

LEGISLATIVE ASSEMBLY

Design and Building Practitioners Bill 2019

First print

Proposed amendments

---

No. 1 **Duty of care**

Page 15, clause 29(1), line 6. Omit all words on that line. Insert instead—

**building** means—

- (a) a class 1a, 1b, 2, 3, 10a, 10b or 10c building or a building containing parts classified as class 1a, 1b, 2, 3, 10a, 10b or 10c, or
- (b) a building of another class or type prescribed by the regulations.

No. 2 **Duty of care**

Page 15, clause 29(1), lines 7 and 8. Omit all words on those lines. Insert instead—

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

**construction work** means any of the following—

- (a) building work,
- (b) the preparation of regulated designs and other designs for building work,
- (c) the manufacture or supply of a building product used for building work.

No. 3 **Duty of care**

Page 15, clause 29(1). Insert after line 26—

- (4) In this Part, a reference to a person who carries out construction work includes a reference to a person who manufactures, or is a supplier (within the meaning of the *Building Products (Safety) Act 2017*) of, a building product used for building work.

No. 4 **Transitional arrangements**

Page 41, Schedule 1, clause 3, lines 28–30. Omit all words on those lines. Insert instead—

**3 Application of Act (other than Part 3) to work done under existing arrangements**

This Act (other than Part 3) applies to the preparation of designs, building work or other work done in respect of a building under an existing arrangement if the first application for the issue of a complying development certificate or construction certificate (within the meaning of the

---

*Environmental Planning and Assessment Act 1979*) for the building is made on or after a day prescribed by the regulations for the purposes of this clause.

No. 5 **Transitional arrangements**

Page 41, Schedule 1, clause 4, line 33. Insert “to which this Act does not apply” after “work”.

No. 6 **Duty of care**

Page 41, Schedule 1, clause 5, lines 34–36. Omit all words on those lines. Insert instead—

**5 Application of duty of care provisions to existing buildings and contracts and arrangements**

- (1) Part 3 of this Act extends to construction work carried out before the commencement of section 30 as if the duty of care under that Part was owed by the person who carried out the construction work to the owner of the land and to subsequent owners when the construction work was carried out.
- (2) However, this clause does not confer rights on an owner to take action in relation to a particular economic loss if—
  - (a) the owner commenced an action for breach of a common law duty of care against any person before the commencement of section 30 in relation to the economic loss, or
  - (b) the loss first became apparent before the commencement of the period of 6 years immediately preceding the commencement of section 30, or
  - (c) in the case of construction work other than the manufacture or supply of a building product used for building work, the date of completion of the construction work was more than 10 years before the commencement of section 30.
- (3) Section 33 of this Act extends to a contract, agreement or stipulation relating to the construction work whenever made.
- (4) Section 6.20(2) of the *Environmental Planning and Assessment Act 1979* applies for the purposes of determining when construction work was completed for the purposes of subclause (2)(c) as if a reference in that subsection to building work includes a reference to construction work.
- (5) For the purposes of this clause—
  - (a) a loss becomes apparent when an owner entitled to the benefit of the duty of care under Part 3 of this Act first becomes aware (or ought reasonably to have become aware) of the loss, and
  - (b) a reference to construction work includes a reference to work that is prescribed as construction work for the purposes of Part 3 of this Act after the commencement of this clause (whether as a regulated design or otherwise), unless the regulations otherwise provide.
- (6) Words and expressions used in this clause have the same meanings as in Part 3 of this Act.