



New South Wales

# Building Amendment (Mechanical Services and Medical Gas Work) Bill 2020

## Explanatory note

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

## Overview of Bill

The object of this Bill is to provide for the licensing of contractors, and the certifying of supervisors and tradespersons, who carry out mechanical services work including medical gas systems work.

## 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 the day that is 6 months after the date of assent to the proposed Act (other than Schedule 1[2] which is to commence 2 years after that date of assent).

**Schedule 1** gives effect to the object set out in the Overview. Specifically, **Schedule 1[4]** amends a definition to provide that mechanical services work is *specialist work* for the purposes of the *Home Building Act 1989* (the **HB Act**). Part 2 of the HB Act, amongst other things, provides that individuals, partnerships and corporations who contract to do specialist work must be licensed under that Act. Section 3D of the HB Act provides that, in its application to specialist work, the HB Act is not limited to specialist work that is residential building work and extends to other specialist work (for example, commercial and industrial specialist work).

**Schedule 1[3]** inserts a definition of *mechanical services work* into the HB Act. It includes work that is the construction, installation, replacement, repair, alteration, maintenance, testing or commissioning of any fixed component used in a reticulation system for the supply or removal of medical gases from the gas source to the wall outlet. The term *medical gases* is also defined.

**Schedule 1[1]** makes it an offence for an individual to do any mechanical services work, except—

- (a) as a qualified supervisor (meaning the holder of an endorsed contractor licence, or a supervisor certificate, authorising its holder to do mechanical services work), or
- (b) as the holder of a tradesperson certificate authorising its holder to do mechanical services work under supervision, but only if the work is done under the supervision and in accordance with the directions, if any, of a qualified supervisor.

Certain exceptions for other supervised work is also provided for.

The offence will carry a maximum penalty of 1,000 penalty units in the case of a corporation and 200 penalty units in any other case.

**Schedule 1[2]** inserts proposed section 33E into the HB Act to provide that, subject to certain exceptions, a supervisor or tradesperson certificate must not be issued, and a contractor licence must not be endorsed to show that it is equivalent to a supervisor or tradesperson certificate, that authorises its holder to do mechanical services work under that Act unless the applicant—

- (a) has successfully completed the Certificate III in Plumbing (Mechanical Services) course, being part of the Construction, Plumbing and Services Training Package, which includes the unit of competency known as “Install medical gas pipeline systems”, or any course with a unit of competency that replaces that course and unit, and
- (b) has—
  - (i) successfully completed an apprenticeship under the supervision of the holder of an endorsed contractor licence, or a supervisor certificate, authorising its holder to do mechanical services work, or
  - (ii) had at least 4 years’ experience in mechanical services work that has included work relating to medical gas of a kind and nature that the Secretary considers would enable the applicant to do, or to supervise, the work for which the certificate or licence is required.



New South Wales

# Building Amendment (Mechanical Services and Medical Gas Work) Bill 2020

## Contents

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		Page
	1 Name of Act	2
	2 Commencement	2
<b>Schedule 1</b>	<b>Amendment of Home Building Act 1989 No 147</b>	<b>3</b>



New South Wales

# Building Amendment (Mechanical Services and Medical Gas Work) Bill 2020

No. , 2020

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## A Bill for

An Act to amend the *Home Building Act 1989* to provide for the licensing of contractors, and the certifying of supervisors and tradespersons, who carry out mechanical services work including medical gas systems work; and for related purposes.

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**The Legislature of New South Wales enacts—**

1

**1 Name of Act**

2

This Act is the *Building Amendment (Mechanical Services and Medical Gas Work) Act 2020*.

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4

**2 Commencement**

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(1) This Act commences on the day that is 6 months after the date of assent to this Act.

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(2) Despite subsection (1), Schedule 1[2] commences on the day that is 2 years after the date of assent to this Act.

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## Schedule 1 Amendment of Home Building Act 1989 No 147

### [1] Section 15A

Insert after section 15—

#### 15A Unqualified mechanical services work

- (1) An individual must not do any mechanical services work (whether or not it is also residential building work), except—
- (a) as a qualified supervisor in respect of that work, or
  - (b) as the holder of a tradesperson certificate authorising its holder to do that work under supervision, but only if the work is done under the supervision and in accordance with the directions, if any, of a qualified supervisor.
- Maximum penalty—1,000 penalty units in the case of a corporation and 200 penalty units in any other case.
- (2) Despite subsection (1), an apprentice or trainee may do mechanical services work even though the apprentice or trainee is not a qualified supervisor or holder, but only if a qualified supervisor—
- (a) is present at all times where the work is being done by the apprentice or trainee, and
  - (b) is available to be consulted by, and to give directions relating to how the work is to be done to, the apprentice or trainee.
- (3) A qualified supervisor who is supervising any mechanical services work being done by an individual as referred to in subsection (1)(b) must—
- (a) give directions that are adequate to enable the work to be done correctly by the individual performing it, and
  - (b) personally ensure that the work is correctly done.
- Maximum penalty—1,000 penalty units in the case of a corporation and 200 penalty units in any other case.
- (4) A qualified supervisor who is supervising any mechanical services work being done by an apprentice or trainee as referred to in subsection (2) must—
- (a) give directions that are adequate to enable the work to be done correctly by the apprentice or trainee performing it (which, unless the qualified supervisor considers it unnecessary, must include directions requiring the apprentice or trainee to advise in detail on progress with the work), and
  - (b) be present when the work is being done and be available to be consulted by, and to give directions relating to how the work is to be done to, the apprentice or trainee, and
  - (c) personally ensure that the work is correctly done.
- Maximum penalty—1,000 penalty units in the case of a corporation and 200 penalty units in any other case.
- (5) This section applies to an individual acting in the course of his or her employment by the Crown.
- (6) In this section—
- apprentice* has the same meaning as in the *Apprenticeship and Traineeship Act 2001*.

*qualified supervisor*, in respect of mechanical services work, means the holder of an endorsed contractor licence, or a supervisor certificate, authorising its holder to do that work.

*trainee* has the same meaning as in the *Apprenticeship and Traineeship Act 2001*.

**[2] Section 33E**

Insert after section 33D—

**33E Additional requirements for obtaining endorsed contractor licences and supervisor and tradesperson certificates relating to mechanical services work**

(1) A supervisor or tradesperson certificate must not be issued, and a contractor licence must not be endorsed to show that it is equivalent to a supervisor or tradesperson certificate, that authorises its holder to do mechanical services work unless the Secretary is satisfied that the applicant—

(a) has successfully completed the Certificate III in Plumbing (Mechanical Services) course, being part of the Construction, Plumbing and Services Training Package, which includes the unit of competency known as “Install medical gas pipeline systems”, or any course with a unit of competency that replaces that course and unit, and

(b) has—

(i) successfully completed an apprenticeship (within the meaning of the *Apprenticeship and Traineeship Act 2001*) under the supervision of the holder of an endorsed contractor licence, or a supervisor certificate, authorising its holder to do mechanical services work, or

(ii) had at least 4 years’ experience in mechanical services work that has included work relating to medical gas of a kind and nature that the Secretary considers would enable the applicant to do, or to supervise, the work for which the certificate or endorsed contractor licence is required.

(2) Despite subsection (1), the Secretary may issue a supervisor or tradesperson certificate, or endorse a contractor licence to show that it is equivalent to a supervisor or tradesperson certificate, that authorises its holder to do mechanical services work, if the Secretary is satisfied that the applicant—

(a) on the day that this section commenced, had at least 4 years’ experience in mechanical services work that has included work relating to medical gas of a kind and nature that the Secretary considers would enable the applicant to do, or to supervise, the work for which the certificate or endorsed contractor licence is required, and

(b) has, within the preceding 2 years, completed the unit of competency known as “Install medical gas pipeline systems” in the Construction, Plumbing and Services Training Package, or any unit of competency that replaces that unit, and

(c) has any other qualifications or has passed the examinations or practical tests, or both, that the Secretary determines to be necessary to enable the applicant to do, or to supervise, mechanical services work.

**[3] Schedule 1 Definitions and other interpretative provisions**

Insert in alphabetical order in clause 1(1)—

*mechanical services work* means—

- (a) the construction, installation, replacement, repair, alteration, maintenance, testing or commissioning of a mechanical heating, cooling or ventilation system in a building, which is associated with the heating, cooling or ventilation of that building, and includes the following—
- (i) any valve, regulator, register, pipe, duct, flue, tank, heating or cooling pipe or surface, boiler, burner, solid fuel heater, coil or other item that is used in the system,
  - (ii) in the case of a cooling tower, any water pipe, valve, pump, automated dosing device or automated bleeding device or any other mechanical component that affects the cooling tower's cooling water flow rate or wastewater disposal,
  - (iii) roof sheeting and roof flashing that is necessary for the purpose of any work described in this paragraph or paragraphs (b)–(d), and
- (b) the construction, installation, replacement, repair, alteration, maintenance, testing or commissioning of any fixed component used in a reticulation system for the supply or removal of medical gases from the gas source to the wall outlet, and
- (c) the installation, commissioning and any incidental design work that is associated with the installation and commissioning of—
- (i) any part of a single head split system, or
  - (ii) a ceiling cassette system, or
  - (iii) an add-on condenser unit for a ducted system, that is associated with the heating and cooling of a building, and
- (d) any design work that is incidental to, or associated with, any work described in paragraphs (a) and (b),
- but does not include the following—
- (e) gasfitting work,
  - (f) any work on a cooling tower drift eliminator,
  - (g) any treatment of cooling or heating water,
  - (h) any cleaning of a cooling tower,
  - (i) disassembly or reassembly of a flue terminal for the purposes of cleaning a solid fuel heater,
  - (j) the connection or disconnection of a system referred to in paragraphs (a)–(d) from a water supply other than disconnection of the system from a water supply at an isolating valve adjacent to a mechanical component of that system.
- medical gases*** means any gas or mixture of gases or other substance or process for medical use that is supplied to, removed from or conducted at a hospital (or any other place where medical procedures are carried out), by way of a pipeline reticulation system and includes the following—
- (a) oxygen,
  - (b) helium,
  - (c) nitrous oxide,
  - (d) nitrogen,
  - (e) medical air,
  - (f) surgical tool gas,



(g) carbon dioxide,	1
(h) common mixtures of the gases in paragraphs (a)–(g),	2
(i) anaesthesia waste.	3
<b>[4] Schedule 1, clause 1(1), definition of “specialist work”</b>	4
Insert after paragraph (a) of the definition—	5
(a1) mechanical services work,	6