 194 Obligations of developer to appoint building inspector or notify Secretary		6
	Omit “within that period of 12 months” where firstly occurring in section 194 (1).	7
[3] Section 194 (1) (a)		8
	Insert “within that period of 12 months,” before “appoint”.	9
[4] Section 194 (2)		10
	Omit “does not end within”. Insert instead “ends later than”.	11
[5] Section 194 (2)		12
	Insert “of 12 months” after “that period”.	13
[6] Section 196 When building inspector for interim inspection arranged by Secretary		14
	Insert “, the Secretary” after “done so” in section 196 (1).	15
[7] Section 196 (1) (a)		16
	Omit “the Secretary”.	17
[8] Section 198A		18
	Insert after section 198:	19
198A Documents to be provided to building inspector		20
	(1) The developer of a strata scheme must, within 28 days after a building inspector is appointed under this Division to inspect building work for the scheme (or within any other period prescribed by the regulations), provide the following documents to the building inspector:	21
	(a) a document that identifies any building defects of which the developer is aware in the building work, including any building defects considered at the first annual general meeting of the owners corporation,	22
	(b) any other documents relating to the building work that are prescribed by the regulations.	23
	Maximum penalty: 200 penalty units.	24
	(2) The Secretary may provide a building inspector with any of the documents referred to in subsection (1) that are in the possession or under the control of the Secretary.	25
[9] Section 207 Bond to be given		26
	Omit “for building work to which this Part applies before an occupation certificate is issued” from section 207 (1).	27
	Insert instead “, in terms acceptable to the Secretary, for building work to which this Part applies before an application is made for an occupation certificate”.	28
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[10] Section 207 (3)	1
Omit “amount of”. Insert instead “amount secured by”.	2
[11] Section 207 (5)	3
Omit “200 penalty units”.	4
Insert instead “10,000 penalty units and, in the case of a continuing offence, a further 200 penalty units for each day the offence continues”.	5 6
[12] Section 207A	7
Insert after section 207:	8
207A False or misleading information in relation to contract price or building bond	9
A developer must not knowingly give to the Secretary information in relation to the contract price of building work, or the amount required to be secured by the building bond for building work, that is false or misleading in a material particular.	10 11 12 13
Maximum penalty:	14
(a) in the case of a corporation—1,000 penalty units, or	15
(b) in any other case—200 penalty units.	16
[13] Section 208 Form of building bond	17
Insert “issued by an authorised deposit-taking institution” after “guarantee” in section 208 (a).	18 19
[14] Section 208 (b)	20
Insert “issued by an approved insurer” after “bond”.	21
[15] Section 209 When amount secured by building bond payable	22
Insert after section 209 (1) (b):	23
(c) to a building inspector to meet the costs of the inspector for an inspection or report under Division 2,	24 25
(d) to a person who has prepared a report referred to in section 209A, to meet the developer’s share of the costs of obtaining the report.	26 27
[16] Section 209 (1A)	28
Insert after section 209 (1):	29
(1A) The amount that may be claimed or realised for payment under subsection (1) (a) is an amount that the owners corporation and developer have agreed should be paid or the amount determined by the Secretary.	30 31 32
[17] Section 209 (2A)	33
Insert after section 209 (2):	34
(2A) An amount may be claimed or realised for payment under subsection (1) (c) or (d) only if the costs concerned have not been paid and the developer:	35 36
(a) has died or ceased to exist, or	37
(b) is bankrupt or insolvent, or	38
(c) after due search and inquiry, cannot be found in Australia.	39

[18] Section 209 (3)	1
Omit “A building bond must be claimed or realised under this section”.	2
Insert instead “An amount secured by a building bond must be claimed or realised under this section within”.	3 4
[19] Section 209 (3) (b)	5
Omit “within 60”. Insert instead “90”.	6
[20] Section 209 (4)	7
Omit “amount of”. Insert instead “amount secured by a”.	8
[21] Section 209A	9
Insert after section 209:	10
209A Determination of amount when owners corporation and developer don’t agree	11
(1) For the purposes of enabling the Secretary to determine an amount under section 209 (1A), the Secretary may:	12 13
(a) require the owners corporation or the developer (or both) to provide any information or reports that the Secretary may require, or	14 15
(b) arrange for a person whom the Secretary considers to be appropriately qualified to provide a report to the Secretary in relation to the work required or the costs involved in rectifying the defective building work concerned.	16 17 18 19
(2) The costs of obtaining any report arranged by the Secretary are to be borne by the owners corporation and developer in equal shares, except in the circumstances (if any) specified in the regulations for the purposes of this section.	20 21 22 23
(3) The Secretary may give to a person whom the Secretary has arranged to provide the report any documents relating to the building work that the Secretary considers would assist the person to prepare the report.	24 25 26
[22] Section 210 Use of amounts secured by building bond	27
Omit section 210 (2) and (3). Insert instead:	28
(2) Repayment of excess amounts to developer	29
An owners corporation must:	30
(a) repay to the developer any amount secured by a building bond that has been paid to the owners corporation and is not required for a purpose specified in subsection (1), and	31 32 33
(b) give the developer written notice of the completion of the rectification of the defective building work.	34 35
Maximum penalty: 10 penalty units.	36
[23] Section 210 (5)	37
Omit “any part of a building bond”.	38
Insert instead “any amount secured by a building bond that has been paid to the owners corporation”.	39 40

[24] Section 210A	1
Insert after section 210:	2
210A Cancellation of building bond	3
The Secretary may provide to a developer any release necessary to enable a building bond for building work provided by the developer to be cancelled:	4
(a) if an interim report on the building work does not identify any defective building work and the Secretary thinks it appropriate in the circumstances of the case to enable the building bond to be cancelled, or	5
(b) on application by the developer, with the agreement of the owners corporation, if part of the amount secured by the building bond has been claimed or realised by the Secretary, or	6
(c) in any other circumstances specified in the regulations.	7
[25] Sections 211 (3) and 214 (2) (b) and (c)	8
Omit “amount of a” wherever occurring.	9
Insert instead “amount required to be secured by a”.	10
[26] Section 211 Tribunal may make orders as to access and contract price	11
Insert after section 211 (3):	12
Note. The contract price is determined in accordance with the regulations. See the definition of contract price in section 189.	13
[27] Section 211 (3A)	14
Insert before section 211 (4):	15
(3A) The developer may make an application for an order under subsection (3) only in the circumstances prescribed by the regulations.	16
[28] Section 211A	17
Insert after section 211:	18
211A Debt recovery if building bond not provided or insufficient	19
(1) The Secretary may recover from a developer, as a debt in a court of competent jurisdiction, any amount required to be secured by a building bond given by the developer to the Secretary under this Part if:	20
(a) the building bond has not been given to the Secretary, or	21
(b) the building bond has been given to the Secretary but the amount secured by the building bond is less than the amount required under this Part.	22
(2) An owners corporation may claim from the Secretary the whole or part of an amount recovered under this section for payment to the owners corporation.	23
(3) Section 209 applies, with any necessary modifications, in relation to any such claim in the same way as that section applies in relation to a claim by the Secretary for payment of an amount secured by a building bond.	24
(4) The Secretary may refuse to pay an amount under this section in the same circumstances as the Secretary may refuse to claim or realise an amount under section 209.	25
(5) Section 210 (except section 210 (2)) applies, with any necessary modifications, in relation to an amount paid to an owners corporation under	26

this section in the same way as it applies to an amount secured by a building bond that is paid under section 209.	1 2
(6) An owners corporation must:	3
(a) repay to the developer any amount that has been paid to the owners corporation under this section and is not required for a purpose specified in section 210 (1), and	4 5 6
(b) give the developer written notice of the completion of the rectification of the defective building work.	7 8
Maximum penalty: 10 penalty units.	9
[29] Part 11, Division 3A	10
Insert after Division 3:	11
Division 3A Investigation and enforcement powers	12
211B Authorised officers	13
(1) In this Division:	14
<i>authorised officer</i> means:	15
(a) an employee of the Department for the time being appointed under this Division as an authorised officer, or	16 17
(b) an investigator appointed under section 18 of the <i>Fair Trading Act 1987</i> .	18 19
(2) The Secretary may appoint any employee of the Department as an authorised officer for the purposes of this Division.	20 21
(3) An authorised officer is to be provided by the Secretary with a certificate of identification.	22 23
(4) An authorised officer must, when exercising on any premises any function of the authorised officer under this Division, produce the officer's certificate of identification to any person apparently in charge of the premises who requests its production.	24 25 26 27
211C Purposes for which functions under Division may be exercised	28
(1) An authorised officer may exercise the functions conferred under this Division for any of the following purposes:	29 30
(a) for the purpose of investigating, monitoring and enforcing compliance with the requirements imposed by or under this Part,	31 32
(b) for obtaining information or records connected with the administration of this Part,	33 34
(c) for the purpose of administering or executing this Part (including any regulations made under this Part).	35 36
(2) In this Part, a reference to an <i>authorised purpose</i> is a reference to any purpose referred to in subsection (1).	37 38
211D Power to require information and records	39
(1) An authorised officer may, by notice in writing given to a person, require the person to furnish to the authorised officer any information or records (or both) that the authorised officer may require for an authorised purpose.	40 41 42

(2)	The notice must specify the manner in which, and a reasonable time by which, the information or records are to be furnished.	1 2
(3)	The notice may only require the person to furnish existing records that are in the person's possession or that are within the person's power to obtain lawfully.	3 4 5
(4)	An authorised officer to whom any record is furnished under this section may take copies of it.	6 7
(5)	If any record required to be furnished is in electronic, mechanical or other form, the notice requires the record to be furnished in written form, unless the notice otherwise provides.	8 9 10
211E	Power of authorised officers to require answers	11
(1)	An authorised officer may require a person whom the authorised officer suspects on reasonable grounds to have knowledge of matters in respect of which information is reasonably required for an authorised purpose to answer questions in relation to those matters.	12 13 14 15
(2)	An authorised officer may, by notice in writing, require a corporation to nominate, in writing within the time specified in the notice, a director or officer of the corporation to be the corporation's representative for the purpose of answering questions under this section.	16 17 18 19
(3)	Answers given by a person nominated under subsection (2) bind the corporation.	20 21
(4)	An authorised officer may, by notice in writing, require a person to attend at a specified place and time to answer questions under this section if attendance at that place is reasonably required in order that the questions can be properly put and answered.	22 23 24 25
(5)	The place and time at which a person may be required to attend is to be a place and time nominated by the authorised officer that is reasonable in the circumstances.	26 27 28
211F	Exercise of powers under sections 211D and 211E in conjunction with other powers	29 30
	A power conferred by section 211D or 211E may be exercised whether or not a power of entry under section 211G is being exercised.	31 32
211G	Power of authorised officers to enter premises	33
(1)	An authorised officer may enter any premises at any reasonable time.	34
(2)	Entry to any premises may be effected with or without the authority of a search warrant.	35 36
(3)	This section does not empower an authorised officer to enter any part of premises that is used predominantly for residential purposes without the consent of the occupier of the part or under the authority of a search warrant under this Division.	37 38 39 40
211H	Search warrants	41
(1)	An authorised officer may apply to an issuing officer for a search warrant if the applicant believes on reasonable grounds that a provision of this Part or regulations made under this Part has been or is being contravened on premises.	42 43 44

- (2) An issuing officer to whom an application for a search warrant is made under this section may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an authorised officer named in the warrant and any other person named in the warrant:
- (a) to enter the premises concerned, and
 - (b) to search the premises for evidence of a contravention of this Part or regulations made under this Part.
- (3) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.
- (4) Without limiting the generality of section 71 of the *Law Enforcement (Powers and Responsibilities) Act 2002*, a police officer:
- (a) may accompany an authorised officer executing a search warrant issued under this section, and
 - (b) may take all reasonable steps to assist the authorised officer in the exercise of the officer's functions under this section.
- (5) In this section:
- issuing officer** means an authorised officer within the meaning of the *Law Enforcement (Powers and Responsibilities) Act 2002*.
- 211I Power to require owner, occupier or owners corporation to provide assistance**
- An authorised officer proposing to exercise a power of entry under this Division may, by notice in writing given to the owner or occupier of the premises or to the owners corporation, require the owner, occupier or owners corporation to provide, within a specified time and in a specified manner, any reasonable assistance and facilities that are specified in the notice.
- 211J Powers that can be exercised on premises**
- (1) An authorised officer may, at any premises lawfully entered, do anything that in the opinion of the authorised officer is reasonably necessary to be done for an authorised purpose, including (but not limited to) the things specified in subsection (2).
- (2) An authorised officer may do any or all of the following:
- (a) make any examinations and inquiries that the authorised officer considers necessary,
 - (b) direct a person to produce records for inspection,
 - (c) examine and inspect any records,
 - (d) copy any records,
 - (e) seize any thing that the authorised officer has reasonable grounds for believing is connected with an offence against this Part or regulations made under this Part,
 - (f) do anything the authorised officer is empowered to do under this Division.
- (3) The power to seize any thing connected with an offence includes a power to seize:
- (a) a thing with respect 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.

(4)	The power to do a thing under this section includes a power to arrange for that thing to be done.	1 2
(5)	A power to do something under this section in relation to a thing may be exercised without the consent of the owner of the thing.	3 4
(6)	In this section, a reference to an offence includes a reference to an offence that there are reasonable grounds for believing has been committed.	5 6
211K	Dealing with seized things	7
(1)	An authorised officer who seizes anything under section 211J on any premises must issue the person apparently in charge of the premises with a written receipt for the thing seized.	8 9 10
(2)	An authorised officer may retain anything seized under section 211J until the completion of any proceedings (including proceedings on appeal) in which it may be evidence.	11 12 13
(3)	A record may only be retained if the person from whom the record was seized is provided, within a reasonable time after the seizure, with a copy of the record certified by the authorised officer as a true copy. The copy is, as evidence, of equal validity to the document of which it is certified to be a copy.	14 15 16 17
(4)	Subsection (2) ceases to have effect in relation to anything seized if, on the application of a person aggrieved by the seizure, the court in which proceedings referred to in that subsection are commenced so orders.	18 19 20
211L	Failure to comply with requirement under this Division	21
(1)	A person must not, without reasonable excuse, refuse or fail to comply with a requirement made of the person under this Division. Maximum penalty:	22 23 24
(a)	in the case of a corporation—40 penalty units, or	25
(b)	in any other case—20 penalty units.	26
(2)	A person is not guilty of an offence of failing to comply with a requirement under this Division to furnish records or information or to answer a question unless the person was warned on that occasion that a failure to comply is an offence.	27 28 29 30
211M	Obstruction of authorised officer	31
(1)	A person must not, without reasonable excuse, delay, hinder or obstruct an authorised officer in the exercise of the authorised officer’s functions under this Division. Maximum penalty:	32 33 34 35
(a)	in the case of a corporation—40 penalty units, or	36
(b)	in any other case—20 penalty units.	37
(2)	A person is not guilty of an offence under this section unless, before the alleged offence occurred, the authorised officer produced the authorised officer’s certificate of identification for inspection by the person.	38 39 40
[30]	Sections 213 (6) (b), 250 (6) and 257 (a)	41
	Omit “of Finance, Services and Innovation” wherever occurring.	42

[31] Sections 213A and 213B	1
Insert after section 213:	2
213A Liability of inspectors and persons acting under direction of inspectors	3
A matter or thing done or omitted to be done by a building inspector, or a person acting under the direction of a building inspector, does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing functions under this Part, subject the building inspector or person so acting personally to any action, liability, claim or demand.	4 5 6 7 8
213B Liability of professional associations in respect of accreditation functions	9
(1) A matter or thing done or omitted to be done by a professional association, or an individual acting under the direction of a professional association, does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing functions under this Part, subject the professional association or individual so acting to any action, liability, claim or demand.	10 11 12 13 14
(2) In this section:	15
<i>professional association</i> means a body that is prescribed by the regulations for the purposes of this definition.	16 17
[32] Section 214 Regulations	18
Insert after section 214 (1) (a):	19
(a1) the functions of professional associations, or other bodies, with respect to determining whether persons are qualified to carry out functions as building inspectors,	20 21 22
(a2) registers of persons qualified to be appointed as building inspectors, including the public availability of those registers,	23 24
(a3) conditions that may be imposed on the exercise of functions under this Part by building inspectors, including the imposition of conditions by the Secretary or professional associations,	25 26 27
[33] Section 214 (2) (e1)	28
Insert after section 214 (2) (e):	29
(e1) procedures to be followed by the Secretary in determining an amount under section 209 (1A),	30 31
[34] Section 250A	32
Insert after section 250:	33
250A Continuing offences	34
(1) A person who is guilty of an offence because the person contravenes a requirement made by or under this Act or the regulations (whether the requirement is imposed by a notice or otherwise) to do or cease to do something (whether or not within a specified period or before a particular time):	35 36 37 38 39
(a) continues, until the requirement is complied with and despite the fact that any specified period has expired or time has passed, to be liable to comply with the requirement, and	40 41 42
(b) is guilty of a continuing offence for each day the contravention continues.	43 44

(2)	This section does not apply to an offence if the relevant provision of this Act or the regulations does not provide for a penalty for a continuing offence.	1 2
(3)	This section does not apply to the extent that a requirement of a notice is revoked.	3 4
[35]	Section 251 Proceedings for offences	5
	Insert “or before the Supreme Court in its summary jurisdiction” after “Local Court”.	6
[36]	Section 251 (2)	7
	Insert at the end of section 251:	8
(2)	The maximum monetary penalty that the Local Court may impose in proceedings for an offence under this Act or the regulations is the maximum penalty specified for that offence or 1,000 penalty units, whichever is the lesser.	9 10 11 12
[37]	Section 257A	13
	Insert after section 257:	14
257A	Personal liability of Secretary and persons acting under Secretary’s direction	15
(1)	A matter or thing done or omitted to be done by the Secretary, or a person acting under the direction of the Secretary, does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing functions under this Act, subject the Secretary or person so acting personally to any action, liability, claim or demand.	16 17 18 19 20
(2)	However, any such liability attaches instead to the Crown.	21
[38]	Section 260, heading	22
	Insert “of officers of owners corporations and others” after “liability”.	23
[39]	Section 271 Regulations	24
	Insert after section 271 (2):	25
(3)	A regulation may create an offence punishable by a penalty not exceeding 200 penalty units.	26 27

Schedule 2	Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103	1
		2
Schedule 2 Search warrants under other Acts		3
Insert in alphabetical order:		4
	<i>Strata Schemes Management Act 2015</i> , section 211H	5