



New South Wales

Building Legislation Amendment Bill 2021

Explanatory note

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

Overview of Bill

The object of this Bill is to amend building, design and electricity legislation as follows—

- (a) to amend the *Design and Building Practitioners Act 2020* to—
 - (i) clarify obligations relating to the variation of building work, and
 - (ii) enable regulations to be made in relation to the recognition of professional bodies of engineers by the Secretary of the Department of Customer Service (the *Secretary*), and
 - (iii) enable administrative review of a decision of the Secretary relating to the recognition of a professional body of engineers, and
 - (iv) enable regulations to be made to provide for the waiver, reduction, postponement or refund of fees, and
 - (v) enable regulations to be made to exempt persons from the operation of the Act,
- (b) to amend the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020* to—
 - (i) enable the Secretary to impose a levy on developers, and
 - (ii) increase certain penalties, provide that certain offences under the Act are continuing offences and set out the penalties for each day the offences continue, and
 - (iii) enable the Secretary to prohibit the issue of an occupation certificate or strata plan registration if a direction has not been complied with under the Act, or if other circumstances exist as prescribed by the regulations, and

- (iv) enable the Local Court or Land and Environment Court, if a person is convicted of failing to comply with an order or direction under the Act, to order the person to comply with the order or direction,
- (c) to transfer provisions relating to electricity metering from the *Electricity Supply Act 1995* to the *Gas and Electricity (Consumer Safety) Act 2017*,
- (d) to amend the *Home Building Act 1989* to enable the Secretary to specify, by notice published in the Gazette, the qualifications and experience required to be held by an applicant for a contractor licence, supervisor or tradesperson certificate.

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Design and Building Practitioners Act 2020 No 7

Schedule 1[1] and [2] clarify offences in the Act, section 20(2) and (3) to require building practitioners to take all reasonable steps to ensure the requirements of those subsections are complied with before varied building work commences.

Schedule 1[3] and [4] enable regulations to be made in relation to the recognition by the Secretary of professional bodies of engineers with the function of registering or recognising practitioners.

Schedule 1[5] enables the administrative review of decisions made by the Secretary in relation to the recognition of professional bodies of engineers.

Schedule 1[6] enables regulations to be made in relation to fees for the lodgment of documents on the NSW planning portal and for the waiver, reduction, postponement or refund of fees.

Schedule 1[7] enables regulations to be made to exempt all persons or bodies, specified persons or bodies or classes of persons or bodies, or all work, specified work or classes of work, or all or specified registrations, from any specified provision of the Act.

Schedule 2 Amendment of Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 No 9

Schedule 2[1] enables the Secretary to impose, in accordance with regulations, a levy on developers to be paid into the Home Building Administration Fund.

Schedule 2[2], [3] and [5] amends certain offences to be continuing offences and sets out the penalties for each day the offences continue. **Schedule 2[5]** also increases the current maximum penalty for an offence relating to a person failing to comply with a direction of an authorised officer without reasonable excuse.

Schedule 2[4] enables the Secretary to make an order prohibiting the issue of an occupation certificate in relation to a residential apartment building and, if relevant, the registration of a strata plan for a strata scheme in relation to a residential apartment building if a developer, in relation to building work of the residential apartment building, fails to comply with a direction of an authorised officer, or if other circumstances exist as prescribed by the regulations.

Schedule 2[6] enables the Local Court or Land and Environment Court, if a person is convicted of failing to comply with an order or direction under the Act, to order the person to comply with the order or direction.

Schedule 3 Amendment of Home Building Act 1989 No 147

Schedule 3 amends the *Home Building Act 1989* to enable the Secretary to specify, by notice published in the Gazette, the qualifications and experience required to be held by an applicant for a contractor licence or supervisor or tradesperson certificate. A notice published in the Gazette before the commencement of the proposed Act is taken to have been validly made.

Schedule 4 Amendment of electricity legislation

Schedule 4 transfers provisions relating to electricity metering from the *Electricity Supply Act 1995* to the *Gas and Electricity (Consumer Safety) Act 2017*.