NORTHERN TERRITORY OF AUSTRALIA

BUILDING ACT 1993

As in force at 13 September 2025

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 13 September 2025

BUILDING ACT 1993

An Act to provide for the establishing of technical standards for buildings, the registration of building practitioners and certifiers, the regulation of building matters, the granting of building permits and occupancy certification and the establishing of a building appeal process, and for related purposes

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Building Act 1993*.

2 Commencement

The various provisions of this Act shall come into operation on such dates as are respectively fixed by the Administrator by notice in the *Gazette* in relation to those provisions.

3 Objects of Act

The objects of this Act are:

(a) to establish, maintain and improve building standards; and

(b) to facilitate the adoption and efficient application of national uniform building standards; and

(c) to facilitate national uniform accreditation of building products, construction methods, building designs, building components and building systems; and

(d) to maintain, enhance and improve the safety, health and amenity of people using buildings; and

(e) to promote and provide for the construction of environmentally efficient buildings; and

(f) to provide an efficient and effective system for granting building permits and occupancy certification, administering building matters and resolving building disputes; and

(g) to reform aspects of the law relating to the legal liability of regulatory agencies and building practitioners; and

(h) to facilitate national uniformity in the training and qualifications of certain building practitioners and the recognition of qualifications on a national basis; and

(ha) to provide for the registration of building practitioners; and

(hb) to provide for the investigation, audit and disciplining of building practitioners; and

(hc) to establish a scheme relating to residential building consumer protection and the provision of residential building insurance or fidelity certificates; and

(j) to facilitate the cost effective construction of buildings; and

(k) to aid the achievement of an efficient and competitive building industry.

4 Definitions

In this Act:

access modification decision, for Part 10A, see section 129G(2).

actuary, for an approved scheme, means the actuary appointed for the scheme under section 54E(1).

adjoining property, in relation to building work, means a property (including a street) that is next to, or near, the land on which the building work is to be carried out.

Advisory Committee means the Building Advisory Committee established by section 9(1).

alternative solution decision, for Part 10A, see section 129E(2).

Appeals Board means the Building Appeals Board established by section 17.

applicant, for Part 10A, see section 129A.

approval criteria, for a fidelity fund scheme, see section 54DA(3).

approval to occupy a building on a temporary basis means an approval granted under Part 8, Division 4.

approved means approved by the Director.

approved form means a form approved under section 167A.

approved insurer means a body corporate or person approved under section 54CA.

approved scheme means a fidelity fund scheme approved under section 54DB(3)(a).

authorised officer means a person appointed to be, or who is a member of a class of persons appointed to be, an authorised officer or authorised officers under section 162(1).

authorised RBI policy, see section 54CB(1).

builder's declaration, see section 69(1).

Building Area means a part of the Territory to which, under section 6(2), all or any of the provisions referred to in that section are declared to apply.

building includes a structure and a part of a building or structure.

building certifier means an individual or corporation registered under section 24 in the category of building practitioners known as building certifiers and, in relation to a function the Director is directed under section 48 to perform, includes the Director.

building notice means a building notice issued under section 108 or 109.

building order means a building order made under section 112.

building permit means a permit to carry out building work granted under this Act.

building practitioner means an individual or corporation registered under Part 3.

building work means work for or in connection with the construction, demolition or removal of:

(a) a building; or

(b) plumbing or drainage services, whether or not connected to a building, other than plumbing or drainage services vested in the Power and Water Corporation established by the *Power and Water Corporation Act 1987*.

carry out, in relation to building work, includes to cause to be carried out.

category of building practitioner has the meaning in section 4A.

certificate of existence means a certificate granted under Part 8, Division 3.

certificate of substantial compliance means a certificate granted under Part 8, Division 2A.

Commissioner means the Commissioner of Residential Building Disputes mentioned in section 54F.

construct, in relation to a building, includes:

(a) build, re-build, erect or re-erect the building; and

(b) repair the building; and

(c) make alterations to the building; and

(d) enlarge or extend the building; and

(e) place or relocate the building on land.

consumer guarantee dispute, see section 54FC(2).

consumer guarantees, see section 54B(1).

contracting owner means the owner of the land to which a residential building contract applies.

contracting residential builder means a prescribed building contractor mentioned in section 48B who is not a developer.

current owner, for Part 5A, see section 54AD.

deemed to satisfy provisions, in relation to disability access provisions, see section 129B(2)(a)(ii).

defective, in relation to prescribed residential building work, means building work:

(a) carried out by a residential builder in a way that contravenes a consumer guarantee; or

(b) for which the residential builder has supplied materials otherwise than as required by a consumer guarantee.

developer means a prescribed building contractor mentioned in section 48B who carries out prescribed residential building work on land owned by that building contractor.

Director means the Director of Building Control appointed under section 7.

disability access decision, for Part 10A, see section 129A.

disability access provisions, see section 129B.

exemption certificate, see section 73A(1).

existing building work, in relation to a certificate of existence, see section 72D(2).

fidelity certificate, see section 54D.

fidelity fund scheme means a scheme for a building industry fidelity fund established under a trust deed.

fire upgrading report means a report prepared under section 116.

guidelines, see section 167B.

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

nominee, of a corporation, means an individual appointed under section 22A as the corporation nominee.

occupancy certification, means one of the following:

(a) an occupancy permit;

(b) a certificate of substantial compliance;

(c) a certificate of existence;

(d) an approval to occupy a building on a temporary basis.

occupancy permit means a permit granted under Part 8, Division 2.

owner, in relation to land, includes every person who jointly or severally:

(a) is entitled to the land for an estate of freehold in possession; or

(b) is a person to whom the Crown has lawfully contracted to sell the land under an Act relating to the alienation of lands of the Crown; or

(c) is entitled to receive or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits of the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise.

owner-builder means a person to whom an owner-builder certificate is granted.

owner-builder certificate means a certificate granted under section 48F(1).

performance reporting means information on past performance of building practitioners available in the system mentioned in section 14(1)(a).

performance requirements, in relation to disability access provisions, see section 129B(2)(a)(i).

Practitioners Board means the Building Practitioners Board established by section 12.

prescribed means prescribed by regulation.

prescribed certification, see section 73A(2).

prescribed effective period, in relation to consumer guarantees, see section 54B(2).

prescribed event, see section 73C(2).

prescribed residential building work, see section 54AB(1).

promote or conduct, in relation to a public assembly, includes to be interested in the proceeds or profits, if any, of the public assembly.

prudential standards, for an approved scheme, see section 54DC.

public assembly means an assembly of persons whether or not admission to the assembly is gained on payment of money or other consideration and whether or not its purpose is public entertainment.

public authority means the Crown, a local government council, or a public authority established by or under an Act or a statutory body representing the Crown, and includes a person exercising functions on behalf of the Crown or council or the authority or body.

RBI means residential building insurance.

RBI policy document, see section 54CD(2).

registered means registered under Part 3.

Registrar, in relation to a committee or board, means the employee, within the meaning of the *Public Sector Employment and Management Act 1993*, whose duties under that Act include performing the functions of the Registrar of the committee or board.

Regulations includes a code or other document adopted by the Regulations for the purposes of this Act.

relevant person, in Part 9, means the owner of land or a building who proposes to carry out building work on the land or building.

relevant technical standards, for Part 8, in relation to building work for which a building permit has been granted, means any standards or codes, in force in the Territory during the period the building permit is in force, that regulate the building work.

repealed Act means the *Building Act 1983* as in force immediately before the commencement of this Act.

reporting authority means a body or person (other than the building certifier to whom the application is made) required by the Regulations to report on, or consent to, an application for a building permit.

residential builder, see section 54AB(2) and (3).

residential building means a building in relation to which a residential builder carries out prescribed residential building work.

residential building contract means a contract entered into under section 48B(1).

residential building insurance, see section 54C.

special actuary, for an approved scheme, means the special actuary appointed for the scheme under section 54EF.

street includes a road (within the meaning of the *Control of Roads Act 1953*), lane, footway, square, court, alley and right of way.

temporary structure means:

(a) a booth, tent or other temporary enclosure, whether or not a part of it is permanent; or

(b) a mobile structure.

Tribunal means the Civil and Administrative Tribunal.

4A Categories of building practitioner

(1) The following are the categories of building practitioner:

(a) building certifier;

(b) certifying architect;

(c) certifying plumber;

(d) certifying engineer;

(e) building contractor.

(2) The Regulations may prescribe:

(a) a category of building practitioner; or

(b) a sub-category of a category of building practitioner.

(3) In this Act, a reference to a category of building practitioner includes:

(a) a category of building practitioner; and

(b) a sub-category of a category of building practitioner,

prescribed under subsection (2).

5 Act to bind Crown

This Act binds the Crown, not only in right of the Territory but, to the extent that the legislative power of the Legislative Assembly so permits, the Crown in all its other capacities.

6 Application

(1) Subject to subsections (2) and (3), this Act, other than Parts 4 to 13, applies throughout the Territory.

(2) The Minister may, by *Gazette* notice, declare that all or any of the provisions of Parts 4 to 13 apply in and in relation to the parts of the Territory specified in the notice and, on the Minister so declaring, those provisions apply accordingly.

(3) The Minister may, by *Gazette* notice, declare that a provision of the Regulations specified in the notice does not apply in all or a part of the Territory specified in the notice and accordingly, on the Minister so declaring, the provision does not apply in the Territory or that part of the Territory.

(4) In the application of this Act to building work in respect of which an approval or permit is required by or under this Act, this Act and the Regulations prevail over all other Acts and instruments of a legislative character.

Part 2 Building administration

Division 1 Director of Building Control

7 Director of Building Control

The Minister may appoint an employee, within the meaning of the *Public Sector Employment and Management Act 1993*, to be the Director of Building Control.

8 Functions and powers of Director

(1) The functions of the Director are:

(aa) to investigate complaints against, and to audit the work and conduct of, building practitioners; and

(ab) to conduct disciplinary proceedings in relation to building practitioners before the Practitioners Board; and

(ac) to prosecute alleged offences against this Act or the Regulations, whether the alleged offender is a building practitioner or another person; and

(a) to advise the Minister on all matters relating to building in the Territory; and

(b) to promote research into building matters; and

(c) to liaise with groups and bodies involved in the building industry and with other interested groups or bodies on building matters; and

(d) to publish reports and disseminate information on building matters; and

(e) to carry out periodic reviews of this Act and the Regulations; and

(f) to report on any building matters when required by the Minister to do so; and

(g) to liaise with any national body established to deal with building regulation matters; and

(h) such other functions as are imposed on the Director by or under this or any other Act or as directed by the Minister.

(2) The Director has such powers as are conferred on him or her by or under this or any other Act and, subject to this Act, may do all things necessary or convenient to be done for or in connection with or incidental to the performance of his or her functions and the exercise of his or her powers.

(3) The Director must keep, and make available to members of the public for inspection at his or her office during normal office hours, a register of building permits and occupancy certification.

Division 2 Building Advisory Committee

9 Establishment of Advisory Committee

(1) There is established by this section a Committee to be known as the Building Advisory Committee.

(2) The Advisory Committee consists of such members appointed by the Minister as the Minister thinks fit.

(3) The members of the Advisory Committee must elect one of their number to be the Chairperson of the Committee and another to be its Deputy Chairperson.

(4) Without limiting subsection (2), the Director or a member of the Appeals Board or the Practitioners Board may be appointed as a member of the Advisory Committee.

10 Schedule 2 to apply

Schedule 2 has effect with respect to the members and procedure of the Advisory Committee.

11 Functions and powers of Advisory Committee

(1) The functions of the Advisory Committee are:

(a) to advise the Minister on the administration of this Act; and

(b) to investigate and report to the Minister on all matters related to this Act that are referred to it by the Minister; and

(c) to accredit building products, construction methods, designs, components or systems; and

(d) such other functions as are imposed on it by or under this or any other Act or as directed by the Minister.

(2) The Advisory Committee has such powers as are conferred on it by or under this or any other Act and, subject to this Act, may do all things necessary or convenient to be done for or in connection with or incidental to the performance of its functions and the exercise of its powers.

Division 3 Building Practitioners Board

12 Establishment of Practitioners Board

There is established by this section a Board to be known as the Building Practitioners Board.

12A Membership of Practitioners Board

(1) Subject to this section, the Minister:

(a) must appoint in writing the persons the Minister considers appropriate to be members of the Practitioners Board; and

(b) must appoint in writing:

(i) one of those members to be the Chairperson of the Board; and

(ii) another of those members to be the Deputy Chairperson of the Board.

(2) Without limiting subsection (1)(a), a member of the Advisory Committee or a member of the Appeals Board may be appointed as a member, but the Director cannot be appointed as a member.

(3) At least one member must be a lawyer who has been admitted to the legal profession for at least 5 years.

(4) The members who are not lawyers (the ***industry members***) must be persons the Minister considers have appropriate experience in the building industry or matters connected with the building industry.

(5) If practicable, at least one industry member must be appointed to represent the interests of each category of building practitioner.

(6) An industry member who is appointed to represent the interests of a category of building practitioner must be:

(a) registered in the category of building practitioner the member is appointed to represent; and

(b) chosen by the Minister in accordance with section 12B.

(7) An industry member cannot be appointed to represent more than one category of building practitioner, but 2 or more industry members may be appointed to represent the interests of the same category of building practitioner.

(8) In this section:

category of building practitioner does not include a sub-category of a category of building practitioner.

12B Procedure for choosing members for categories of building practitioner

(1) The Minister must invite:

(a) the professional or trade organisation that, in the Minister's opinion, represents the majority of persons registered in a category of building practitioner; or

(b) if, in the Minister's opinion, there are 2 or more professional or trade organisations that each represents a substantial number of persons registered in a category of building practitioner – each of those organisations;

to nominate, within the time specified, 3 persons who reside in the Territory to be members of the Practitioners Board.

(2) Subject to subsections (3) and (4), the Minister must choose from the nominations received from each organisation one person to be appointed as a member.

(3) If fewer than 3 nominations are received from an organisation, the Minister is not required to choose a person in respect of that organisation.

(4) If fewer than 3 nominations are received for a category of building practitioner, the Minister may choose a person who was not nominated for that category of building practitioner but who, in the Minister's opinion, is appropriate to represent the interests of that category of building practitioner.

13 Schedule 2 to apply

Schedule 2 has effect with respect to the members and procedure of the Practitioners Board.

14 Functions and powers of Practitioners Board

(1) The functions of the Practitioners Board are:

(a) to establish and maintain a system of performance reporting on building practitioners to ensure that information on past performance is available and able to be taken into account when assessing the competence of building practitioners; and

(b) to register persons as building practitioners; and

(c) to monitor the compliance of building practitioners with their registration requirements; and

(d) to monitor the competence to practice and professional conduct of building practitioners; and

(e) to conduct inquiries into the work and conduct of building practitioners and, if necessary, to discipline building practitioners; and

(f) to develop and publish codes of practice about the work and conduct of building practitioners for reference by building practitioners and for use by the Board and the Director in assessing the work and conduct of building practitioners; and

(g) any other functions imposed on the Board by this or another Act or the Minister.

(2) The Practitioners Board has such powers as are conferred on it by or under this or any other Act and, subject to this Act, may do all things necessary or convenient to be done for or in connection with or incidental to the performance of its functions and the exercise of its powers.

16 Register of building practitioners

(1) The Practitioners Board must maintain a register of building practitioners with separate parts for each category of building practitioner.

(1A) If the Practitioners Board has imposed conditions on the registration of a building practitioner under section 24FAB:

(a) the conditions must be included in the entry for the building practitioner in the register; and

(b) if the building practitioner is the nominee of a corporation registered as a building practitioner – the conditions must also be included in the entry for the corporation in the register.

(2) The Practitioners Board may give directions for the correction of information in the register.

Division 4 Building Appeals Board

17 Establishment of Appeals Board

(1) There is established by this section a Board to be known as the Building Appeals Board.

(2) The Appeals Board consists of the members appointed by the Minister, having experience in the building industry or matters connected with the building industry, as the Minister thinks fit, of whom:

(a) one must be appointed to be its Chairperson; and

(b) one other must be appointed to be its Deputy Chairperson.

(3) Without limiting subsection (2), the Director, a member of the Advisory Committee or a member of the Practitioners Board may be appointed as a member of the Appeals Board.

18 Schedule 2 to apply

Schedule 2 has effect with respect to the members and procedure of the Appeals Board.

19 Functions and powers of Appeals Board

(1) The functions of the Appeals Board are:

(a) to determine appeals relating to disputes about:

(i) the effect of the Regulations or the manner in which the Regulations are to be or have been complied with; and

(ii) the construction of a party wall or the expenses to be borne by the owners of premises separated by a party wall in relation to any such construction; and

(ab) to determine appeals against decisions of the Director or building certifiers made under Part 8; and

(b) to determine applications under section 131 relating to the application of the Regulations to land, buildings or building work; and

(c) other functions imposed on it by or under this or any other Act.

(2) The Appeals Board has the powers necessary for the performance of its functions.

Division 5 Delegations

20 Delegations by Minister and Director

(1) The Minister may delegate to a person any of the Minister's powers and functions under this Act except the powers and functions under section 6(2) and (3), 9(2), 12A(1), 17(2) or 48.

(2) The Director may delegate to a person any of the Director's powers and functions under this Act.

20A Delegations by Advisory Committee, Practitioners Board and Appeals Board

(1) The Advisory Committee may delegate any of its powers and functions under this Act to a member of the Committee, the Registrar of the Committee or a public sector employee.

(2) The Practitioners Board may delegate any of its powers and functions under this Act to a member of the Board, the Registrar of the Board or a public sector employee.

(3) The Appeals Board may delegate any of its powers and functions under this Act to a member of the Board, the Registrar of the Board or a public sector employee.

Part 3 Building practitioners

Division 1AA Preliminary

21A Definitions

In this Part:

audit means an audit conducted under section 34A, and includes an audit extended under section 34C.

auditor, in relation to an audit, means:

(a) the person authorised under section 34A(3) to conduct the audit; or

(b) if paragraph (a) does not apply – the Director.

building practitioner includes a person who was registered at the time certain work was done, or certain conduct was engaged in, by the person but who ceases to be registered at any time after the time of that work or conduct.

inquiry means an inquiry conducted under Division 3A.

Inquiry Board, in relation to an inquiry, means the Practitioners Board as constituted under section 34J to conduct the inquiry.

investigation means an investigation conducted under section 30, and includes an investigation extended under section 31.

professional misconduct, in relation to a building practitioner, means conduct referred to in section 34S.

working day means a day other than a Saturday, Sunday or public holiday within the meaning of the *Public Holidays Act 1981*.

21B Application

Divisions 2, 3, 3A, 3B and 4 apply in relation to work done, or conduct engaged in, by a building practitioner:

(a) whenever the work was or is done or the conduct was or is engaged in; and

(b) if the building practitioner is or was registered in a category of building contractor – even though the building practitioner was not required to be registered in that category at the time of the work or conduct.

Division 1 Registration

22 Building practitioners to be registered

(1) A person who is not appropriately registered under this Part must not:

(a) take or use the title of building practitioner or building practitioner of a particular category of building practitioners (either alone or in combination with any other words); or

(b) perform a function or exercise a power of, or work as, a building practitioner or building practitioner of a particular category of building practitioner; or

(c) in any way imply that he or she is:

(i) registered under this Part; or

(ii) authorised to perform a function or work for which registration is required under this Part.

Maximum penalty: 40 penalty units.

(2) Subsection (1)(b) does not apply to an owner-builder carrying out building work permitted to be carried out under the owner-builder certificate.

22A Appointment of nominee by corporation

(1) A corporation may, in the approved form, appoint an individual to be its nominee for this Act.

(2) The corporation must give the form to the Practitioners Board as soon as practicable after it is signed by the corporation and nominee.

(3) The appointment takes effect when the relevant details are entered in the register maintained under section 16.

23 Application for registration as building practitioner other than building contractor

(1) This section applies in relation to an application for registration as a building practitioner in a category of building practitioner other than building contractor.

(2) An individual may apply to the Practitioners Board for registration of the individual.

(3) A corporation may apply to the Practitioners Board for registration of the corporation.

(4) An application under this section must be in the approved form accompanied by the prescribed fee.

24 Registration of building practitioner other than building contractor

(1) After receiving an application made by an individual under section 23(2), the Practitioners Board must register the individual in the category of building practitioner specified in the application if satisfied the individual:

(a) is a fit and proper person to be registered in that category; and

(b) has the relevant qualifications and experience (if any) determined under section 24G(a) for that category; and

(c) has complied with any conditions for registration prescribed by regulation; and

(d) has paid any prescribed fee for registration.

(2) After receiving an application made for a corporation under section 23(3), the Practitioners Board must register the corporation in the category of building practitioner specified in the application if satisfied:

(a) at least one individual concerned in the management or conduct of the corporation, or a nominee of the corporation, is registered in that category; and

(b) each individual concerned in the management or conduct of the corporation who is not registered in that category would be a fit and proper person to be so registered if the individual had applied personally for the registration; and

(c) the corporation has complied with any conditions for registration prescribed by regulation; and

(d) the corporation has paid any prescribed fee for registration.

(3) Without limiting subsection (1)(c) or (2)(c), a regulation may prescribe a condition requiring the applicant for registration to hold an insurance policy of a type (which may include a professional indemnity policy) or for an amount, or both, determined under section 24G(c).

24A Application for registration as building contractor

(1) This section applies in relation to an application for registration as a building practitioner in a category of building contractor.

(2) An individual may apply to the Practitioners Board for registration as a building contractor in one or more sub-categories of building contractor.

(3) A corporation may apply to the Practitioners Board for registration as a building contractor in one or more sub-categories of building contractor.

(4) An application under this section must be in the approved form accompanied by the prescribed fee.

24B Registration of building practitioner as building contractor

(1) After receiving an application made by an individual under section 24A(2), the Practitioners Board must register the individual as a building contractor in the sub-category or sub-categories specified in the application if satisfied the individual:

(a) is a fit and proper person to be registered in each sub-category; and

(b) has the relevant qualifications and experience (if any) determined under section 24G(a) for each sub-category; and

(c) currently holds, and during the period of registration will continue to hold, the net financial assets prescribed by regulation for each sub-category; and

(d) has complied with any conditions for registration prescribed by regulation; and

(e) has paid any prescribed fee for registration.

(2) After receiving an application made by a corporation under section 24A(3), the Practitioners Board must register the corporation as a building contractor in the sub-category or sub-categories specified in the application if satisfied:

(a) at least one director, or a nominee, of the corporation:

(i) is registered in each sub-category; and

(ii) will provide adequate supervision of the building work carried out by the corporation; and

(b) each director of the corporation who is not registered in a sub-category specified in the application would be a fit and proper person to be so registered if the director had applied personally for the registration; and

(c) the corporation currently holds, and during the period of registration will continue to hold, the net financial assets prescribed by regulation for each sub-category; and

(d) the corporation has complied with any conditions for registration prescribed by regulation; and

(e) the corporation has paid any prescribed fee for registration.

(3) Without limiting subsection (1)(d) or (2)(d), a regulation may prescribe a condition requiring the applicant for registration to hold an insurance policy of a type (which may include a professional indemnity policy) or for an amount, or both, determined under section 24G(c).

24D Term of registration

Subject to this Act, a building practitioner's registration remains in force for:

(a) 4 years from the date it is granted or renewed; or

(b) a shorter period specified by the Practitioners Board at the time it is granted or renewed.

24E Application for renewal of registration as building practitioner

(1) A building practitioner may, in the approved form accompanied by the prescribed fee, apply to the Practitioners Board to renew the practitioner's registration.

(2) The Practitioners Board may refuse to accept an application if it is made after the prescribed date.

24EAA Registration continues in force pending determination of application for renewal of registration

(1) Subsection (2) applies to a registered builder if:

(a) the registered builder has made an application for renewal of the registered builder's registration under section 24E before the prescribed date mentioned in section 24E(2); and

(b) the application for renewal is not determined under section 24EA or 24F before the expiry of the registered builder's registration.

(2) Subject to subsection (3), the registered builder's registration continues to remain in force until the application for renewal is determined under section 24EA or 24F.

(3) The registration of the registered builder does not continue in force in accordance with subsection (2) if it is otherwise cancelled under this Act.

24EA Renewal of registration of building practitioner other than building contractor

(1) After receiving an application under section 24E that relates to an individual and is for renewal of registration in a category of building practitioner other than building contractor, the Practitioners Board must renew the registration if satisfied the individual:

(a) is a fit and proper person to be registered in that category; and

(b) has the relevant qualifications and experience (if any) determined under section 24G(a) for renewal of registration in that category; and

(c) has, during the current period of registration, complied with any continuing professional development requirements prescribed by regulation for that category; and

(d) has, during the current period of registration, performed competently in that category as shown by performance reporting; and

(e) has complied with any conditions for renewal prescribed by regulation; and

(f) has paid any prescribed fee for the renewal.

(2) After receiving an application under section 24E that relates to a corporation and is for renewal of registration in a category other than building contractor, the Practitioners Board must renew the registration if satisfied:

(a) at least one individual concerned in the management or conduct of the corporation, or a nominee of the corporation:

(i) is registered as a building practitioner in that category; and

(ii) has, during the current period of registration, complied with any continuing professional development requirements prescribed by regulation for that category; and

(b) each individual concerned in the management or conduct of the corporation who is not registered as a building practitioner in that category would be a fit and proper person to be so registered if the individual had applied personally for the registration; and

(c) the corporation has, during the current period of registration, performed competently in that category as shown by performance reporting; and

(d) the corporation has complied with any conditions for renewal prescribed by regulation; and

(e) the corporation has paid any prescribed fee for renewal of registration.

(3) Without limiting subsection (1)(e) or (2)(d), a regulation may prescribe a condition requiring an applicant for renewal of registration to hold an insurance policy of a type (which may include a professional indemnity policy) or for an amount, or both, determined under section 24G(c).

24F Renewal of registration of building contractor

(1) After receiving an application under section 24E that relates to an individual and is for renewal of registration in the category of building contractor, the Practitioners Board must renew the registration of the individual in each sub-category of building contractor specified in the application if satisfied the individual:

(a) is a fit and proper person to be registered in the sub-category or sub-categories; and

(b) has the relevant qualifications and experience (if any) determined under section 24G(a) for renewal of registration in the sub-category or sub-categories; and

(c) has, during the current period of registration, complied with any continuing professional development requirements prescribed by regulation for the sub-category or sub-categories; and

(d) has, during the current period of registration, performed competently in the sub-category or sub-categories as shown by performance reporting; and

(e) currently holds, and during the period of registration will continue to hold, the net financial assets prescribed by regulation for the sub-category or sub-categories; and

(f) has complied with any conditions for renewal prescribed by regulation; and

(g) has paid any prescribed fee for the renewal.

(2) After receiving an application under section 24E that relates to a corporation and is for renewal of registration in the category of building contractor, the Practitioners Board must renew the registration of the corporation in each sub-category of building contractor specified in the application if satisfied:

(a) at least one director or nominee of the corporation:

(i) is registered as a building practitioner in the sub-category or sub-categories; and

(ii) has, during the current period of registration, complied with any continuing professional development requirements prescribed by regulation for the sub-category or sub-categories; and

(iii) will provide adequate supervision of the building work carried out by the corporation; and

(b) each director of the corporation who is not registered in a sub-category specified in the application would be a fit and proper person to be so registered if the director had applied personally for the registration; and

(c) the corporation has, during the current period of registration, performed competently in that category as shown by performance reporting; and

(d) the corporation currently holds, and during the period of registration will continue to hold, the net financial assets prescribed by regulation for that category; and

(e) the corporation has complied with any conditions for renewal prescribed by regulation; and

(f) the corporation has paid any prescribed fee for renewal of registration.

(3) Without limiting subsection (1)(f) or (2)(e), a regulation may prescribe a condition requiring an applicant for renewal of registration to hold an insurance policy of a type (which may include a professional indemnity policy) or for an amount, or both, determined under section 24G(c).

24FA Practitioners Board must have regard to particular information

(1) Before deciding an application made under section 23, 24A or 24E, the Practitioners Board must have regard to a relevant report or relevant information given by a person or entity who is prescribed by regulation.

(2) For subsection (1), a relevant report or relevant information is a report or information relevant to a matter about which the Practitioners Board must be satisfied under section 24, 24B, 24EA or 24F.

(3) Subsection (1) does not prevent the Practitioners Board from considering any other information it considers relevant to deciding the application.

24FAB Practitioners Board may impose conditions on registration

(1) If the Practitioners Board decides under this Division to register a person as a building practitioner, or renew the registration of a person as a building practitioner, the Board may impose conditions on the registration as the Board considers appropriate.

(2) However, the conditions must not be inconsistent with this Act, the Regulations or a determination in force under section 24G.

(3) A registered building practitioner who has conditions imposed on the practitioner's registration must comply with the conditions.

Maximum penalty: 40 penalty units.

24FB Notice of decisions

(1) This section applies in relation to a decision of the Practitioners Board under this Division:

(a) to register or refuse to register a person as a building practitioner; or

(b) to renew or refuse to renew the registration of a person as a building practitioner.

(2) As soon as practicable after making the decision, the Practitioners Board must give written notice of the decision to the person.

(3) The notice of the decision must set out:

(a) the reasons for the decision; and

(b) the fact that the person may apply to the Tribunal for a review of the decision under section 35.

(4) If the decision is to register the person or renew the person's registration and the Board has imposed conditions on the registration under section 24FAB:

(a) the imposition of the conditions is taken to be part of the decision; and

(b) the reasons for imposing the conditions must be set out in the notice of the decision.

24G Determinations by Minister

The Minister may, by *Gazette* notice, determine any of the following:

(a) the qualifications and experience for registration or renewal of registration as a building practitioner in a category of building practitioner;

(c) the types of insurance policies, and amounts of insurance to be provided under the policies, that may be required under a condition prescribed by regulation for section 24(3), 24B(3), 24EA(3) or 24F(3);

(d) criteria to be met by providers of insurance policies mentioned in paragraph (c).

24H Certificate of registration

(1) The Practitioners Board must issue a registration certificate to an individual or corporation registered as a building practitioner.

(2) A registration certificate must be in the approved form.

25 Registered individual to carry out or direct function of corporation as building practitioner

(1) If a corporation is carrying out a function as a building practitioner:

(a) the function must be carried out by or at the direction of a registered individual for the corporation; and

(b) the registered individual must, in writing, certify the function; and

(c) the corporation must ensure the name of the registered individual appears in all advertisements published by the corporation relating to the function.

Maximum penalty: 40 penalty units.

(2) In subsection (1):

registered individual means:

(a) for a corporation registered in a category of building practitioner other than building contractor – an individual concerned in the management or conduct of the corporation, or a nominee of the corporation, who is registered in the same category as the corporation; and

(b) for a corporation registered in a category of building contractor – a director or nominee of the corporation who is registered in that category.

25A Corporation registered as building practitioner to notify changes affecting registration

(1) A corporation registered as a building practitioner must, within 7 days after one of the following circumstances occurs, give notice of the circumstance to the Practitioners Board:

(a) a nominee of the corporation ceases to act for the corporation;

(b) the registration of a nominee as a building practitioner is cancelled or suspended or is not renewed;

(c) for a corporation registered in a category of building contractor – an individual ceases to be a registered director of the corporation;

(d) for a corporation registered in any other category of building practitioner – an individual ceases to be a registered manager of the corporation;

(e) a director or nominee required by section 24B(2)(a)(ii) or 24F(2)(a)(iii) to supervise the corporation's building work is no longer able to do so.

Maximum penalty: 430 penalty units.

(2) However, if a circumstance mentioned in subsection (1) results in the corporation ceasing to comply with a requirement for registration mentioned in section 24(2), 24B(2), 24EA(2) or 24F(2), the corporation must give notice of the circumstance immediately after it occurs.

Maximum penalty: 430 penalty units.

(3) Notice under this section must be in the approved form.

(4) In this section:

registered director, of a corporation, means a director mentioned in section 24B(2)(a)(i) or 24F(2)(a)(i).

registered manager, of a corporation, means an individual involved in the management or conduct of the corporation to whom section 24(2)(a) or 24EA(2)(a)(i) applies.

25B Assessment of compliance with financial assets requirement

(1) The Practitioners Board may, at any time, assess a building contractor's compliance with the requirement to hold net financial assets as mentioned in section 24B(1)(c) or (2)(c) or 24F(1)(e) or (2)(d) (the ***assets requirement***).

(2) The Practitioners Board may, by written notice, require the building contractor to give the Board the information and documents necessary to establish the building contractor's compliance with the assets requirement.

(3) The Board may require the information or document to be given within a reasonable time, as specified in the notice, and may extend the time if the Board considers it appropriate to do so.

Note for section 25B

Section 34VA enables the Practitioners Board to suspend the registration of a building practitioner if satisfied the building practitioner has ceased to comply with the assets requirement.

25C Offence to perform function of building practitioner without required insurance policy

(1) A person who is required to hold a prescribed insurance policy must not perform a function of a building practitioner unless the prescribed insurance policy is in force.

Maximum penalty: 85 penalty units.

(2) In subsection (1):

prescribed insurance policy means an insurance policy required to be held as a condition of registration or renewal of registration, as mentioned in section 24(3), 24B(3), 24EA(3) or 24F(3).

Division 2 Investigation of complaints by Director

26 Making complaint

(1) A person may complain to the Director about a building practitioner on one or more of the following grounds:

(a) the practitioner has committed an offence against this Act or the Regulations;

(b) the practitioner has carried out work in a negligent or incompetent manner;

(c) the practitioner is otherwise guilty of professional misconduct.

(2) The complaint must:

(a) be in writing; and

(b) contain particulars of the matter complained of; and

(c) identify the building practitioner; and

(d) include the name and address of the complainant.

27 Request for further information

The Director may request the complainant to provide, within the specified time (which must be at least 5 working days after the request is made), further particulars about the complaint.

28 Dismissal without investigation

The Director may dismiss the complaint without investigating it if satisfied:

(a) the complaint is without foundation or is frivolous or vexatious; or

(b) the matter complained of is insubstantial; or

(c) the complainant does not comply with a request under section 27 for further particulars about the complaint; or

(d) after considering any response of the building practitioner under section 29(b), the Director considers that investigation is not warranted.

29 Building practitioner to be informed

If the Director does not dismiss the complaint under section 28(a), (b) or (c), the Director must, by notice in the approved form:

(a) inform the building practitioner of the complaint and attach to the notice a copy of the complaint; and

(b) invite the practitioner to respond to the Director about the complaint within the specified time (which must be at least 5 working days after the notice is given).

30 Investigation to be conducted

(1) If the Director does not dismiss the complaint under section 28, the Director must investigate the complaint as soon as practicable after the time for the building practitioner to respond has expired.

(2) The investigation may relate to more than one complaint.

31 Investigation may be extended to other matters and other building practitioners

(1) This section applies if, in the course of the investigation, the Director forms the view that a matter that is not the subject of the complaint being investigated could have been the subject of:

(a) another complaint about the building practitioner being investigated; or

(b) a complaint about another building practitioner.

(2) The Director may extend the investigation to include the matter if the Director considers it appropriate to do so.

(3) If the investigation is extended to include the matter, the Director must, by notice in the approved form:

(a) inform the building practitioner to whom the matter relates of the particulars of the matter and that the investigation has been extended to include the matter; and

(b) invite the practitioner to respond to the Director about the matter within the specified time (which must be at least 5 working days after the notice is given).

32 Production and inspection of documents

(1) The Director may, by notice in the approved form, require a building practitioner or the complainant to produce to the Director any documents that may be relevant to the investigation.

(2) The Director may inspect, or take extracts from or copies of, any documents produced under subsection (1).

33 Building practitioners and others must cooperate during investigation

(1) If, in the course of the investigation, a building practitioner:

(a) refuses or fails, without reasonable excuse, to comply with any reasonable request from the Director to answer a question, provide information or produce a document; or

(b) in purported response to a request from the Director, gives an answer, provides information or produces a document that is false or misleading,

the Director may refer the matter to the Practitioners Board for inquiry.

(2) A person must not, without reasonable excuse:

(a) refuse or fail to comply with a requirement of the Director under section 32(1); or

(b) obstruct or hinder the Director in the exercise of a power under section 32.

Maximum penalty: 40 penalty units.

34 Action on completion of investigation

(1) On completion of the investigation, the Director must decide:

(a) whether or not there is evidence that a building practitioner the subject of the investigation has committed an offence against this Act or the Regulations and, if there is evidence, may decide to prosecute the building practitioner for the alleged offence; and

(b) whether or not there is evidence that a building practitioner the subject of the investigation is guilty of professional misconduct and, if there is evidence, must refer the matter to the Practitioners Board for inquiry.

(2) The Director must, as soon as practicable after making a decision under subsection (1), give the building practitioner and the complainant written notice of the decision.

(3) The notice must set out the reasons for the decision.

Division 3 Audit of building practitioners by Director

34A Conduct of audit

(1) The Director may audit a building practitioner's work or conduct or both:

(a) whenever the Director considers it appropriate to do so; or

(b) as a consequence of a complaint made under Division 2:

(i) whether or not the complaint is about the building practitioner or another building practitioner; and

(ii) whether or not the complaint is investigated under that Division.

(2) The Director must audit a building practitioner's work or conduct or both if directed to do so by the Practitioners Board under section 34U or 34Y(2)(b).

(3) The Director may authorise another person to conduct an audit or class of audits on the Director's behalf.

(4) The Director must determine the nature of, and the procedure for conducting, an audit or class of audits.

34B Building practitioner to be notified

(1) Before an audit of a building practitioner is conducted, the auditor must give the practitioner such notice of the audit as is reasonable, having regard to:

(a) the nature of the audit; and

(b) the urgency or otherwise of the audit.

(2) The notice may be written or oral.

(3) If oral, the notice must be confirmed in writing by the auditor as soon as possible.

34C Audit may be extended to other building practitioners

(1) This section applies if, in the course of the audit of a building practitioner, the auditor forms the view that another building practitioner should be audited.

(2) The auditor may extend the audit to include the other building practitioner if the auditor considers it appropriate to do so.

(3) If the audit is extended to another building practitioner, the auditor must give the other building practitioner notice of the audit in accordance with section 34B.

34D Production and inspection of documents

(1) The auditor conducting the audit may, by notice in the approved form, require a building practitioner to produce to the auditor any documents that may be relevant to the audit.

(2) The auditor may inspect, or take extracts from or copies of, any documents produced under subsection (1).

34E Building practitioners must cooperate with auditor

(1) If, in the course of the audit, a building practitioner:

(a) refuses or fails to comply with any reasonable request from the auditor to answer a question, provide information or produce a document; or

(b) in purported response to a request from the auditor, gives an answer, provides information or produces a document that is false or misleading;

the Director may refer the matter to the Practitioners Board for inquiry.

(2) A building practitioner must not, without reasonable excuse:

(a) refuse or fail to comply with a requirement of an auditor under section 34D(1); or

(b) obstruct or hinder an auditor in the exercise of a power under section 34D.

Maximum penalty: 40 penalty units.

34F Action on completion of audit

(1) On completion of the audit, the Director must decide:

(a) whether or not there is evidence that a building practitioner the subject of the audit has committed an offence against this Act or the Regulations; and

(b) whether or not there is evidence that a building practitioner the subject of the audit is guilty of professional misconduct.

(2) On making a decision under subsection (1), the Director may decide to take one or more of the following actions in relation to the building practitioner:

(a) if there is the evidence referred to in subsection (1)(a) – prosecute the building practitioner for the alleged offence;

(b) if there is the evidence referred to in subsection (1)(b) – refer the matter to the Practitioners Board for inquiry;

(c) develop with the building practitioner a remedial program for the building practitioner.

(3) If, on completion of an audit of a building practitioner:

(a) the Director makes the decision referred to in subsection (2)(c); and

(b) the building practitioner does not participate in the development or implementation of the remedial program to the Director's reasonable satisfaction,

the Director may reconsider a decision made on completion of the audit not to prosecute the practitioner for an alleged offence or not to refer a matter relating to the practitioner for inquiry or both and may decide to prosecute or to refer the matter or both.

(4) The Director must, as soon as practicable after making a decision under this section, give the building practitioner written notice of the decision.

(5) The notice must set out the reasons for the decision.

Division 3A Inquiries by Practitioners Board

34G When inquiry to be held

The Practitioners Board must hold an inquiry into a matter that is referred to it by the Director under section 33(1), 34(1)(b), 34E(1) or 34F(2)(b) or (3).

34H Inquiry into building practitioner who is no longer registered

(1) This section applies if a building practitioner the subject of an inquiry was registered at the time of the work or conduct being inquired into but, before or during the inquiry, ceases to be registered.

(2) The inquiry is limited to the building practitioner's work or conduct or both (as the case requires) during the 7 years immediately before the practitioner ceased to be registered.

34J Constitution of Board for inquiry

(1) Subject to subsection (3), the Practitioners Board must be constituted for an inquiry by 3 of its members chosen by the Chairperson of the Practitioners Board, of whom:

(a) one must be a lawyer; and

(b) one must be an industry member who is appointed to represent the interests of the category of building practitioner in which the building practitioner the subject of the inquiry is or was registered.

(2) The member referred to in subsection (1)(a) is the presiding member for the inquiry.

(3) If there are no members available (because of a conflict of interest or otherwise) to be appointed as the member referred to in subsection (1)(a) or (b), the Chairperson may appoint in writing:

(a) to be the member referred to in subsection (1)(a) – a lawyer who has been admitted to the legal profession for at least 5 years; or

(b) to be the member referred to in subsection (1)(b):

(i) a person who is not a member of the Practitioners Board but is registered in the category of building practitioner in which the building practitioner the subject of the inquiry is or was registered; or

(ii) if it is not practicable to appoint a person referred to in subparagraph (i) – an industry member who is registered in a category of building practitioner (although not the category in which the building practitioner the subject of the inquiry is or was registered).

(4) The Director cannot be appointed under subsection (3).

(5) In this section:

category of building practitioner does not include a sub-category of a category of building practitioner.

industry member has the meaning in section 12A.

34K Conduct of inquiry generally

(1) Subject to this Division, the procedure for an inquiry must be determined by the presiding member for the inquiry.

(2) The Inquiry Board is not bound by the rules of evidence but is bound by the rules of natural justice.

(3) The inquiry must be conducted with as little formality and technicality, and with as much expedition, as this Act and the Regulations and a proper consideration of the matter being inquired into permits.

(4) The Inquiry Board must keep a record of its proceedings in the inquiry.

34L Inquiry to be public

An inquiry must be open to the public unless the presiding member for the inquiry directs otherwise.

34M Parties to inquiry

(1) The parties to an inquiry are:

(a) the Director; and

(b) the building practitioner the subject of the inquiry.

(2) A party may appear before the inquiry personally or by a representative.

34N Powers to compel evidence

(1) The Inquiry Board may require a person giving evidence at an inquiry:

(a) to give evidence on oath; or

(b) to answer a question.

(2) The Inquiry Board may, by notice in writing served on the person, require a person:

(a) to attend and give evidence; or

(b) to attend before the Board and produce a document in the person's possession or control.

(3) The Inquiry Board may keep a document produced to it under this section for as long as the Board considers it necessary to complete the inquiry.

(4) A person must not, without reasonable excuse, refuse or fail to comply with a requirement under this section.

Maximum penalty: 40 penalty units.

34P Decision on inquiry

(1) On completion of an inquiry, the Inquiry Board must:

(a) decide, in accordance with section 34S, whether or not a building practitioner the subject of the inquiry is guilty of professional misconduct; and

(b) if the practitioner is guilty – decide the action to be taken under section 34T and whether or not to take additional action under section 34U.

(2) As soon as practicable after making the decision, the Inquiry Board must give written notice of the decision to:

(a) the Director; and

(b) the building practitioner; and

(c) if the matter inquired into was referred to the Board under section 33(1) or 34(1)(b) – the complainant in the investigation.

(3) The notice must set out:

(a) the reasons for the decision; and

(b) the fact that the building practitioner or the Director may apply to the Tribunal for a review of the decision under section 35.

34Q Costs

(1) If the Inquiry Board decides that a building practitioner the subject of an inquiry is not guilty of professional misconduct, the Board may order the Territory to pay all or a specified part of the practitioner's reasonable costs.

(2) The costs ordered to be paid are recoverable as a debt due to the building practitioner by the Territory.

34R Publication of decision

(1) The Inquiry Board may give a copy of its decision in an inquiry to:

(a) a professional or trade organisation of which the building practitioner the subject of the inquiry is a member; or

(b) the practitioner's employer.

(2) The Inquiry Board must not give an organisation or employer a copy of the decision until after the building practitioner has been notified of the decision under section 34P(2).

(3) The Inquiry Board, or an organisation or employer who is given a copy of a decision under subsection (1), may publish a copy or report of the decision in whatever manner the Board, organisation or employer considers appropriate.

(4) The Inquiry Board, organisation or employer is not civilly or criminally liable for publishing in good faith a copy of, or a fair and accurate report of, the decision.

Division 3B Professional misconduct and failure to meet registration requirements

34S Professional misconduct

A building practitioner is guilty of professional misconduct if, on completion of an inquiry, the Inquiry Board is satisfied on the balance of probabilities that the practitioner:

(a) has committed an offence against this Act or the Regulations; or

(b) is guilty of a pattern of negligent or incompetent conduct or serious negligence or incompetence in carrying out particular work; or

(c) has authorised or permitted an employee, or another person engaged to do work on the practitioner's behalf, to work as a building practitioner in a category of building practitioner in which the employee or other person is not registered; or

(d) obtained his or her registration by fraud or misrepresentation; or

(e) has had his or her authority to practise as a building practitioner in a place outside the Territory cancelled or suspended, otherwise than for failure to renew the authority; or

(f) is guilty of conduct referred to in section 33(1)(a) or (b) or 34E(1)(a) or (b); or

(g) is otherwise guilty of professional misconduct.

34T Disciplinary action by Inquiry Board

If, on completion of an inquiry, the Inquiry Board decides under section 34P(1)(a) that a building practitioner is guilty of professional misconduct, the Board may take any of the following actions in relation to the practitioner:

(a) reprimand the practitioner;

(b) require the practitioner to pay all or a specified part of the reasonable costs of the Director in the inquiry;

(c) require the practitioner to give an undertaking to do, or not to do, a specified thing:

(i) at any time or during any period; or

(ii) at a specified time or during a specified period;

(d) require the practitioner to pay to the Territory a civil penalty not exceeding:

(i) if the practitioner is an individual – 160 penalty units; or

(ii) if the practitioner is a corporation – 800 penalty units;

(e) suspend the practitioner's registration for a specified period (not exceeding 3 years);

(f) cancel the practitioner's registration.

34U Inquiry Board may direct audit

In addition to any action under section 34T, the Inquiry Board may direct the Director to audit the building practitioner's work or conduct or both.

34V Recovery of civil penalty

A civil penalty imposed under section 34T(d) is recoverable as a debt due to the Territory by the building practitioner.

34VA Suspension where building practitioner no longer meets registration requirements

(1) The Practitioners Board must, by order, suspend the registration of a building practitioner if it is satisfied that the building practitioner has ceased to comply with the qualifications or other requirements for registration.

(2) A suspension under subsection (1) remains in force until the Board is satisfied that the building practitioner has complied with the qualifications or other requirements for registration.

(3) As soon as practicable after deciding to order a suspension under subsection (1), the Practitioners Board must give written notice of the decision to the building practitioner.

(4) The notice must set out:

(a) the reasons for the decision; and

(b) the fact that the building practitioner may apply to the Tribunal for a review of the decision under section 35.

34VB Returning registration certificate after registration suspended or cancelled

A building practitioner must, not later than 14 days after his or her registration is cancelled or suspended, deliver to the Practitioners Board the registration certificate issued under section 24H.

Maximum penalty: 8 penalty units.

34W Effect of suspension

The suspension of the building practitioner's registration has, during the period of suspension, the same effect as the cancellation of the registration.

Division 3C Disciplinary action for contravention of Commissioner's decision

34X Application of Division

(1) This Division applies if:

(a) the Commissioner has made a decision about a consumer guarantee dispute that requires a residential builder to rectify defective prescribed residential building work; and

(b) the builder has contravened the Commissioner's decision; and

(c) the contravention is specified by regulation to be professional misconduct.

(2) This Division does not apply in relation to a residential builder who is an owner-builder.

34Y Disciplinary action by Practitioners Board

(1) If the Practitioners Board is satisfied that all the circumstances specified in section 34X(1) apply in relation to a residential builder, the Board must decide to take one or more of the following actions:

(a) reprimand the builder;

(b) require the builder to pay to the Territory a civil penalty not exceeding:

(i) if the builder is an individual – 160 penalty units; or

(ii) if the builder is a corporation – 800 penalty units;

(c) suspend the builder's registration for a specified period (not exceeding 3 years);

(d) cancel the builder's registration.

Note for subsection (1)(c) and (d)

Sections 34VB and 34W apply if the builder's registration is suspended or cancelled.

(2) In addition, the Practitioners Board may decide to take one or both of the following actions:

(a) require the residential builder to give an undertaking to do, or not to do, a specified thing:

(i) at any time or during any period; or

(ii) at a specified time or during a specified period;

(b) direct the Director to audit the builder's work or conduct, or both.

(3) The Practitioners Board must make an entry in the register of building practitioners, maintained under section 16, about an action the Board has taken after making a decision under this section.

(4) A civil penalty imposed under subsection (1)(b) is recoverable as a debt due to the Territory by the residential builder.

(5) To avoid doubt, in satisfying itself for subsection (1) the Practitioners Board is not required to conduct an inquiry as mentioned in Division 3A.

34Z Notice of decision

(1) As soon as practicable after deciding to take any of the actions mentioned in section 34Y(1) or (2), the Practitioners Board must give written notice to:

(a) the residential builder; and

(b) the Director.

(2) The notice must set out:

(a) the reasons for the decision; and

(b) the fact that the building practitioner or the Director may apply to the Tribunal for a review of the decision under section 35.

(3) The Practitioners Board must also give written notice to the following persons about the decision:

(a) the Commissioner;

(b) the applicant for a decision about the consumer guarantee dispute mentioned in section 34X(1)(a).

Division 4 Review of decisions

35 Review by Tribunal

(1) The Tribunal has jurisdiction to review a decision (a ***reviewable decision***) specified in Schedule 5.

(2) An ***affected person***, for a reviewable decision, is a person specified in Schedule 5 for the decision.

(3) An affected person for a reviewable decision may apply to the Tribunal for review of the decision.

Note for section 35

The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the procedure for applying to the Tribunal for review of the decision and other relevant matters in relation to reviews.

Division 5 General

37 Certificates to be displayed

A building practitioner must display his, her or its certificate of registration in a conspicuous place at the building practitioner's principal place of business in the Territory.

Maximum penalty: 8 penalty units.

37A No interference with building practitioner by corporation

(1) This section applies if:

(a) a corporation is a building practitioner; and

(b) building work is being carried out on behalf of the corporation by a nominee of the corporation or another building practitioner.

(2) A person involved in the management of the corporation must not:

(a) prevent the nominee or other building practitioner from complying with a provision of this Act relating to the building work; or

(b) interfere with the nominee or other building practitioner in carrying out the building work in accordance with this Act.

Maximum penalty: 85 penalty units.

(3) The corporation must not:

(a) prevent the nominee or other building practitioner from complying with a provision of this Act relating to the building work; or

(b) interfere with the nominee or other building practitioner in carrying out the building work in accordance with this Act.

Maximum penalty: 430 penalty units.

Part 4 Building certifiers

Division 1 Private building certifiers

38 Functions of building certifiers

(1) Building certifiers have the following functions:

(a) to grant building permits and occupancy certification (other than certificates of existence);

(b) to make recommendations to the Director about applications for certificates of existence;

(c) any other functions imposed on building certifiers by this Act.

(2) Subject to this Part, a person other than a building certifier, must not perform a function referred to in subsection (1) in relation to a building or building work.

Maximum penalty: 85 penalty units.

39 Other building certifiers not to be engaged

Subject to sections 43, 44 and 45, a person who has engaged a building certifier to perform a function referred to in section 38(1) in relation to a building or building work must not engage another building certifier to perform:

(a) the same function; or

(b) any other function of a building certifier,

in relation to the building or building work, without the consent of the building certifier already engaged.

Maximum penalty: 40 penalty units.

40 Building certifier or Director may rely on certificate

A building certifier or the Director may, in performing a function under this Act, rely on any of the following:

(a) a certificate of a building practitioner that building work complies with this Act or the Regulations;

(b) an inspection certificate issued by another building certifier or the Director under section 63;

(d) an exemption certificate.

Division 2 Duties etc. of building certifiers

42 Maintaining register and advice to Director

(1) A building certifier who grants a building permit or occupancy certification must:

(a) maintain at the certifier's principal place of business in the Territory a register, in an approved form, of building permits and occupancy certification; and

(b) enter in the register a record of every building permit and occupancy certification granted by the building certifier; and

(c) within 7 days after granting or amending a building permit or occupancy certification, give the Director a copy of:

(i) the permit or certification; and

(ii) any other documents prescribed by regulation.

Maximum penalty: 8 penalty units.

(2) A building certifier must, on demand by the Director, produce to the Director the register referred to in subsection (1).

Maximum penalty: 17 penalty units.

43 Referrals to Director

(1) A building certifier engaged to perform a function of a building certifier under this Act may, at any time with the consent of the Director, refer the engagement to the Director for the performance by the Director of the function.

(2) A referral under subsection (1) may be made without the consent of the owner or occupier of the land or building in or on which the building work is being carried out or of the builder concerned.

(3) The building certifier must pay to the Director such fees, costs or expenses in relation to the referral as are agreed with the Director.

44 Referrals to other building certifiers

A building certifier engaged to perform a function of a building certifier under this Act may, at any time with the agreement of the other building certifier, refer the engagement to another building certifier for the performance by the other building certifier of the function.

45 Removal etc. of building certifier

(1) A building certifier who has not completed the functions for which the building certifier was engaged must not be removed from that engagement by the owner except with the consent of the Director.

Maximum penalty: 85 penalty units.

(2) Where a building certifier resigns from an engagement or dies or becomes incapable for any other reason of performing the functions for which the building certifier was engaged, the owner may, with the consent of the Director, refer the matter to the Director or seek the Director's consent to the engaging of another building certifier.

(3) An owner must not engage another building certifier in circumstances referred to in subsection (2) except with the consent of the Director.

Maximum penalty: 85 penalty units.

Division 4 Referral of applications relating to places of public assembly

47 Building certifier to refer applications to Director

(1) A building certifier must, as soon as practicable after the certifier receives an application for an occupancy permit for a prescribed place of public assembly or a place of a prescribed class of places of public assembly, refer the application, and any related building application made to the building certifier, to the Director to be determined by the Director.

(2) The building certifier must cause written notice of a referral under subsection (1) to be given to the applicant.

(3) The Director may remit a related building application to the building certifier for determination by the building certifier if the Director is of the opinion that it is appropriate for the application to be determined by the building certifier.

(4) In this section:

related building application, in relation to an application for an occupancy permit mentioned in subsection (1), means any application under this Act that relates to the same building work as is specified in the occupancy permit application.

Division 5 Performance of building certifier's functions by Director

48 Minister may direct performance of functions

The Minister may, by *Gazette* notice, direct that the Director may perform such of the functions of a building certifier as are specified in the notice and the Director may perform those functions accordingly.

Part 4A Building contractors

48A Building work by building contractors

(1) A person must not commence or continue to carry out prescribed building work unless the person is:

(a) a building contractor registered to carry out the building work as specified in the Regulations; or

(b) being supervised by a building contractor mentioned in paragraph (a) in accordance with the Regulations.

Maximum penalty: 85 penalty units.

(2) It is a defence to a prosecution for an offence against subsection (1) if:

(a) the value of the building work is less than the prescribed amount for the building work; or

(b) the defendant is an owner-builder carrying out building work that the defendant is permitted to carry out under the owner-builder certificate.

(3) For subsection (2)(a), the Regulations may prescribe different amounts for different kinds of prescribed building work.

48B Building contract to be entered into

(1) A prescribed building contractor must not commence or continue to carry out prescribed building work unless the building contractor has entered into a contract with the owner of the land on which the building work is to be carried out or with a person authorised by the owner to enter into the contract.

Maximum penalty: 85 penalty units.

(2) The contract must include, but is not limited to, the matters required by the Regulations.

(2A) A regulation may provide for the contract to include provisions about progress payments linked to specified stages of the prescribed building work.

(3) Subsection (1) does not apply if:

(a) the value of the building work is less than the prescribed amount; or

(b) the prescribed building contractor is the owner of the land on which the building work is to be carried out.

(4) Despite subsection (3)(b), subsection (1) applies if, at any time after the building permit is granted in respect of the building work, the prescribed building contractor enters into an agreement with a person providing for:

(a) the land to be transferred to the person before an occupancy permit is granted for the entire project; and

(b) the person to make progress payments at times during the term of the agreement as the building work is carried out.

(5) If subsection (1) applies because of subsection (4), the person referred to in subsection (4) is, for subsection (1), the owner of the land on which the building work is to be carried out.

48C Builder's declaration by building contractor about building work

(1) This section applies in relation to prescribed building work that has been carried out under a contract entered into under section 48B.

(2) A prescribed building contractor who has completed the prescribed building work must, not later than 14 days after completing the work, make a builder's declaration.

Maximum penalty: 85 penalty units.

(3) The prescribed building contractor must, not later than 14 days after completing the prescribed building work, give the builder's declaration to the building certifier who granted the building permit for the work.

Maximum penalty: 8 penalty units.

(4) If the prescribed building contractor is a director or nominee of a corporation who ceases to hold that office or position after completing the prescribed building work, the director or nominee is not excused from making a builder's declaration relating to the work he or she completed.

(5) For this section, a prescribed building contractor completes the prescribed building work when the building contractor completely ceases to carry out the building work specified in the contract, regardless of whether the work is fully or partially completed.

48CA Builder's declaration by corporation after prescribed event

(1) This section applies if all of the following circumstances apply:

(a) prescribed building work to which section 48C applies has been completed by a director or nominee of a corporation (the ***responsible builder***);

(b) the responsible builder has failed to make a builder's declaration under section 48C(2) solely because of a prescribed event;

(c) the corporation is satisfied the prescribed building work was carried out by the responsible builder in accordance with the building permit granted for the work.

(2) For subsection (1)(c), the corporation must:

(a) take all the steps necessary within a reasonable time and using proper care and diligence, which may include engaging suitably qualified and experienced persons to inspect and give reports about the building work; and

(b) ensure other prescribed certification required for the building work carried out by the responsible builder has been obtained.

(3) As soon as practicable after the corporation has satisfied itself for subsection (1)(c), it must:

(a) give the information it has relied on to a prescribed building contractor who is a director or nominee of the corporation; and

(b) ensure that a builder's declaration is made under subsection (4) and given to a building certifier as required by that subsection.

Maximum penalty: 430 penalty units.

(4) Not later than 14 days after the director or nominee has been given the information under subsection (3), he or she must:

(a) make a builder's declaration relating to the prescribed building work completed by the responsible builder; and

(b) include in the declaration details about:

(i) the prescribed event; and

(ii) the way in which the corporation has satisfied itself under subsection (2); and

(c) give the declaration to the building certifier who granted the building permit for the work.

Note for subsection (4)

See section 69(5) in relation to protection from prosecution for criminal liability if the declaration is made in good faith.

Part 4B Owner-builders

48D Owner-builders to hold certificate

(1) A person must not commence or continue to carry out prescribed building work on land that the person owns unless:

(a) the person is an owner-builder; and

(b) the building work is work that the person is permitted to carry out under the owner-builder certificate.

Maximum penalty: 85 penalty units.

(2) It is a defence to a prosecution for an offence against subsection (1) if:

(a) the value of the building work is less than the prescribed amount; or

(b) the person is a prescribed building contractor and owns the land on which the building work is to be carried out.

48E Application for owner-builder certificate

(1) A person may, in the approved form accompanied by the prescribed fee, apply to the Practitioners Board for an owner-builder certificate or the renewal of an owner-builder certificate to carry out building work on land that he or she owns.

(2) If the land is owned by more than one person, all the owners must apply for the owner-builder certificate.

(3) A person must not make a false declaration in an application for an owner-builder certificate.

Maximum penalty: 85 penalty units.

(4) In this section:

person does not include a body corporate.

48F Granting of owner-builder certificate

(1) If the Practitioners Board is satisfied that the applicant:

(a) is the owner of the land on which the building work is to be carried out; and

(b) has successfully completed a course approved by the Minister; and

(c) has not entered into an agreement to transfer ownership of the land to another person;

it must grant the applicant an owner-builder certificate.

(2) If an application is made by more than one person, subsection (1)(b) is complied with if at least one of the applicants has successfully completed the course.

(3) An owner-builder certificate remains in force for 3 years from the date it is granted and may be renewed for a further period (not longer than 3 years) on an application by the owner-builder.

(4) The Practitioners Board must not grant an owner-builder certificate to a person granted an owner-builder certificate in respect of other land unless the prescribed period has elapsed since that owner-builder certificate was granted.

(5) The Practitioners Board may cancel an owner-builder certificate if it is satisfied that the certificate was obtained by fraud.

(6) The Minister may, by *Gazette* notice, approve a course for subsection (1).

48G Builder's declaration by owner-builder about building work

(1) An owner-builder must, not later than 14 days after completing building work specified in a building permit, make a builder's declaration.

Maximum penalty: 85 penalty units.

(2) The owner-builder must, not later than 14 days after completing the building work, give the builder's declaration to the building certifier who granted the building permit.

Maximum penalty: 8 penalty units.

(3) For this section, an owner-builder completes building work specified in a building permit when the owner-builder completely ceases to carry out the building work, regardless of whether the work is fully or partially completed.

Part 5 Building standards

49 *Building Regulations* – general power

(1) Regulations made under section 168 may establish standards and requirements for buildings and the carrying out of building work.

(2) Standards established by the Regulations may be expressed in terms of performance, types and material or methods of construction, or in such other terms as the Administrator thinks fit.

(3) The Regulations may apply to existing buildings, whether or not building work is being or is proposed to be carried out on the buildings.

50 *Building Regulations* – safety matters

The Regulations may provide for matters affecting the safety of existing or proposed buildings, whether or not building work is being or is proposed to be carried out on the buildings and, in particular, may provide for:

(a) the provision, installation, operation, maintenance and replacement of materials, equipment, services and other items in existing or proposed buildings so as to ensure safety; and

(b) the provision, installation, operation, maintenance and replacement of ventilation, lifts, emergency lighting, emergency power, emergency intercommunication systems, fire fighting equipment and other emergency equipment and services; and

(c) the prevention of, and precautions against (and in the event of), life threatening emergencies; and

(d) fire prevention and precautions; and

(e) the provision of certificates as to compliance with any or all of the Regulations.

51 Application of new regulations

(1) A regulation or amendment to a regulation does not apply to building work for which a building permit is granted under this Act before the commencement of the regulation or amendment.

(2) A regulation or amendment to a regulation does not apply to building work in respect of which a building certifier has certified in writing that substantial progress was made on the design of the building before the commencement of the regulation or amendment.

(3) Despite subsections (1) and (2), a building certifier and the owner of a building may agree that a regulation or amendment to a regulation is to apply to building work referred to in those subsections and, if an agreement is made, the regulation or amendment applies accordingly.

52 Adopted codes and standards

(1) The Regulations may incorporate by reference, either wholly or in part and with or without modification, any standards, codes, rules, specifications or methods (each of which is an ***adopted code or standard***), as in force at a particular time or as in force from time to time, prescribed or published by an authority or body, whether or not it is a Territory authority or body.

(1A) Despite subsection (1), the Minister may, by *Gazette* notice, declare that specified provisions of an adopted code or standard do not apply for a period specified in the notice.

(1B) If a declaration under subsection (1A) disapplies a provision of an adopted code or standard that modifies or substitutes another provision of the adopted code or standard, the effect of the declaration is that the modified or substituted provision is taken to remain in force for the specified period.

(1C) The period specified under subsection (1A) may be fixed by reference to the occurrence of a specified event.

(2) An adopted code or standard may require anything mentioned in it to be in accordance with another document mentioned in the adopted code or standard.

(3) The Director:

(a) must ensure a copy of every adopted code or standard, and every document mentioned in it, is available for inspection by members of the public at the office of the Director, without charge, during normal office hours; and

(b) may make available copies of all or part of an adopted code or standard or other document mentioned in paragraph (a) for purchase by members of the public on payment of such charge as the Director requires.

52A Director may determine provisions of Regulations adopting code or standard not to apply in certain circumstances

The Director may, in writing, determine that specified provisions of the Regulations that adopt a code or standard under section 52, do not apply in relation to specified building work if the Director is of the opinion that the building work:

(a) consists of minor work; and

(b) would not adversely affect the safety of persons occupying or using a building or an area of land in the vicinity of a building.

53 Accreditation of building products and other things

(1) A building product, construction method, design, component or system accredited by a person or body prescribed for the purposes of this section is accredited for the purposes of this Act.

(2) The accreditation is subject to such conditions or variations, if any, imposed by the person or body from time to time and remains in force until the accreditation is revoked by the person or body.

54 Effect of accreditation

(1) A building certifier must not refuse to approve building work on the ground that a building product, construction method, design, component or system connected with the building work is unsatisfactory if the product, method, design, component or system is accredited by a prescribed person or body and it complies with the accreditation.

(2) The Regulations may provide for the issue of certificates of accreditation for building products, construction methods, designs, components and systems accredited by a person or body.

Part 5A Prescribed residential building work – consumer protection

Division 1 Preliminary matters

54A Application of Part

(1) This Part applies in relation to prescribed residential building work carried out, or to be carried out, by a residential builder.

(2) However, this Part does not apply in relation to prescribed residential building work carried out, or to be carried out, in relation to a building owned by a public authority.

54AB Prescribed residential building work and residential builders

(1) ***Prescribed residential building work*** is building work in connection with a residential building that is prescribed by regulation for this Part.

(2) A ***residential builder*** is one of the following:

(a) a contracting residential builder;

(b) a developer;

(c) an owner-builder;

(d) a person specified by regulation to be a residential builder.

(3) Also, in relation to an application to the Commissioner under Division 6 about prescribed residential building work, a ***residential builder*** includes the following:

(a) a contracting residential builder who was registered at the time the residential building contract for the work was entered into, or the work was carried out, but is not registered at the time the application is made;

(b) a developer who was registered at the time the work was carried out but is not registered at the time the application is made;

(c) an owner-builder whose owner-builder certificate in relation to the work is no longer in force at the time the application is made.

54AC Requirement for authorised RBI policy or fidelity certificate

(1) A residential builder must not carry out prescribed residential building work unless:

(a) one of the following is in force for the work:

(i) an authorised RBI policy;

(ii) a fidelity certificate; and

(b) if the residential builder has entered into a residential building contract for the work – the builder has given the other party to the contract:

(i) the RBI policy document for the work; or

(ii) a copy of the fidelity certificate.

Maximum penalty: 85 penalty units.

(2) A residential builder must not demand or receive payment (whether as a deposit or otherwise) under a residential building contract unless:

(a) one of the following is in force for the prescribed residential building work to be carried out under the contract:

(i) an authorised RBI policy;

(ii) a fidelity certificate; and

(b) the builder has given the other party to the contract:

(i) the RBI policy document for the work; or

(ii) a copy of the fidelity certificate.

Maximum penalty: 85 penalty units.

54AD Current owner

For this Part, a ***current owner***, in relation to land or a residential building, is one of the following persons who currently owns the land or building:

(a) a contracting owner;

(b) a person who is a successor in title to a contracting owner, developer or owner-builder;

(c) a person specified by regulation to be a current owner.

Division 2 Consumer guarantees for prescribed residential building work

54B Consumer guarantees

(1) The following guarantees (***consumer guarantees***) apply to all prescribed residential building work carried out by a residential builder:

(a) the residential builder will carry out the building work in a proper and workmanlike manner and in accordance with the plans and specifications:

(i) specified in the building permit for the work; and

(ii) if there is a residential building contract for the work – specified in the contract;

(b) all materials supplied by the residential builder will be good and suitable for the purpose for which they are to be used;

(c) all materials supplied by the residential builder will be new unless:

(i) the residential builder is an owner-builder or developer; or

(ii) if there is a residential building contract for the work – the contract for the work specifies otherwise;

(d) the residential builder will carry out the building work in accordance with this Act, the Regulations and other laws in force in the Territory;

(e) the residential builder will carry out the building work with reasonable care and skill;

(f) the residential builder will complete the work:

(i) if there is a residential building contract for the work – by the date, or within the period, specified in the contract; or

(ii) otherwise – within a reasonable period;

(g) any other guarantee specified by regulation.

(2) The consumer guarantees have effect for the period prescribed by regulation (the ***prescribed effective period***).

54BA Contracts not to exclude consumer guarantees or other rights

(1) A contracting residential builder must include the consumer guarantees in each residential building contract the builder enters into.

Maximum penalty: 100 penalty units.

(2) A provision of a residential building contract is of no effect to the extent to which the provision purports to:

(a) restrict or remove the rights of a person in relation to:

(i) a consumer guarantee; or

(ii) another matter relating to the rights of the contracting owner that is required by regulation to be included in the contract; or

(b) require a dispute in relation to the contract to be referred to arbitration.

(3) Despite subsection (2)(b), this section does not prevent the parties to a residential building contract from entering into an agreement, after a dispute has arisen under the contract, about referring the dispute to arbitration.

(4) However, subsection (3) does not apply in relation to a consumer guarantee dispute.

54BB Current owner of land or building entitled to guarantees

A current owner of land or a residential building is entitled, during the prescribed effective period, to the benefit of the consumer guarantees for prescribed residential building work carried out on the land or in connection with the building.

54BC Other consumer rights not affected

This Division does not affect other rights a current owner of land or a residential building has under any other law in force in the Territory that deals with the protection of the rights of consumers in relation to the provision of goods or services in connection with building work.

Division 3 Residential building insurance provided by approved insurers

54C Residential building insurance

Residential building insurance is insurance, or a similar kind of indemnity, that indemnifies the beneficiary of the residential building insurance against financial loss incurred in relation to prescribed residential building work because:

(a) a residential builder has failed to complete the work or has contravened a consumer guarantee; and

(b) any of the following events has occurred:

(i) the builder has died, disappeared or become bankrupt or insolvent;

(ii) the builder's registration has ceased for a reason specified by regulation.

54CA Approval of insurers

The Minister may, by *Gazette* notice, approve any of the following to issue authorised RBI policies:

(a) a body corporate authorised under the *Insurance Act 1973* (Cth) to carry on insurance business;

(b) a person entitled under a law in force in the Territory to carry on business in connection with providing residential building insurance.

54CB Authorised RBI policy

(1) An ***authorised RBI policy*** is a policy or another form of agreement:

(a) under which an approved insurer provides residential building insurance:

(i) in accordance with this Division, regulations made under this Division and the directions of the Minister under section 54CG; and

(ii) for the period prescribed by regulation; and

(b) under which the whole of the premium payable for the period prescribed under paragraph (a)(ii) has been paid; and

(c) in the form approved in writing by the Minister.

(2) An approved insurer must not represent that an insurance policy or another form of agreement issued, or to be issued, by the insurer is an authorised RBI policy if the insurer knows it is not an authorised RBI policy.

Maximum penalty: 250 penalty units.

54CC Provisions of authorised RBI policy

(1) Subject to section 54CB(1), an approved insurer:

(a) must specify in an authorised RBI policy the provisions required by regulation; and

(b) may specify in the policy:

(i) the provisions the insurer considers appropriate for the policy; and

(ii) the premium payable by a residential builder under the policy.

(2) An authorised RBI policy must provide for cover of a minimum amount as prescribed by regulation.

(3) The approved insurer must submit to the Minister, for the Minister's approval, the general form and provisions for each type of policy the insurer intends to issue for providing residential building insurance.

(4) An authorised RBI policy that contains a provision not approved by the Minister:

(a) is not invalid only for that reason; but

(b) the provision has no effect.

(5) An authorised RBI policy that contains a provision that is inconsistent with this Act, the Regulations or a direction of the Minister under section 54G:

(a) is not invalid only for that reason; but

(b) is of no effect to the extent of the inconsistency.

54CD RBI policy document

(1) When an approved insurer issues an authorised RBI policy, the insurer must give an RBI policy document to the residential builder who will be carrying out the prescribed residential building work covered by the policy.

(2) An ***RBI policy document*** is a document, in the form approved in writing by the Minister, that:

(a) is evidence of an authorised RBI policy; and

(b) specifies the prescribed residential building work to which the authorised RBI policy relates.

54CE Annual statement about claims

(1) An approved insurer must, within the period specified by regulation, give the Minister a written statement about claims on authorised RBI policies dealt with by the insurer during a financial year.

(2) The statement must include the following information:

(a) the number of claims;

(b) the amount of each claim;

(c) the number of claims that were paid;

(d) the amount paid on each claim;

(e) if a claim was rejected – the reason for its rejection.

54CF Notice of cessation as approved insurer

(1) A person who was approved under section 54CA to issue authorised RBI policies ceases to be an approved insurer if the person:

(a) ceases to be a body corporate authorised under the *Insurance Act 1973* (Cth) to carry on insurance business; or

(b) ceases to be entitled under a law in force in the Territory to carry on business in connection with providing residential building insurance.

(2) A person must, within 7 days after an occurrence mentioned in subsection (1)(a) or (b), give written notice of the occurrence to the Minister.

Maximum penalty: 50 penalty units.

(3) An offence against subsection (2) is a regulatory offence.

54CG Directions by Minister

The Minister may:

(a) give general directions to approved insurers in relation to authorised RBI policies; and

(b) direct an approved insurer to include in an authorised RBI policy to be issued by the insurer the provisions specified by the Minister.

54CH Offence to give misleading information or document

(1) A residential builder must not give an approved insurer information the builder knows is misleading information.

Maximum penalty: 200 penalty units.

(2) A residential builder must not give an approved insurer a document containing information the builder knows is misleading information.

Maximum penalty: 200 penalty units.

(3) However, subsection (2) does not apply if the residential builder, when giving the document to the approved insurer:

(a) draws the misleading aspect of the document to the insurer's attention; and

(b) to the extent to which the builder can reasonably do so – gives the insurer the information necessary to remedy the misleading aspect of the document.

54CI Insurer's liability not affected if given misleading information

An approved insurer is not entitled to avoid liability under an authorised RBI policy only because the residential builder to whom the policy applies gave the insurer misleading information to obtain the policy.

54CJ Regulations

A regulation may provide for matters relating to approved insurers and authorised RBI policies, including any of the following:

(a) the criteria for giving approval under section 54CA;

(b) provisions that must be included in an authorised RBI policy (a ***policy***);

(c) losses to be indemnified by a policy;

(d) the beneficiaries to whom a policy must provide specified indemnity and persons not entitled to the benefit of an indemnity;

(e) the notification by a beneficiary of an event giving rise to an entitlement to make a claim under a policy;

(f) the making of a claim by a beneficiary under a policy;

(g) criteria for establishing a residential builder's failure to complete prescribed residential building work or for establishing other events giving rise to an entitlement to make a claim under a policy;

(h) limitations or reductions in liability;

(i) recovery by an approved insurer of an amount paid by the insurer on a claim made by a beneficiary under a policy and subrogation of the beneficiary's rights.

Division 4 Fidelity certificates and approved fidelity fund schemes

54D Fidelity certificate

(1) A ***fidelity certificate*** is a certificate in the approved form, issued under an approved scheme, relating to the prescribed residential building work specified in the certificate.

(2) A fidelity certificate relates to financial loss incurred in relation to the specified prescribed residential building work because:

(a) a residential builder has failed to complete the work or has contravened a consumer guarantee; and

(b) any of the following events has occurred:

(i) the builder has died, disappeared or become bankrupt or insolvent;

(ii) the builder's registration has ceased for a reason specified by regulation.

54DA Application for approval of fidelity fund scheme

(1) The trustees of a fidelity fund scheme may apply to the Minister for approval of the scheme to provide fidelity certificates.

(2) The application must:

(a) be signed by all the trustees of the fidelity fund scheme; and

(b) be accompanied by a copy of the trust deed for the scheme, certified as prescribed by regulation; and

(c) include all the information required to satisfy the Minister that the scheme complies with the approval criteria.

(3) The ***approval criteria*** for a fidelity fund scheme are the requirements, prescribed by regulation, with which the scheme must comply to be an approved scheme.

(4) The approval criteria must include requirements for the following:

(a) the management of the fidelity fund scheme in accordance with the scheme's trust deed;

(b) qualifications or suitability for appointment as a trustee of the scheme;

(c) the powers and duties of the trustees of the scheme;

(d) the financial management of the scheme;

(e) the prescribed residential building work for which a fidelity certificate may be issued;

(f) the people who are entitled to make claims under a fidelity certificate;

(g) applications for claims under a fidelity certificate;

(h) dealing with claims under the scheme;

(i) compliance with prudential standards.

(5) A regulation prescribing a requirement for the approval criteria may apply, adopt or incorporate (with or without changes) the whole or part of a law in force in the Territory, or the whole or part of a document, as in force or existing at a particular time or from time to time.

54DB Deciding application

(1) Before considering whether to approve a fidelity fund scheme, the Minister may, by written notice, require the trustees of the scheme to do either or both of the following:

(a) give specified additional information or documents necessary to enable the Minister to make a decision about approval;

(b) give a statutory declaration about the information included in the application or any additional information or documents given to the Minister.

(2) Before approving a fidelity fund scheme, the Minister may require the scheme to be amended to ensure it complies with this Act.

(3) The Minister may:

(a) if satisfied a fidelity fund scheme complies with the approval criteria – approve the scheme to provide fidelity certificates; or

(b) otherwise – refuse to approve the scheme.

(4) A condition may be expressed to have effect despite anything in the prudential standards.

54DC Prudential standards for approved scheme

(1) A regulation may prescribe standards (the ***prudential standards***) relating to prudential matters that must be complied with under an approved scheme.

(2) Without limiting subsection (1), the prudential standards may provide for the following matters in relation to an approved scheme:

(a) the continuing eligibility of a person to be a trustee of the scheme;

(b) the capital adequacy of the scheme;

(c) the valuation of liabilities;

(d) the effectiveness of risk management strategies and techniques;

(e) requirements for giving information to a specified person or entity about the trustee's decisions to pay or refuse to pay claims.

(3) A regulation prescribing prudential standards may:

(a) provide for the exercise of discretions under the standards, including discretions to approve, impose, adjust or exclude particular matters in relation to an approved scheme; and

(b) apply, adopt or incorporate (with or without changes) the whole or part of a law in force in the Territory, or the whole or part of a document, as in force or existing at a particular time or from time to time.

(4) In this section:

prudential matters, for an approved scheme, means matters relating to the trustees conducting the scheme's affairs:

(a) in a way that keeps the scheme's affairs in a sound financial position; and

(b) with integrity, prudence and professional skill.

54DD Compliance with conditions and prudential standards

(1) Each trustee of an approved scheme must ensure the scheme complies with:

(a) the conditions of the scheme's approval; and

(b) the prudential standards.

Maximum penalty: 60 penalty units.

(2) An offence against subsection (1)(a) or (b) is a regulatory offence.

54DE Powers of Minister

(1) The Minister may, in accordance with a regulation, take any of the following actions in relation to an approved scheme:

(a) require the trustees of the scheme to comply with a provision of the prudential standards;

(b) require the trustees of the scheme to give the Minister information relevant to the scheme's ability to meet its liabilities and potential liabilities;

(c) suspend the approval of the scheme;

(d) cancel the approval of the scheme.

(2) A regulation may deal with the procedures for subsection (1) and the consequences of a failure by the trustees to comply with a requirement of the Minister.

54DF Orders consequential on suspension or cancellation of approval

(1) If the Minister suspends or cancels the approval of a fidelity fund scheme under section 54DE(1)(c) or (d), the Minister may apply to the Supreme Court for orders to give effect to, or consequential on, the suspension or cancellation.

(2) On application under subsection (1), the Supreme Court may make the orders it considers just, including:

(a) orders for the winding-up of the scheme; and

(b) orders in relation to the assets and liabilities of the scheme.

Division 5 Auditors and actuaries of approved scheme

54E Appointment of auditor and actuary

(1) The trustees of an approved scheme must appoint:

(a) a person as the scheme's auditor; and

(b) another person as the scheme's actuary.

(2) The trustees must apply in writing to the Minister to approve the appointment.

(3) The Minister may, by written notice to the trustees:

(a) if satisfied the person meets the eligibility criteria for the appointment as specified by regulation – approve the appointment; or

(b) otherwise – refuse to approve the appointment.

(4) The appointment of a person as the auditor or actuary of an approved scheme takes effect only:

(a) after the appointment has been approved; and

(b) if no other person is currently appointed to the position.

(5) No later than 6 weeks after a person ceases to be the auditor or actuary for an approved scheme, the trustees of the scheme must appoint another person to the position.

(6) A regulation may deal with all matters relating to the appointment of a person as an auditor or actuary of an approved scheme, including the following:

(a) the application for approval of the person;

(b) the approval or refusal to approve;

(c) the revocation of approval;

(d) a person ceasing to be the auditor or actuary;

(e) giving notices relevant to the appointment.

54EA Auditor's role

(1) The auditor for an approved scheme must, in accordance with the prudential standards:

(a) exercise the functions of an auditor as prescribed by the prudential standards; and

(b) ascertain, and report on, whether the trustees of the scheme are complying with the prudential standards; and

(c) prepare, and give to the trustees of the scheme, the reports the prudential standards require the auditor to prepare; and

(d) give the trustees the certificates relating to the scheme's accounts the prudential standards require the auditor to prepare.

(2) A report given under subsection (1)(c) must deal with everything the prudential standards require the report to deal with.

(3) A certificate given under subsection (1)(d) must contain statements of the auditor's opinion on the matters the prudential standards require the certificate to contain.

54EB Actuary's role

(1) The actuary for an approved scheme must, in accordance with the prudential standards:

(a) exercise the functions of an actuary as specified in the prudential standards; and

(b) prepare, and give to the trustees of the scheme, the reports the prudential standards require the actuary to prepare.

(2) A report given under subsection (1)(b) must include all the information the prudential standards require the report to include.

54EC Compliance with prudential standards

The auditor or actuary for an approved scheme must comply with the prudential standards relating to the performance of the functions of the position.

Maximum penalty: 60 penalty units.

54ED Notice to Minister about insolvency or contravention

(1) This section applies if the auditor or actuary for an approved scheme forms the belief that:

(a) the scheme is insolvent, or there is a significant risk that it will become insolvent; or

(b) the trustees have contravened this Act or another law in force in the Territory in relation to the scheme.

(2) The auditor or actuary must give the Minister written notice about the matter within 7 days after the day on which the belief is formed.

Maximum penalty: 100 penalty units.

54EE Giving information to Minister

(1) This section applies in relation to a person who is, or has been, an auditor or actuary for an approved scheme.

(2) The person may give information to the Minister about the approved scheme if the person considers that giving the information will assist the Minister to exercise the Minister's functions in relation to the scheme.

(3) The Minister may, by written notice given to a person mentioned in subsection (1), require the person to give the Minister specified information about the approved scheme within a specified reasonable time.

(4) A person must not contravene a notice under subsection (3).

Maximum penalty: 100 penalty units.

54EF Appointment of special actuary to investigate liabilities

(1) The Minister may, by written notice given to the trustees of an approved scheme, require the trustees to appoint a person as a special actuary for the scheme:

(a) to investigate all or some of the scheme's liabilities as at a particular time; and

(b) to give the Minister a written report within a specified period.

(2) An approved scheme must meet the expenses associated with the appointment of a person as its special actuary.

(3) A person appointed as a special actuary for an approved scheme must meet the eligibility criteria for appointment prescribed by regulation.

(4) A regulation may deal with matters relating to the appointment of a person as a special actuary for an approved scheme, including procedures:

(a) the trustees of the approved scheme must follow in relation to the appointment; and

(b) to be followed if the Minister considers that the person appointed is unsuitable to hold the appointment.

54EG Special actuary's report

(1) The trustees of an approved scheme must ensure that a special actuary's report is given to the Minister:

(a) within 30 days after the day on which the Minister gave notice to the trustee's under section 54EF(1); or

(b) within the further time the Minister allows in writing.

Maximum penalty: 100 penalty units.

(2) An offence against subsection (1) is a regulatory offence.

(3) A special actuary's report must be signed by the special actuary and include the information required by regulation.

54EH Obligations of trustees to auditor, actuary and special actuary

(1) The trustees of an approved scheme must make the arrangements necessary to enable the auditor, actuary or special actuary for the scheme to exercise the functions of that position in relation to the scheme.

Maximum penalty: 60 penalty units.

(2) An offence against subsection (1) is a regulatory offence.

54EI Protection of auditor, actuary and special actuary from liability

The auditor, actuary or special actuary for an approved scheme does not incur civil liability, or criminal liability under the *Defamation Act 2006*, for an act or omission done honestly and without negligence for this Act.

Division 6 Commissioner and consumer guarantee disputes

54F Commissioner of Residential Building Disputes

(1) The Minister may appoint a person to be the Commissioner of Residential Building Disputes.

(2) A person appointed to be the Commissioner holds office for 3 years, or the lesser period specified in the instrument of appointment, and is eligible for reappointment.

(3) If the Minister does not appoint a person to be the Commissioner, the person holding or occupying the office of Commissioner of Consumer Affairs under the *Consumer Affairs and Fair Trading Act 1990* occupies the office of the Commissioner.

54FA Functions and powers of Commissioner

(1) The Commissioner has the following functions:

(a) to investigate and research matters relevant to persons who may be affected by residential building contracts and consumer guarantees;

(b) to publish reports and information about residential building contracts and consumer guarantees;

(c) to inform the public about provisions under this Act relating to residential building contracts, consumer guarantees and consumer guarantee disputes;

(d) to arrange for technical inspections of, and receive reports about, prescribed residential building work carried out in relation to a residential building and alleged by a current owner of the building to be defective;

(e) to facilitate mediation and conciliation in relation to prescribed residential building work;

(f) to hear and decide applications relating to consumer guarantee disputes;

(g) to refer suspected contraventions of this Act to the Director;

(h) to report to the Minister on questions referred to the Commissioner by the Minister and on other matters of importance relating to the Commissioner's functions under this Act;

(i) other functions conferred on the Commissioner under this or any other Act.

(2) The Commissioner has the powers necessary for the performance of the Commissioner's functions.

(3) The Commissioner may delegate to a person any of the Commissioner's functions and powers under this or another Act.

54FB Technical inspection and report

(1) This section applies if a current owner of a residential building:

(a) alleges that prescribed residential building work carried out on the building by a residential builder is defective; and

(b) makes the allegation:

(i) in an application to the Commissioner under section 54FC(1); or

(ii) to the residential builder, either verbally or in writing, without making an application under section 54FC(1).

(2) If the current owner makes the allegation as mentioned in subsection (1)(b)(i), the Commissioner may take action under subsection (4) at any time during the consideration of the application under section 54FC(1).

(3) If the current owner makes the allegation as mentioned in subsection (1)(b)(ii), the current owner or the residential builder may apply to the Commissioner to take action under subsection (4).

(4) The Commissioner may appoint a person with relevant qualifications and expertise to conduct a technical inspection of the residential building and give the Commissioner a report as to whether the prescribed residential building work is defective.

(5) A regulation may prescribe matters for this section, including any of the following:

(a) the procedures for the appointment of a person to conduct the inspection and make the report;

(b) the qualifications of that person;

(c) the types of inspections that may be made;

(d) the matters to be taken into account in reporting whether prescribed residential building work is defective;

(e) fees payable for an inspection and report.

54FC Application to Commissioner for decision

(1) A current owner of a residential building may, in the approved form and within the prescribed effective period, apply to the Commissioner for a decision about a consumer guarantee dispute.

(2) A ***consumer guarantee dispute*** is a dispute between a current owner of a residential building and a residential builder who has carried out prescribed residential building work in relation to the building:

(a) about an alleged contravention of a consumer guarantee by the residential builder; and

(b) in circumstances specified by regulation.

54FD Consumer guarantee dispute procedures generally

(1) The hearing of an application relating to a consumer guarantee dispute must be conducted by the Commissioner with as little formality and technicality, and with as much expedition, as a proper consideration of the matter permits.

(2) The rules of evidence do not apply in relation to a consumer guarantee dispute.

(3) The rules of natural justice apply in relation to a consumer guarantee dispute.

54FE Concurrent consumer guarantee disputes and other contractual disputes

(1) This Division does not prevent:

(a) a contracting owner or contracting residential builder from starting a proceeding in a court or tribunal in relation to a dispute about a residential building contract that is not a consumer guarantee dispute; or

(b) a contracting residential builder from making an application under the *Construction Contracts (Security of Payments) Act 2004* in relation to payments for prescribed residential building work carried out under a residential building contract, including payments for any of the work alleged to be defective.

(2) A court, tribunal or person who makes a decision under a law of the Territory about a residential building contract must take into account any decision made by the Commissioner for a consumer guarantee dispute in relation to the contract.

(3) If a proceeding or application is started or made as mentioned in subsection (1), the Commissioner is not prevented from dealing with a consumer guarantee dispute in relation to the residential building contract unless:

(a) a circumstance specified by regulation applies; or

(b) a court, tribunal or person mentioned in subsection (2) orders otherwise; or

(c) both parties to the consumer guarantee dispute agree in writing that the Commissioner adjourn consideration of the dispute until:

(i) the proceeding or application has been decided; or

(ii) the occurrence of another event specified in the agreement.

(4) Before making a decision about a consumer guarantee dispute, the Commissioner must take into account any decision about a residential building contract made by a court, tribunal or person that is relevant to the dispute.

54FF Regulations

A regulation may provide for matters relating to the functions of the Commissioner and consumer guarantee disputes, including any of the following:

(a) procedures relating to the making, acceptance, consideration and dismissal of applications;

(b) information to be given to the Commissioner and the way in which the information is to be given;

(c) notices that may be given by the Commissioner to the Director, the Practitioners Board, an approved insurer or the trustees of an approved scheme;

(d) mediation and conciliation in relation to prescribed residential building work;

(e) the decisions the Commissioner may make about a consumer guarantee dispute, which may include decisions requiring the rectification of prescribed residential building work or compensation to be paid for defective prescribed residential building work;

(f) publication of the Commissioner's decisions;

(g) the referral to the Tribunal of questions of law and any other matters specified by regulation;

(h) applications to the Tribunal for reviews of the Commissioner's decisions;

(i) the consequences of contraventions of the Commissioner's or Tribunal's decisions;

(j) applications a person may make to a court of competent jurisdiction for the enforcement of a decision of the Commissioner or Tribunal.

Part 6 Building permits

Division 1 Building permit required

55 Building permit required

A person must not carry out building work unless a building permit in respect of the work has been granted and is in force under this Act and the work is carried out in accordance with the permit.

Maximum penalty: 85 penalty units.

Division 2 Applications for building permits

56 Who may make application

An application for a building permit may be made to a building certifier by the owner of the building or the land in or on which the building work is to be carried out or by the owner's agent.

57 Schedule 3 to apply

Schedule 3 applies to and in relation to an application for a building permit, and a permit, under this Part.

58 Further information may be requested by building certifier

(1) Before a building certifier grants or refuses to grant a building permit, he or she may require the applicant for the permit to provide additional information or documents or to amend the application.

(2) If additional information, or a document or an amended application, required under subsection (1) is not supplied within the prescribed time, the building certifier may treat the application as having lapsed.

58A Building permits

(1) A building permit may be granted for the whole or a part, or for a stage, of the building work specified in the application.

(2) A building permit must not be granted unless the application specifies the nature and extent of the entire project (at least in general terms, recognising that detailed design for later stages may have to be done).

Division 3 Grant of building permit

59 General requirements for grant of building permit

(1) A building certifier must not grant a building permit unless:

(a) the building work and the building permit will comply with this Act and the Regulations; and

(b) all relevant planning or other prescribed consents, reports or approvals, if any (including consents or reports referred to in Schedule 3, clause 5), have been obtained or are to be granted or supplied concurrently with the building permit and the building permit is consistent with those consents and approvals; and

(c) all planning or other prescribed conditions, if any, will be complied with.

Maximum penalty: 85 penalty units.

(1A) A building certifier must not grant a building permit for building work prescribed for section 48B unless the building contractor has provided evidence in the approved form to the building certifier that there is in force a contract as required by the section.

(1B) A building certifier must not grant a building permit for prescribed residential building work unless the residential builder who will carry out the work gives the building certifier the RBI policy document, or a copy of the fidelity certificate, in force for the work.

(1C) A building certifier must not grant a building permit relying on a certificate under section 40 unless he or she is satisfied that the certificate was issued by a person who is registered as a building practitioner.

(1CA) A building certifier must not grant a building permit for building work to which an access modification decision under section 129G(2)(b) relates if the work may not comply with the modifications recommended in the decision.

(1D) A building certifier must specify in a building permit granted for building work prescribed for Part 4A or 4B the inspection stages prescribed for section 62(2).

(2) A building certifier must not, in granting a building permit, impose on the applicant lesser standards or requirements than those prescribed, unless permitted to do so by or under this Act.

Maximum penalty: 85 penalty units.

60 Historic buildings

(1) Despite section 59, a building certifier may grant a building permit for the carrying out of building work that does not comply with the Regulations if the building work is to be carried out on, or in connection with, a building designated as historic by a prescribed person or body and then only subject to such conditions, restrictions or protections, if any, as are imposed by the person or body.

(2) Any such building permit may be granted to enable the carrying out of work appropriate to the style, manner of construction and materials of the building.

Division 4 Miscellaneous

60A Notification of change of building contractor

(1) If the owner of land (in respect of which a building permit has been granted for building work to which Part 4A applies) engages another building contractor to carry out the building work, he or she must, not later than 14 days after engaging the building contractor, notify the building certifier who granted the permit.

Maximum penalty: 85 penalty units.

(2) If an owner-builder who has been granted a building permit to carry out building work under the owner-builder certificate engages a building contractor to carry out the building work, he or she must, not later than 14 days after engaging the building contractor, notify the building certifier who granted the permit.

Maximum penalty: 85 penalty units.

(3) Notification under subsection (1) or (2) must:

(a) be in writing and include details of the building contractor's registration; and

(b) if the building contractor is required to enter into a residential building contract for the building work – be accompanied by evidence, in the approved form, that the building contractor has done so; and

(c) if the building work is prescribed residential building work – be accompanied by the RBI policy document, or a copy of the fidelity certificate, in force for the work.

(4) The building certifier must, not later than 14 days after being notified under subsection (1) or (2), amend the building permit to include details of the building contractor engaged to carry out the building work.

Maximum penalty: 85 penalty units.

(5) For subsection (1), if the contract required by section 48B has been entered into by a person authorised by the owner of the land, a reference in subsection (1) to the owner of land includes that person.

60B Amendment and cancellation of building permit

(1) A building certifier who grants a building permit may amend the permit on the application, in writing, of the owner of the land to which the permit relates.

(2) A building certifier who grants a building permit may cancel the permit:

(a) on the application, in writing, of the owner of the land to which the permit relates; or

(b) if the building certifier is satisfied that the permit was obtained by misrepresentation.

Part 7 Notifications, inspections and directions

62 Notification during building work

(1) The person who is carrying out or is in charge of carrying out building work under a building permit must notify the building certifier who granted the permit or the Director when building work that is required in accordance with subsection (2) to be inspected is completed.

(2) The Regulations may prescribe inspection stages on the completion of which a person carrying out or in charge of the carrying out of the building work must notify the Director or the relevant building certifier.

(3) After completing building work to an inspection stage, the person referred to in subsection (1) must not carry out any building work under the building permit that is dependent on the inspection until:

(a) the building work completed to the inspection stage is inspected in accordance with section 63; and

(b) the building certifier or Director has advised the person that the building work may proceed.

Maximum penalty: 8 penalty units.

63 Inspections

(1) A building certifier or the Director may, at any reasonable time, on being notified under section 62 that an inspection stage has been completed, inspect the building work concerned.

(2) Subject to subsection (3), the building certifier or the Director may inspect building work at any time, whether or not an inspection stage under section 62 has been completed.

(3) A building certifier or the Director may inspect building work only with the owner's consent or if otherwise permitted to do so by or under this Act.

(4) A building certifier or the Director may do anything that is reasonably necessary to be done to inspect building work under this section, including demolishing, opening, cutting into and testing the building work.

(5) A building certifier or the Director must, after inspecting building work under this section and on being satisfied that the building work has, in all material respects, been carried out in accordance with the Regulations, issue an inspection certificate to the person who carried out the building work or who is in charge of carrying out the building work.

(6) A building certifier or the Director must not issue an inspection certificate after the final inspection stage of the building work unless he or she is satisfied that:

(a) the building work is completed; and

(b) directions (if any) given under this Act have been complied with; and

(c) the building work complies in all material respects with the Regulations.

(7) An inspection certificate must be in the approved form.

64 Directions as to work

(1) The building certifier or the Director may, after inspecting building work, direct the person carrying out the work or in charge of the carrying out of the work to carry out work so that the building work

complies with the relevant building permit, this Act or the Regulations, as the case requires.

(1A) A direction under this section may be given orally or in writing.

(1B) An oral direction must be confirmed in writing as soon as practicable after it is given.

(2) Where a person fails to comply with a direction under this section, the building certifier or the Director who gave the direction may cause a building notice to be served under Part 10 or may take any other action permitted by this Act or the Regulations.

Part 8 Occupancy certification and exemption certificates

Division 1 Occupancy certification required

65 Occupancy certification to be obtained

(1) A person must not occupy a building unless:

(a) occupancy certification has been granted for the building; or

(b) a declaration under subsection (1A) is in force for the building.

Maximum penalty: 85 penalty units.

(1A) The Minister may, by *Gazette* notice, declare, in relation to a building or building work:

(a) that occupancy certification is not required; or

(b) that occupancy certification is not required and a provision of the Regulations applies to the building or building work.

(2) A person must not occupy a building in contravention of the occupancy certification granted in relation to the building.

Maximum penalty: 85 penalty units.

66 Buildings etc. not to be used for public assembly without occupancy permit

(1) A person must not promote or conduct a public assembly in a place, building or temporary structure unless an occupancy permit has been granted which permits its use for that purpose.

Maximum penalty: 85 penalty units.

(2) The occupier of a place, building or temporary structure must not permit the place, building or temporary structure to be used for the purpose of a public assembly unless an occupancy permit has been granted for that purpose.

Maximum penalty: 85 penalty units.

Division 2 Occupancy permits

67 Application

(1) An application for an occupancy permit may be made to a building certifier by the owner of a building or by the owner's agent.

(2) An owner or owner's agent may apply for an occupancy permit:

(a) after carrying out building work; or

(b) if a variation of the existing occupancy permit is sought; or

(c) if an occupancy permit is required for any other reason.

69 Builder's declaration to accompany application

(1) A building certifier must not grant an occupancy permit unless the application for the permit is accompanied by a declaration, in an approved form (a ***builder's declaration***), stating that the building work to which it relates has been carried out in accordance with the building permit granted for the building work.

Maximum penalty: 85 penalty units.

(2) The builder's declaration must be made by the natural person who carried out the building work or was in charge of carrying out the work.

(3) However, subsection (2) does not apply if the builder's declaration is made for a corporation under a provision of this Act or a regulation specifying procedures for another natural person to make the declaration.

(4) A person must not make a false statement in a builder's declaration.

Maximum penalty: 85 penalty units.

(5) A person who makes a builder's declaration for a corporation as mentioned in subsection (3) must not be prosecuted for an offence against subsection (4) if the person made the declaration in good faith on the basis of information given to the person by the corporation.

(6) Subsection (5) does not prevent the corporation, or a director of the corporation, from being prosecuted for an offence against subsection (4).

(7) Subsection (1) does not apply if an exemption certificate has been granted in relation to the builder's declaration.

70 Granting occupancy permit

(1) A building certifier must not grant an occupancy permit unless the building, or part of the building, concerned is suitable for occupation and complies in all material respects with the Regulations.

Maximum penalty: 85 penalty units.

(2) A building certifier must not grant an occupancy permit unless:

(a) the application for the occupancy permit was accompanied by the documents prescribed for Schedule 3, clause 3; and

(b) the building work to which the occupancy permit relates is consistent with those documents; and

(c) if, at the time the application for the occupancy permit was made, the building permit for the building work was no longer in force:

(i) the building work specified in the building permit that is essential to the class of the building was carried out while the building permit was in force; and

(ii) the building work complies with any further criteria prescribed by regulation.

Maximum penalty: 40 penalty units.

72 Effect of occupancy permits

An occupancy permit is a certificate that the building or part of the building to which it applies is suitable for occupation and complies in all material respects with the Regulations.

Division 2A Certificates of substantial compliance

72A Application

(1) An application for a certificate of substantial compliance may be made to a building certifier by the owner of a building or by the owner's agent.

(2) An owner or owner's agent may apply for a certificate of substantial compliance:

(a) after carrying out building work in or on a building of a class prescribed by regulation; and

(b) if all building work specified in the building permit that is essential to the class of the building was carried out while the building permit was in force.

Note for section 72A

An application for a certificate of substantial compliance may be made before or after the expiry of the building permit for the building work to which the application relates.

72B Granting certificate of substantial compliance

(1) A building certifier must not grant a certificate of substantial compliance in relation to building work unless:

(a) the certificate applies to a building of a class prescribed for section 72A(2)(a); and

(b) the building, or the part of the building to which the certificate applies, is suitable for occupation; and

(c) the building work meets the relevant technical standards; and

(d) the building work complies substantially with one or both of the following:

(i) the building permit granted for the work;

(ii) the requirements of this Act and the Regulations relevant to the work; and

(e) the building work complies with any further criteria prescribed by regulation.

Maximum penalty: 85 penalty units.

(2) A building certifier must not grant a certificate of substantial compliance unless:

(a) the application for the certificate is accompanied by the documents prescribed for Schedule 3, clause 3; and

(b) the certifier believes on reasonable grounds that the building work to which the certificate relates is consistent with those documents.

Maximum penalty: 40 penalty units.

72C Effect of certificate of substantial compliance

A certificate of substantial compliance certifies that the building, or part of the building, to which the certificate applies is suitable for occupation and the building work to which the certificate relates:

(a) meets the relevant technical standards; and

(b) complies substantially with one or both of the following:

(i) the building permit granted for the work;

(ii) the requirements of this Act and the Regulations relevant to the work; and

(c) complies with any criteria mentioned in section 72B(1)(e).

Division 3 Certificates of existence

72D Application

(1) An application for a certificate of existence may be made to a building certifier by the owner of a building or by the owner's agent.

(2) An owner or owner's agent may apply for a certificate of existence in relation to building work (***existing building work***):

(a) carried out in or on a building of a class prescribed by regulation; and

(b) completed before the commencement of this Division.

(3) The application may be made if:

(a) a relevant building law, at the time the existing building work was carried out, required a building authorisation to be granted for the work; and

(b) any of the following apply:

(i) a building authorisation was not in force for the existing building work at the time it was carried out;

(ii) the existing building work was carried out while a building authorisation was in force for the work but it is not substantially compliant with the authorisation;

(iii) the existing building work was carried out while a building authorisation was in force for the work but it is not substantially compliant with the requirements of the relevant building law that applied to the work at that time;

(iv) the existing building work was carried out while a building authorisation was in force for the work but it does not meet the applicable technical standards.

(4) In this section:

applicable technical standards, in relation to existing building work for which a building authorisation was granted, means any standards or codes, in force in the Territory during the period the building authorisation was in force, that regulated the building work.

building authorisation means a building permit or equivalent document (however described) issued under a relevant building law.

relevant building law means a law (including standards and codes under the law) in force in the Territory that, at the time existing building work was carried out, regulated the carrying out of the existing building work.

72E Building certifier's recommendation to Director

(1) A building certifier may, in the approved form, recommend to the Director that the Director grant, or refuse to grant, a certificate of existence.

(2) The recommendation must include the information, and be accompanied by the documents, required by the approved form.

(3) However, the Director may request the building certifier to obtain further information or documents relevant to the recommendation.

(4) The building certifier must not make a recommendation for the grant of a certificate of existence unless:

(a) the recommendation applies to a building of a class prescribed for section 72D(2)(a); and

(b) the application for the certificate of existence was accompanied by the documents prescribed for Schedule 3, clause 3; and

(c) the certifier believes on reasonable grounds that the existing building work to which the recommendation relates:

(i) is consistent with those documents; and

(ii) complies with any criteria prescribed by regulation; and

(d) the certifier believes on reasonable grounds that the building, or the part of the building, in or on which the existing building work was carried out is suitable for occupation.

Maximum penalty: 85 penalty units.

72F Granting certificate of existence

(1) This section applies if, under section 72E, a building certifier recommends the grant of a certificate of existence.

(2) The Director may grant the certificate of existence if:

(a) the recommendation includes the information, and is accompanied by the documents, required under section 72E(2); and

(b) the Director has been provided with any documents requested under section 72E(3); and

(c) the Director believes on reasonable grounds that:

(i) the building, or part of the building, to which the certificate applies is suitable for occupation; and

(ii) the existing building work carried out in or on the building complies with the criteria mentioned in section 72E(4)(c)(ii).

72G Effect of certificate of existence

A certificate of existence certifies that:

(a) the building, or part of the building, to which the certificate applies is suitable for occupation; and

(b) the existing building work complies with the criteria mentioned in section 72E(4)(c)(ii).

Division 3A Exemption certificates and validation of exemptions

73A Exemption certificate and prescribed certification

(1) An ***exemption certificate*** is a certificate, in the approved form, that:

(a) is granted by the Director; and

(b) gives an exemption from the requirement to obtain prescribed certification in relation to building work, as specified in the certificate.

(2) ***Prescribed certification*** is any of the following documents that a person is required to provide in relation to building work:

(a) a certificate mentioned in section 40(a) or (b);

(b) an inspection certificate mentioned in section 63(5);

(c) a builder's declaration;

(d) a document prescribed for this section.

73B Schedule 4 applies

Schedule 4 applies in relation to the following:

(a) an exemption certificate;

(b) an application for an exemption certificate and consideration of the application by the Director;

(c) a decision by the Director about whether or not to grant an exemption certificate;

(d) an appeal against the decision of the Director refusing to grant an exemption certificate.

73C Entitlement to apply for exemption certificate

(1) The owner of a building or land in or on which building work has been carried out may apply to the Director for an exemption certificate for prescribed certification for the building work only if:

(a) a prescribed event has occurred; and

(b) the person has complied with the requirements for making the application as specified in Schedule 4.

(2) For subsection (1)(a), a ***prescribed event*** is an event or circumstance specified by Schedule 4, or prescribed by regulation, that has prevented a prescribed building practitioner, an owner-builder, or another person, from providing prescribed certification for building work.

73D Validation of exemptions and occupancy permits

(1) This section applies in relation to a written exemption, given to a person by the Appeals Board before the commencement of this section (the ***commencement***), from the requirement to provide the following prescribed certification in relation to building work:

(a) a certificate mentioned in section 40(a), (b) or (c), as in force before the commencement;

(b) a declaration mentioned in section 69(1), as in force before the commencement.

(2) It is declared that the Appeals Board always had the power to give the person the exemption, and the exemption is as valid as if it were an exemption certificate granted to the person under section 73A for the building work.

(3) An occupancy permit granted for the building work in relation to which the exemption was given is not affected:

(a) because of the failure to provide prescribed certification otherwise required by this Act; or

(b) by the commencement of section 73A.

Division 4 Temporary occupation

74 Temporary occupation of buildings

(1) Despite anything to the contrary in this Act or the Regulations, a person may, with the approval of a building certifier, occupy on a temporary basis a building for which a building permit has not or could not be granted.

(2) An application for an approval to occupy a building on a temporary basis may be made to a building certifier by the owner of the building or by the owner's agent.

76 Conditions

(1) An approval to occupy a building on a temporary basis must specify the period for which occupancy is permitted.

(2) An approval to occupy a building on a temporary basis must not be granted for a period exceeding 6 months without the approval of the Director.

Division 5 General matters

76A Further information may be required

Before determining an application for occupancy certification, a building certifier may, in writing, require the applicant to do any of the following:

(a) provide additional information or documents;

(b) amend the application.

76B Application of and information in occupancy certification

Occupancy certification may apply to the whole or part of a building and must include the information required by regulation.

76C Application of Schedule 3

Schedule 3 applies in relation to an application for occupancy certification, the determination of the application and related matters.

76D Liability for offences prior to grant of occupancy certification

The granting of occupancy certification does not limit a person's liability for an offence against this Act committed by the person before the certification is granted.

Part 9 Protection of adjoining property

77 Protection work to be carried out

(1) The owner of land or a building on or in which he or she is carrying out or proposes to carry out building work must, in the prescribed circumstances, protect an adjoining property by carrying out protection works.

(2) A building certifier must not grant a building permit for building work in the circumstances referred to in subsection (1) unless this Part is complied with.

Maximum penalty: 85 penalty units.

78 Notice of building work to be given

(1) A relevant person required by section 77 to carry out protection works must, before commencing the building work, notify the owner of an adjoining property of the proposed building work.

(2) A notice under subsection (1) must include:

(a) details of the proposed building work as at the date of the notice; and

(b) details of the proposed protection works setting out its nature, location and duration; and

(c) the name and principal place of business in the Territory of the building certifier who granted the building permit for the proposed building work.

79 Owner of adjoining property to respond to notice

(1) The owner of an adjoining property must, not later than 14 days after receiving notice under section 78, notify the relevant person that the owner agrees to or disagrees with the proposed protection works or requests that the proposal be changed.

(2) An owner of an adjoining property who fails to respond within 14 days after receiving a notice under section 78 is taken to have agreed to the proposed protection works being carried out.

80 Effect of agreement

A relevant person required by section 77 to protect an adjoining property may, in accordance with this Act, proceed to carry out building work if the owner of the adjoining property agrees to the proposed protection works being carried out.

81 Effect of disagreement

(1) If the relevant person is notified by the owner of an adjoining property that the owner disagrees to the proposed protection works being carried out, the relevant person must refer the proposal for the protection works to the Director and notify the owner of the adjoining property of the referral.

(2) On receiving the referral, the Director must examine the proposal for the protection works and determine whether the work is appropriate.

(3) The Director may make such inquiries and request such additional information as the Director thinks fit for the purpose of making a determination, but need not give a party a hearing.

(4) The Director must give the relevant person and the owner of the adjoining property notice in writing of the determination.

82 Appeals

(1) The relevant person or the owner of an adjoining property may appeal to the Appeals Board against the determination of a building certifier or the Director in relation to protection works.

(2) An appeal under subsection (1) must be in accordance with Part 11.

83 Decisions of Appeals Board on appeals

On an appeal under section 82(1), the Appeals Board may determine what protection works are to be carried out by the person who is required by section 77 to protect an adjoining property and any other necessary ancillary matters.

84 Work not to be carried out until protection requirements met

(1) A relevant person required by section 77 to protect an adjoining property must not carry out any building work giving rise to that requirement until the owner of the adjoining property agrees to the protection works being carried out or the matter is determined in accordance with section 81 or 82.

(2) A person who carries out protection works must do so in accordance with:

(a) the agreement; or

(b) the determination of the Director; or

(c) the determination of the Appeals Board;

as the case requires.

Maximum penalty: 85 penalty units.

85 Emergency procedures

(1) The Director, on the application of the owner of land on which building works are or are proposed to be carried out or, on application of an owner of an adjoining property or on the Director's own motion, may, by notice in writing, declare that emergency

protection works are required for a particular adjoining property.

(2) Sections 79 to 84 (inclusive) do not apply to protection works to be carried out in accordance with such a declaration under subsection (1).

(3) Where the owner and the owner of an adjoining property disagree as to works to be carried out under a declaration, either party may refer the matter to the Appeals Board which may determine what protection works are to be carried out and any necessary ancillary matters.

(4) A referral under subsection (3) must be in accordance with Part 11.

86 Emergency protection works

Emergency protection works carried out by a person must be carried out in accordance with:

(a) the agreement; or

(b) the declaration of the Director; or

(c) the determination of the building Appeals Board;

as the case requires.

Maximum penalty: 85 penalty units.

87 Absent or incapable owners

(1) Where the owner of an adjoining property required to be notified of proposed building work cannot be found or is unable to act, the relevant person may apply to the Director for the appointment of a person to act for the owner during the owner's absence or incapacity.

(2) An application under subsection (1) must indicate the circumstances of the case and the grounds of the application.

88 Appointment of agents for owners

(1) Where the Director is satisfied that the owner of an adjoining property cannot, after reasonable inquiry and search, be found or that the owner is incapable of acting in the matter of an agreement under this Part, the Director may, in writing, appoint a suitable person to act as the agent of and in the place of the owner of the adjoining property for the purposes of this Part.

(2) An appointment under subsection (1) is subject to the terms and conditions as to the discharge of the person's duties as agent and as to the payment of fees by the owner of the adjoining property, and otherwise, as the Director thinks fit.

(3) An agent appointed under this section must be notified in writing of the appointment, the nature of the agent's duties, the fees to be paid to the agent by the owner of the adjoining property and the terms and conditions, if any, to which the appointment is subject.

89 Liability not affected

Nothing in this Part relieves a relevant person from any liability to which the relevant person would otherwise be subject for injury to an owner or occupier of adjoining property because of the protection works carried out by the relevant person under this Part, but the relevant person has the right to complete the works without being subject to proceedings for an injunction.

90 Inspection of plans

At any time after notice of intention to commence the carrying out of building work is given under this Part, the building certifier must, without further or other authority than this section, make available to an owner of an adjoining property notified under section 78, or the owner's agent, on reasonable request, for inspection, any drawings and specifications of the proposed building works in the possession or control of the building certifier.

91 Building owner to arrange insurance cover

(1) A relevant person who is required to carry out protection works under this Part must, before commencing the works, enter into a contract of insurance, in accordance with this section, with an approved insurer (and renew and maintain that contract in accordance with this section) against damage by the proposed protection works to the adjoining property and against any liabilities likely to be incurred to owners and occupiers of adjoining property and members of the public.

Maximum penalty: 85 penalty units.

(2) The contract of insurance must be to an amount agreed to by the parties or, where the parties cannot agree, determined by the Director.

(3) The contract of insurance must be given to the owner of the adjoining property before the commencement of the works and must be renewed or extended as often as is necessary during the carrying out of the works and for 12 months after the works are finished.

92 Record of condition of adjoining property

(1) A relevant person must, before carrying out protection works, in company with the owner of the adjoining property or the owner's agent, make a full and adequate survey of the adjoining property and a record in writing and, if the parties so agree, by any other means, of all existing cracks and defects in the adjoining property.

(2) The record must be signed or otherwise acknowledged as an agreed record of the condition of the adjoining property before the commencement of any protection works.

(3) The record is admissible in evidence in any proceedings relating to the adjoining property and is evidence of the condition of the adjoining property at the time the record was made.

93 Work to conform to Regulations etc.

(1) All protection works for an adjoining property must be carried out by the relevant person required to carry out the protection works as quickly as possible in the circumstances and in compliance with the Regulations and with the drawings and specifications agreed to between the parties.

Maximum penalty: 85 penalty units.

(2) In proceedings under this Part with respect to the execution of protection works for an adjoining property under this Part, the statement of the Director as to whether or not the Regulations or the drawings or specifications have been complied with is admissible as evidence.

94 Entry on adjoining property to carry out protection works

(1) For the purpose of carrying out protection works required to be carried out under this Part or the Regulations, a relevant person required to carry out the protection works, or the relevant person's agent, may enter between the hours of 8 a.m. and 6 p.m. on the same day (or at other agreed times) in or on, or into the air space above, the relevant adjoining property and carry out the works.

(2) A person must, before entering an adjoining property, give to the occupier of the property not less than 24 hours' notice, or such other notice as is agreed between them, of the person's intention to do so.

Maximum penalty: 8 penalty units.

(3) In the course of carrying out protection works under this Part, a person may, without doing unnecessary damage, move any furniture or fittings in the adjoining property which obstruct the carrying out of the works.

95 Offences by adjoining owner

(1) An owner or occupier of an adjoining property must not refuse to admit a relevant person or a relevant person's agent to the property where the person or the person's agent requires to enter the property for the purposes of carrying out protection works under this Part in accordance with an agreement, declaration or determination.

(2) An owner or occupier of an adjoining property must not obstruct or hinder a relevant person or the relevant person's agent in the carrying out of protection works required under this Part.

Maximum penalty: 8 penalty units.

96 Service of plans after completion of work

A relevant person must, not later than 28 days after the completion of any protection works carried out under this Part, serve on the owner of the adjoining property and the Director a complete set of drawings and specifications showing the protection works which have been carried out for the adjoining property.

97 Saving for easements

Nothing in this Part relating to protection (except for overhead protection) authorises interference with an easement of light or other easement in or relating to a party wall or prejudicially affects the right of a person to preserve a right in connection with a party wall which is demolished or rebuilt or to take a necessary step for that purpose.

98 Expenses of adjoining owner

(1) The costs and expenses necessarily incurred by an owner of an adjoining property in supervising the carrying out of protection works under this Part is, to the extent agreed between the relevant person and the owner of the adjoining property, or as determined

by the Appeals Board, a debt due and payable by the relevant person to the adjoining owner.

(2) A relevant person or the owner of an adjoining property may apply under Part 11 to the Appeals Board for a determination for the purposes of this section.

99 Compensation

(1) A relevant person is liable to compensate an owner or occupier of adjoining property for inconvenience, loss or damage suffered by the owner or occupier during the execution of protection works under this Part.

(2) An owner or occupier of adjoining property who suffers such inconvenience, loss or damage may apply to the Appeals Board for determination of the question and the amount of compensation payable.

(3) The amount of compensation determined by the Appeals Board is a debt due and payable by the relevant person to the owner or occupier, as the case requires, of the adjoining property.

Part 10 Enforcement of safety and building standards

Division 1 Emergencies

100 Emergency orders

(1) Where in the opinion of the Director it is necessary to do so because of a threat to life arising out of:

(a) the condition or use of; or

(b) the conduct, or proposed conduct, of a public assembly in;

a building, place or temporary structure, the Director may, in writing, make an emergency order.

(2) An emergency order made under subsection (1) may require the owner of a building, place or temporary structure, or the owner's agent:

(a) to evacuate the building, place or temporary structure or a specified part of it; or

(b) not to conduct or promote, or allow the conduct or promotion, of a public assembly on or in the building, place or temporary structure or a specified part of it, or to immediately cease to conduct or promote such a public assembly; or

(c) to stop work or to carry out building work or other work; or

(d) to comply with such directions as are specified in the order.

(3) An emergency order made under subsection (1) also may prohibit:

(a) the occupation of a building, place or temporary structure; or

(b) the use of a building, place or temporary structure or a specified part of it, for the purpose of a public assembly.

101 Work may be carried out by Director

(1) If an owner fails to carry out work as required by an emergency order, the Director may carry out the work.

(2) The costs and expenses incurred by the Director in carrying out work referred to in subsection (1) are a debt due and payable by the owner to the Territory.

102 Police assistance

The Director or other person exercising the functions of the Director under this Division may request the assistance of a police officer, and a police officer may assist, in evacuating a building, place or temporary structure in accordance with an emergency order or in removing persons from a building, place or temporary structure in or on which the Director or person is carrying out work in accordance with an emergency order.

103 Completion of work

(1) On completion of work required by an emergency order to be carried out, the owner or the owner's agent must notify the Director in writing and include with the notification such information relating to the building, place or temporary structure as is required by the Director.

(2) The Director must inspect the completed work and report to the owner or the owner's agent that the order has been complied with and cancel the order, or refuse to make such a report and require the order to be complied with.

104 Appeals

(1) An owner of a building, place or temporary structure affected by an emergency order, or an owner's agent, may appeal to the Appeals Board, in accordance with Part 11, against the order or against a refusal of the Director to make a report that an emergency order has been complied with.

(2) On an appeal under this section, the Appeals Board may confirm, amend or cancel the emergency order.

105 Duration of order

(1) Subject to subsection (2), an emergency order remains in force until it is cancelled by the Director or the Appeals Board.

(2) The Director must not cancel an emergency order in respect of which an appeal under section 104 is not finally disposed of.

106 Contravention of emergency order

(1) A person must not contravene an emergency order.

Maximum penalty: 85 penalty units.

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that he or she was not aware of the fact that a public assembly in respect of which the offence arose was the subject of an order under this Division.

Division 2 Building notices and orders

107 Fire hazards

For the purposes of this Division, a building, place or temporary structure is or contains a fire hazard if it has insufficient:

(a) means of escape in the event of fire for the persons occupying or using it; or

(b) protection to delay the spread of fire or smoke or both or to facilitate escape from it; or

(c) devices, appliances and equipment for the detection and extinguishing of fire; or

(d) means of preventing fire or the spreading of fire.

108 Building notices

The Director may serve a building notice, in accordance with the prescribed form, on an owner of a building, place or temporary structure, or on the owner's agent, if the Director is of the opinion that:

(a) building work has been carried out on the building, place or temporary structure without a building permit required by this Act or in contravention of a building permit or this Act or the Regulations; or

(b) its use contravenes this Act, the Regulations or the occupancy certification granted in relation to it; or

(c) it is unfit for use or occupation; or

(d) it is a danger to its users or the users of adjoining properties or streets.

109 Building notices by building certifiers

A building certifier may serve a building notice, in accordance with the prescribed form, on the owner of a building (other than a public authority) or the owner's agent in relation to which the building certifier is performing a function under this Act if of the opinion that any one of the circumstances specified in section 108 exists.

110 Content of notice

A building notice may require the owner of a building, place or temporary structure (the ***specified place***), or the owner's agent, to do one or more of the following within the period specified in the notice:

(a) show cause why occupation of the specified place, or use of the specified place for a public assembly, should not be prohibited;

(b) show cause why the owner or agent should be allowed to conduct or promote, or allow the conduct or promotion, of a public assembly on or in the specified place;

(c) show cause why the owner or agent should not do one or more of the following:

(i) evacuate the specified place;

(ii) immediately cease to conduct or promote a public assembly on or in the specified place;

(iii) operate or carry out building work or other work on or in the specified place;

(iv) comply with directions specified in the notice.

111 Representations by owner

An owner of a building, place or temporary structure in respect of which a building notice is issued, or the owner's agent, may, in the manner and within the time specified in the notice, make representations to the Director, or to the building certifier concerned, about the matters contained in the notice.

112 Building orders

(1) The Director or a building certifier may make a building order, in accordance with the prescribed form, after the time allowed under section 111 for making representations has expired.

(2) Before making a building order, the Director or building certifier must consider the representations, if any, made to him or her under section 111.

(3) The Director or a building certifier may make a building order requiring building work or other work to be carried out without first serving a building notice if the Director or building certifier is of the opinion that the building work required to be carried out is of a minor nature.

113 Contents of building orders

A building order may prohibit the occupation of a building, place or temporary structure or its use for a public assembly, or require its owner or the owner's agent:

(a) to evacuate the building, place or temporary structure or a specified part of it; or

(b) to stop work or to carry out building work or other work on or in it; or

(c) to comply with such other directions as are specified in the order.

114 Building orders to stop building work

(1) Where, in the opinion of the Director, building work on land contravenes this Act or the Regulations, is a danger to the public or affects the support of adjoining property, the Director may make a building order requiring the owner or other person carrying out the

work to stop the work, notwithstanding that a building notice has not been served.

(2) The Director must serve a copy of the order on a person apparently in charge of a site on which the building work is being carried out.

115 Director to be notified

A building certifier who makes a building order must, within 2 days after making it, provide a copy of the order to the Director.

Maximum penalty: 8 penalty units.

116 Fire upgrading reports

(1) Where the Director is of the opinion that a building, place or temporary structure is or may contain a fire hazard, the Director may inspect the building, place or temporary structure and prepare a fire upgrading report as to the work necessary to overcome the hazard.

(2) A fire upgrading report must, if a fire hazard is found to exist, contain a program for work to remedy the hazard and any other prescribed matters.

(3) The Director must serve a copy of a fire upgrading report on the owner of the building, place or temporary structure or the owner's agent.

117 Assistance of Fire Service

The Director may ask the Northern Territory Fire and Rescue Service established by the *Fire and Emergency Act 1996* to assist in the preparation of a fire upgrading report.

118 Representations by owner

An owner of a building, place or temporary structure in respect of which a fire upgrading report is issued, or the owner's agent, may, in the manner and within the time specified in the report, make representations to the Director about the matters contained in the report.

119 Building orders relating to fire hazards

(1) Subject to section 114(1), the Director may make a building order in relation to a building, place or temporary structure in respect of which a fire upgrading report is issued, after the time allowed under section 118 for making representations has expired.

(2) A building order made under subsection (1) must direct the owner of the building, place or temporary structure concerned, or the owner's agent, to carry out a program of work as directed and may contain any other prescribed matters.

120 Failure to comply with order of building certifier

(1) Where an owner or an owner's agent fails to comply with a building order made by a building certifier, the building certifier must refer the matter to the Director and give written notice of the referral to the owner or the owner's agent, as the case may be.

(2) The Director may deal with the matter as if the building order had been made by the Director.

121 Work may be carried out by Director

(1) Where an owner or an owner's agent fails to carry out work as required by a building order, the Director may carry out the work.

(2) The costs and expenses incurred by the Director in carrying out work referred to in subsection (1) are a debt due and payable by the owner to the Territory.

122 Police assistance

The Director or a person performing the functions of the Director may request the assistance of a police officer, and a police officer may assist, in removing persons from a building, place or temporary structure in or on which the Director or person, or an agent of the Director or person, is carrying out or is about to carry out work in accordance with a building order.

123 Completion of work

(1) On the completion of work required to be carried out under a building order, the owner, or the owner's agent, must give written notice of the completion to the building certifier or the Director who made the order.

(2) A person on whom a notice is served under subsection (1) must, within 28 days after the receipt of the notice, inspect the completed work and report to the owner or the owner's agent that the order has been complied with and cancel the order, or refuse to make such a report and, in writing, require the order to be complied with.

124 Appeals

(1) An owner of a building, place or temporary structure affected by a building order, or the owner's agent, may, in accordance with Part 11, not later than 28 days after the order is served on him or her, appeal to the Appeals Board against the order.

(2) An owner, or an owner's agent, may, in accordance with Part 11, within 28 days after being advised of a refusal under section 123(2) to make a report, appeal to the Appeals Board against the refusal.

(3) On an appeal being made under this section, the Appeals Board may confirm, amend or cancel the building order.

(4) A building order has no effect until any appeal against the order is finally disposed of.

125 Amendment or cancellation of certain building orders

(1) An owner, or an owner's agent, required to comply with a building order made after the issue of a fire upgrading report may, if there is a change in circumstances after the original fire upgrading report is made, request the Director to amend or cancel the building order.

(2) On a request being made, the Director may:

(a) refuse to amend or cancel the building order; or

(b) issue an amended fire upgrading report; or

(c) cancel the fire upgrading report.

(3) Where, within the prescribed time, the Director has not decided the request, he or she is taken to have refused the request.

(4) An owner or the owner's agent may, in accordance with Part 11, not later than 28 days after the decision of the Director under subsection (2), appeal against the decision.

126 Onus of proof on appeals

In an appeal to the Appeals Board under this Part in relation to a building order arising out of a fire upgrading notice, the onus of proving a fact on which the building order was issued is on the Director.

127 Duration of order

(1) A building order remains in force until it has been complied with or is cancelled by the Director or person who made it or the Appeals Board.

(2) The Director or person who made the building order must not cancel the building order while an appeal in relation to the order is not finally disposed of.

128 Contravention of building order

A person who contravenes a building order is guilty of an offence.

Maximum penalty: 85 penalty units.

129 Register of orders

The Director must keep, and make available for inspection at his or her office during normal business hours on payment of the prescribed fee, if any, a register of all building orders made under this Part.

Part 10A Appeals Board and disability access decisions

Division 1 Preliminary matters

129A Definitions

In this Part:

applicant means a person:

(a) who applies for a disability access decision; or

(b) on whose behalf an agent applies for a disability access decision.

disability access decision means an access modification decision or alternative solution decision.

129B Disability access provisions

(1) The ***disability access provisions*** are provisions of a code or other document:

(a) adopted by regulation; and

(b) prescribed by regulation for this Part.

(2) A regulation may prescribe provisions of a code or other document to be disability access provisions only if:

(a) the provisions impose:

(i) requirements or standards relating to providing persons with disabilities access to buildings or to facilities and services inside buildings (***performance requirements***); and

(ii) ways in which those requirements or standards may be achieved (***deemed to satisfy provisions***); and

(b) there are equivalent performance requirements and deemed to satisfy provisions in the Access Code, as defined in the *Disability (Access to Premises – Buildings) Standards 2010* (Cth) as in force from time to time.

129C Application of Part 11

Part 11, other than sections 132 to 135 and 143 to 149, does not apply in relation to a disability access decision.

Note for section 129C

The specified sections deal with the general procedures of the Appeals Board.

Division 2 Alternative solution decisions and access modification decisions

129D Application for alternative solution decision

(1) Any of the following persons may apply to the Appeals Board for an alternative solution decision in relation to the design of a building specified in the application:

(a) the owner of:

(i) the building; or

(ii) the land on which the building is to be constructed;

(b) the agent of an owner mentioned in paragraph (a);

(c) the building certifier for the building work proposed to be carried out on the building.

(2) The application must be in the approved form and accompanied by the prescribed fee.

129E Alternative solution decision

(1) The Appeals Board may, on application, make an alternative solution decision relating to the building specified in the application.

(2) An ***alternative solution decision*** is a decision that, in the opinion of the Appeals Board, the design of the building:

(a) complies with the performance requirements of the disability access provisions; or

(b) does not comply with those performance requirements.

(3) To achieve compliance with the performance requirements of the disability access provisions, the design of the building must provide a level of access that is at least equivalent to the level specified in the deemed to satisfy provisions for the performance requirements.

129F Application for access modification decision

(1) Any of the following persons may apply to the Appeals Board for an access modification decision in relation to a building or land on which a building is to be constructed:

(a) the owner of the building or land;

(b) a lessee of the building:

(i) on whose behalf the owner of the building proposes to have building work carried out; and

(ii) who has the written permission of the owner to make the application;

(c) the agent of a person mentioned in paragraph (a) or (b), who must not be the building certifier for the building work proposed to be carried out.

(2) The application may be made only on the ground that compliance with the disability access provisions specified in the application would impose unjustifiable hardship on the applicant.

(3) The application must be in the approved form and accompanied by the prescribed fee.

129G Access modification decision

(1) The Appeals Board may, on application and subject to section 129H, make an access modification decision relating to the building or land specified in the application.

(2) An ***access modification decision*** is a decision that, in the opinion of the Appeals Board, a particular disability access provision:

(a) applies to the specified building or specified land without modifications because it does not impose unjustifiable hardship on the applicant; or

(b) applies to the specified building or specified land with the modifications recommended by the Board so as to avoid imposing unjustifiable hardship on the applicant; or

(c) does not apply to the specified building or specified land because it would impose unjustifiable hardship on the applicant.

(3) An access modification decision mentioned in subsection (2)(b) must provide for compliance with the disability access provisions to the maximum extent not involving unjustifiable hardship.

(4) For this section, unjustifiable hardship is to be interpreted and applied having due regard to the rights and interests of all relevant parties.

129H Circumstances to be taken into account for access modification decision

(1) In considering an application for an access modification decision, and deciding whether compliance with a particular disability access provision would impose unjustifiable hardship on the applicant, the Appeals Board must take into account all circumstances relevant to the application.

(2) Without limiting subsection (1), circumstances relevant to the application may include any of the following:

(a) any additional capital, operating or other costs, or loss of revenue, that would be directly incurred by, or reasonably likely to result from, compliance with the disability access provision;

(b) any reductions in capital, operating or other costs, or increases in revenue, that would be directly achieved by, or reasonably likely to result from, compliance with the disability access provision;

(c) the extent to which the construction of the building has been, or will be, financed by government funding;

(d) the extent to which the building:

(i) is used for public purposes; and

(ii) has a community function;

(e) the financial position of the applicant;

(f) any effect that compliance with the disability access provision is reasonably likely to have on the financial viability of the applicant;

(g) any exceptional technical factors (such as the effect of load-bearing elements on the structural integrity of the building), or geographic factors (such as gradient or topography), affecting a person's ability to comply with the disability access provision;

(h) financial, staffing, technical, information and other resources reasonably available to the applicant, including any grants, tax concessions, subsidies or other external assistance provided or available;

(i) whether the cost of alterations to make any premises accessible is disproportionate to the value of the building, taking into consideration the improved value that would result from the alterations;

(j) benefits reasonably likely to accrue from compliance with the disability access provision (including benefits to persons with disabilities, building users and other affected persons) or detriment likely to result from non-compliance;

(k) if compliance with the provision is required – detriment reasonably likely to be suffered (including in relation to means of access, comfort and convenience) by any of the following:

(i) the applicant or building developer;

(ii) a building manager;

(iii) persons with disabilities and other people using the building;

(l) if detriment under paragraph (k) involves loss of heritage significance – the extent to which the heritage features of the building are essential, or merely incidental, to the heritage significance of the building;

(m) any evidence about efforts made in good faith by the applicant or a person required to comply with the disability access provision (including the relevant building certifier and any consulting access consultants);

(n) if the applicant has given an action plan to the Australian Human Right Commission under section 64 of the *Disability Discrimination Act 1992* (Cth) – the terms of the action plan and any evidence of its implementation;

(o) the nature and results of any processes of consultation, including at local, regional, State, national, international, industry and other levels, involving, or on behalf of, the applicant, a building developer, a building manager, the relevant building certifier or persons with disabilities, about means of achieving compliance with the disability access provision, including in relation to the factors listed in this subsection.

(3) If a substantial issue of unjustifiable hardship is raised having regard to a factor mentioned in subsection (2), the Appeals Board must consider the following additional factors:

(a) the extent to which substantially equal access to public premises is or may be provided otherwise than by compliance with the disability access provision;

(b) any measures undertaken (or to be undertaken) by, on behalf of, or in association with, a person or organisation in order to ensure substantially equal access.

(4) In this section:

building developer means a person with responsibility for, or control over, the design and construction of a building.

building manager means a person with responsibility for, or control over, the management of a building.

Division 3 General matters

129J Notice and registration of disability access decision

(1) The Appeals Board must give a notice of a disability access decision, and the reasons for the decision, to the following persons:

(a) the applicant for the decision;

(b) if the applicant is a building certifier – the person who has engaged the building certifier;

(c) if the applicant is a person other than a building certifier engaged for the building work to which the decision relates – the building certifier.

(2) The disability access decision must be signed by one of the members of the Appeals Board involved in making the decision.

(3) The Registrar must file a copy of the disability access decision in a register of those decisions.

(4) A person may, on payment of the prescribed fee to the Registrar, inspect an alternative solution decision.

(5) A person may apply in writing to the Chairperson of the Appeals Board for approval to inspect an access modification decision and the reasons for the decision and, if the application is approved, the person may inspect the decision on payment of the prescribed fee to the Registrar.

129K Effect of disability access decision

A disability access decision has effect subject to this Act and other laws in force in the Territory.

Note for section 129K

Decisions of the Appeals Board cannot override the requirements of Commonwealth legislation. Consequently, the making of a disability access decision does not prevent a person from making a claim under the Disability Discrimination Act 1992 (Cth) in relation to a contravention of a disability access provision.

Part 11 Appeals and applications to Appeals Board generally

Division 1 General matters

130 Who may appeal

(1) An appeal referred to in section 19(1)(a) may be made by a person (other than a reporting authority) involved in the dispute (or the person's agent) or by the Director.

(2) An appeal under subsection (1) must be made in accordance with this Part.

130A How appeal is commenced

(1) Subject to this Act, an appeal must be commenced not later than 28 days after the date on which notice of the decision appealed against is given.

(2) An appeal must be in the approved form and lodged with the Appeals Board.

131 Modification of application of *Building Regulations*

(1) The Appeals Board may by determination, on application by an owner of land (including a public authority), an owner's agent or the Director, modify the application of the Regulations to land, a building or building work or determine that a provision of the Regulations does not apply to the land, building or building work or applies subject to the conditions the Board specifies and, on the Board so doing, the Regulations do not apply, or apply subject to those conditions, accordingly.

(2) The Appeals Board may, before making a determination under subsection (1), require a report from a reporting authority on the subject of the application and may not make a determination unless it is satisfied that it is not detrimental to the public interest to do so.

(3) An application under this section must be in accordance with this Part.

132 Sittings of Appeals Board

(1) The Appeals Board must, when performing its functions for a particular matter, consist of the member or members the Chairperson nominates (one of whom must be nominated to preside), but must not consist of, or include, the Director or a delegate of the Director if the Director is the appellant or if the matter the subject of the appeal involves an act or decision of the Director or a delegate of the Director.

(2) More than one sitting of the Appeals Board may be held at any one time.

133 Constitution of Appeals Board in a matter

(1) Subject to subsection (2), the Appeals Board, while hearing and determining a particular matter, is constituted by the same member or members.

(2) Where a member of the Appeals Board is not available after the Appeals Board has commenced to hear a matter, the Chairperson may, on the application of a party, nominate another member (***new member***) to fill the vacancy to enable the hearing to continue.

(3) Where a new member is nominated under subsection (2) in place of a former member:

(a) the new member must treat any evidence given, document produced or thing done in the course of earlier proceedings in the same manner and in all respects as if it had been given, produced or done in the course of the proceedings by the Appeals Board as constituted with the new member; and

(b) an interim award or order made in the course of the earlier proceedings is taken to be made by the Appeals Board as constituted with the new member; and

(c) the Appeals Board as constituted with the new member may adopt and act on a determination of a matter made in the course of the earlier proceedings without the new member applying his or her own judgment to the matter;

and the Regulations may make provision for any other matter in relation to the hearing.

134 Authentication of documents

A document requiring authentication by the Appeals Board is sufficiently authenticated without the seal of the Board if it is signed by the Chairperson or the Deputy Chairperson.

Division 2 Procedures for appeals, referrals and applications

135 Procedure generally

(1) Except to the extent that they are prescribed, the Appeals Board may determine its own procedures.

(2) Hearings of the Appeals Board must be conducted with as little formality and technicality, and with as much expedition, as the requirements of this Act and the Regulations, and the proper consideration of the matters before the Board, permit.

(3) The Appeals Board is not bound by the rules of evidence but may inform itself of any matter in such manner as it thinks fit.

136 Fresh hearing

An appeal, a referral or an application to the Appeals Board must be dealt with as a fresh hearing, and fresh evidence or fresh information may be given.

137 Decisions of Appeals Board

(1) In addition to any other power conferred on the Appeals Board by or under this Act in relation to an appeal, referral or application, the Board may make any decision or take any action that the person making the original decision could have made or taken in relation to the matter.

(2) In determining an appeal, referral or application, the Appeals Board is not bound by a previous determination of the Board.

138 Decision of Appeals Board to be final

The decision of the Appeals Board in an appeal, referral or application is final and has effect accordingly.

139 Form of appeals and applications

(1) An appeal to the Appeals Board must contain details of the grounds of the appeal and such other particulars, if any, as are prescribed and be accompanied by the prescribed fee.

(2) An application or referral to the Appeals Board must contain details of the application or referral and such other particulars, if any, as are prescribed and be accompanied by the prescribed fee.

140 Decisions – form

(1) A determination by the Appeals Board must be in writing, must be signed by one member of the Board involved in making the determination and must be filed in the register by the Registrar.

(2) The Appeals Board must, if requested to do so by a party to an appeal, referral or application, give a written statement of its reasons for the determination to the party.

(3) A person may, on payment of the prescribed fee to the Registrar, inspect a determination of the Board.

141 Evidence of determinations

The production in proceedings of a document purporting to be a copy of a determination made by the Appeals Board under this Act and to be signed by the Registrar, is evidence of the due making and existence of the determination.

142 Enforcement of determinations

Every determination made by the Appeals Board may, by leave of the prescribed court, be enforced as if it were a judgment or order of the court to the same effect duly made by the court.

143 Adjournments

The Appeals Board may, from time to time, adjourn a hearing to such time, date and place, and for such reasons, as it thinks fit.

144 Hearings to be open

The hearings of the Appeals Board must be open to the public, unless otherwise directed by the Board.

145 Rights of representation

A party to a hearing before the Appeals Board is, with the consent of the Board, entitled to be represented by another person.

146 Attendance of witnesses

(1) The Appeals Board may, by notice in writing served on a person, require the person to attend at a hearing of the Board for the purpose of giving evidence, or to produce to the Board a document that is relevant to the hearing, at a time, date and place specified in the notice.

(2) The Board may keep a document produced to it under this section for as long as it considers necessary for the purpose of completing the hearing.

(3) A person must comply with a requirement under this section to attend and give evidence at a hearing, or to produce a document, to the extent to which the person is lawfully able to do so.

Maximum penalty: 8 penalty units.

147 Witnesses to answer questions

(1) The Appeals Board may require a person who attends a hearing to answer a question that is reasonably related to the hearing.

(2) A person must not refuse to answer a question on the ground that the answer might tend to criminate the person.

Maximum penalty: 8 penalty units.

148 Evidence on oath

The Appeals Board may require a person who attends a hearing to give evidence on oath.

149 Costs

The parties to a hearing before the Appeals Board must bear their own costs of the hearing, unless the Board otherwise determines.

Part 12 General enforcement provisions

150 Prosecution of offences

(1) Proceedings for an offence against this Act must not be commenced without the consent of the Director.

(2) A document purporting to be consent for the purposes of subsection (1) and to be signed by the Director is evidence of that consent.

(3) A prosecution for an offence against this Act or the Regulations must be commenced within 2 years after the day on which a police officer, the Director or an authorised officer becomes aware of the commission of the alleged offence.

(4) For exercising its criminal jurisdiction in relation to an offence against this Act, the Local Court must be constituted by a Local Court Judge.

151 Offences by corporations

(1) Where a corporation contravenes, whether by act or omission, a provision of this Act or the Regulations, each person being a director of the corporation or a person concerned in the management of the corporation is taken to have contravened the same provision unless the person proves that he or she had no knowledge of the commission of the offence and could not, by the exercise of due diligence, have prevented the commission of the offence.

(2) A person may be proceeded against and found guilty pursuant to this section whether or not the corporation has been proceeded against or been found guilty.

(3) Nothing in this section affects the liability imposed on a corporation for an offence committed by the corporation against this Act or the Regulations.

(4) Without limiting any other law or practice relating to the admissibility of evidence, evidence that an officer, employee or agent of a corporation (while acting in his or her capacity as such) had at a particular time, a particular intention, is evidence that the corporation had that intention at that time.

152 Additional orders that may be made by the Court

(1) The Director may bring proceedings in a prescribed court for an order under this section in the event of a breach, or threatened or apprehended breach, of this Act or the Regulations or a notice or order issued under this Act (including a notice, order or determination of the Appeals Board).

(2) The court may, if it is satisfied that a breach, or threatened or apprehended breach, has been or will be committed or is likely to be committed, make:

(a) an order to restrain the breach or other conduct by the person by whom the breach is committed or by whom the threatened or apprehended breach is likely to be committed; or

(b) an order requiring building work to be carried out; or

(c) an order requiring the payment of money into court in respect of building work carried out by, or to be carried out by, the Director; or

(d) any necessary ancillary orders.

(3) A person may make an application for an order under this section during proceedings for an offence against this Act or the Regulations and an order may be made instead of or in addition to a penalty imposed in those or any other proceedings.

(4) A person must not make an application under this section as to a notice, order or other matter that is subject to an appeal to the Appeals Board not finally disposed of.

Part 13 Liability

153 Protection from liability

(1) No matter or thing done, or omitted to be done, by:

(a) the Director; or

(b) the Advisory Committee or a member of the Advisory Committee; or

(c) the Practitioners Board or a member of the Practitioners Board; or

(d) the Appeals Board or a member of the Appeals Board; or

(e) a person acting under the direction of the Director, the Practitioners Board or the Appeals Board;

subjects the Director, Committee, Practitioners Board, Appeals Board or person to any action, liability, claim or demand, if the matter or thing was done or omitted to be done in good faith for the purpose of performing a function or executing a power under this or any other Act, or the performance or exercise, or intended performance or exercise, of the functions or powers of the member, Director, Board, Committee or person.

(2) No matter or thing done or omitted to be done by:

(a) a building certifier; or

(aa) the Director; or

(b) a person performing a function or exercising a power of a building certifier in relation to a public authority;

under this Act in good faith or relying on a certificate under section 40 subjects the building certifier, Director or person, or the Territory, to any action, liability, claim or demand.

(3) No matter or thing done by a building certifier under this Act subjects the Director or the Territory to any action, liability, claim or demand.

(4) No action or other proceedings may be brought against the Director, the Territory or an employee, as defined in the *Public Sector Employment and Management Act 1993* with respect to information included in or omitted from a register maintained under this Act.

159 Application of limitation on taking action

(1) Section 160 applies to an action for damages for economic loss and rectification costs resulting from defective construction of building work or other work carried out under this Act.

(2) The cause of action may be founded on contract or tort (including a cause of action for damages for breach of a statutory duty) or be a cause of action to recover money recoverable by virtue of this Act.

(3) Section 160 does not affect a right to recover damages for death or personal injury resulting from defective construction.

160 Limitation on time when action may be taken

(1) An action is not maintainable by a plaintiff or a person claiming on behalf of a plaintiff if it is brought after the end of a limitation period of 10 years after the date on which the cause of action first accrues.

(2) The cause of action accrues on the date of the grant of occupancy certification in relation to the building work that is the subject of the action or, if occupancy certification is not granted, on the date of first occupation of the building concerned after completion of the work.

161 Effect of other legislation

To the extent to which they are inconsistent with any other law in force in the Territory, the provisions of this Part prevail.

Part 14 Miscellaneous

162 Access to buildings and land

(1) The Minister may appoint persons or classes of persons to be authorised officers.

(2) Subject to section 163(1), a police officer or an authorised officer may, at all reasonable times, for the purpose of performing a function or exercising a power of the police officer or of a building certifier or other person under this Act, or for the purpose of performing a function or exercising the powers of an authorised officer under section 164, enter any land, building, place or temporary structure if the officer has reasonable grounds to believe that it is necessary to do so for that purpose.

163 Access to residential premises

(1) A person must not enter a part of a building used for residential purposes without the consent of the occupier of the part or a search warrant.

(2) If a police officer or authorised officer makes a complaint on oath to a justice of the peace to the effect that the officer has reason to suspect, and believes, that this Act has or the Regulations have been or is or are being contravened in residential premises, the justice of the peace may, if satisfied that the belief is well founded, authorise by search warrant a police officer or an authorised officer to enter the premises to search for evidence in relation to the contravention in or on the premises.

(3) Section 120B(4) to (8), inclusive, of the *Police Administration Act 1978*, with the necessary changes, apply to and in relation to a search warrant issued under subsection (2).

164 Additional powers of authorised officer

In addition to his or her powers under this Part, an authorised officer may:

(a) demand that the owner or occupier of any land, building, place or temporary structure produce any records relating to the building or any building work; and

(b) search for, inspect, take extracts from and make copies of such records; and

(c) make any inquiry that the authorised officer considers necessary relating to any building work, land, building, place or temporary structure and take samples of materials for the purposes of an inquiry.

165 Access where safety of public at risk

Despite section 163(1), an authorised officer may enter residential premises at any time if the safety of the public or the occupants is at risk or the residential premises are affected by an emergency order under Part 10.

166 Offences

A person must not:

(a) fail or refuse to produce records on being required to do so by an authorised officer in pursuance of section 164; or

(b) make a false or misleading statement in answer to an inquiry in pursuance of that section; or

(c) assault, delay, obstruct, hinder or impede an authorised officer in the performance of a function or exercise of a power under this Act.

Maximum penalty: 40 penalty units.

166AA Acquisition on just terms

If the operation of this Act would, apart from this section, result in an acquisition of property from a person otherwise than on just terms:

(a) the person is entitled to receive from the Territory the compensation necessary to ensure the acquisition is on just terms; and

(b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.

166A Certified copies of documents

(1) The Minister or the Director may certify that a document is a copy of a document given, issued, made or served by him or her.

(2) A person may, on application in the approved form and on payment of the prescribed fee, obtain a certified copy of a document.

(3) A document purporting to be a certified copy of a document is evidence of the document.

(4) In this section:

certified copy, of a document, means a copy of the document certified under subsection (1).

167 Evidentiary provisions

(1) In proceedings before a court, the court must take judicial notice of a notice, order or direction purporting to have been given under this Act by the Minister, the Appeals Board or the Director.

(2) In proceedings before a court, a copy of an adopted code or standard, or a code or standard referred to in an adopted code or standard, or of any part thereof, purporting to be certified by the Director or an officer authorised for the purpose by the Director, is admissible in evidence.

167AA Service of documents

A document may be served on a person under this Act by any of the following means:

(a) delivering the document to the person personally;

(b) sending the document by prepaid post to the person at his or her last-known place of residence or business or, if he or she is carrying on business at 2 or more places, at one of those places;

(c) sending the document by prepaid post to the person at his or her last-known postal address;

(d) leaving the document at the last-known place of residence of the person with a person who is apparently living at that place and who is apparently not less than 16 years of age;

(e) leaving the document at the last-known place of business of the person or, if he or she is carrying on business at 2 or more places, at one of those places with a person who is apparently employed by the person and who is apparently not less than 16 years of age.

167A Approved forms

(1) The Minister may approve forms for use under this Act.

(2) An approved form may be a statutory declaration.

167B Guidelines

(1) The Director may make guidelines for the administration of this Act.

(2) The guidelines must be consistent with this Act.

(3) The Director may publish the guidelines in the way the Director considers appropriate (for example, on the Internet).

(4) A person acting under this Act must have regard to the guidelines.

168 Regulations

(1) The Administrator may make Regulations, not inconsistent with this Act, prescribing all matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting subsection (1), the Regulations may make provision for or with respect to the matters listed in Schedule 1.

(3) The Regulations may do any of the following:

(a) require a matter affected by the Regulations to be:

(i) in accordance with a specified standard or specified requirement; or

(ii) approved by or to the satisfaction of a specified person or body or a person or body of a specified class of person or body;

(b) confer a discretionary authority on a specified person or body or a person or body of a specified class of person or body;

(ba) provide for a matter to be determined by the Minister;

(c) provide, in a specified case or class of case, for the exemption of persons or things from the application of the Regulations, whether unconditionally or on specified conditions or conditions additionally imposed and either wholly or to such an extent as is specified or otherwise determined.

(4) The Regulations may contain such incidental, supplementary, savings and transitional provisions as are necessary or convenient.

(5) The Regulations may prescribe a fine not exceeding 100 penalty units and, for a continuing offence, an additional fine not exceeding 10 penalty units for each day during which the offence continues, for an offence against a regulation.

Note for section 168

See section 51(1) and (2) in relation to the application of a regulation or an amendment to a regulation to building work for which a building permit was granted, or in respect of which substantial progress had been made on the design of the building, before the commencement of the regulation or amendment.

Part 15 Repeals and transitional matters for Building Act 1993

169 Repeal

The following Acts are repealed:

Building Act 1983	No. 31, 1983
Building Amendment Act 1987	No. 1, 1987

Building Amendment Act 1989 No. 68, 1989

170 Matters in process before commencement of this Act

(1) Subject to subsection (2) and section 172, the repealed Act continues to apply in relation to building work approved or commenced before the commencement of this Act and to and in relation to all ensuing rights and liabilities that would have resulted had this Act never commenced, as if this Act had in fact not commenced.

(2) For the purposes of subsection (1), a reference in the repealed Act to:

(a) the Building Controller includes a reference to the Director; and

(b) the Board includes a reference to the Appeals Board; and

(c) the Chairman includes a reference to the Chairperson of the Appeals Board;

and the Director, the Board and the Chairperson have, respectively, all the functions and powers of the Building Controller, the Board and the Chairman under the repealed Act.

Note for section 170

The operation of this section is affected by Part 20.

171 Repeal of Regulations and savings

(1) The Regulations in force under the repealed Act immediately before the commencement of this Act are repealed.

(2) Despite the repeal referred to in subsection (1), the Regulations remain in force to the extent necessary to give effect to the continued application of the repealed Act in pursuance of section 170.

172 Transitional Regulations

(1) For the purposes only of ensuring the continuity of rights, liabilities and obligations of persons to or in relation to whom the repealed Act applied immediately before the commencement of this Act, the Administrator may make such Regulations as he or she considers necessary or convenient to be made, notwithstanding that, but for this section, he or she may not have the power to make such Regulations.

(2) The power given by subsection (1) may be exercised only within one year after the Commencement of this Act, but a regulation made in pursuance of it remains in force until repealed by Regulations made under this Act.

(3) Regulations made under this section may be made retrospective to the date of commencement of this Act or any date after that commencement, and have effect accordingly.

(4) To the extent that Regulations made under this section are inconsistent with this Act or the repealed Act, the Regulations shall prevail.

Part 15A Building areas before 16 September 2004

172A Retrospective application of declaration

The declaration under section 6(2) dated 10 September 2004 and published in *Gazette* No. S29 of 16 September 2004, as amended and in force immediately before the commencement of this section, is taken to have come into force on 1 September 1993.

172B Validation of things done or omitted before 16 September 2004

(1) A thing done or omitted to be done under Parts 4 to 13 (inclusive) in or in relation to a part of the Territory during the validation period is not invalid because a declaration under section 6(2) was not in force (except by virtue of section 172A) in or in relation to that part of the Territory at the time the thing was done or omitted to be done.

(2) In subsection (1):

validation period means the period commencing on 1 September 1993 and ending on 15 September 2004.

Part 15C Transitional matters for Part 2 of Building Amendment Act 2005

172H Regulations may contain savings or transitional provisions

(1) The Regulations may contain provisions of a savings or transitional nature consequent on the enactment of Part 2 of the *Building Amendment Act 2005.*

(2) The Regulations may provide that a savings or transitional provision takes effect from a date that is earlier than the date of its publication or notification in the *Gazette* but, if they do so, the provision does not operate so as:

(a) to affect in a manner prejudicial to any person (other than the Territory), the rights of that person existing before the date of its publication or notification; or

(b) to impose liabilities on a person (other than the Territory) in respect of anything done or omitted to be done before the date of its publication or notification.

(3) If a regulation made under this section is inconsistent with a provision of this Act or a provision of an Act specified in the regulation, the regulation prevails to the extent of the inconsistency.

Part 16 Transitional matters for Building Amendment Act 2004

173 Renewal of registration granted before commencement of *Building Amendment Act 2004*

(1) Subject to subsection (2), the registration of a building practitioner in force before the commencement of section 12 of the *Building Amendment Act 2004* continues in force, subject to this Act, after that commencement:

(a) if the registration was granted more than 2 years before that commencement – until the anniversary of the date on which the registration was granted; or

(b) if the registration was granted less than 2 years before that commencement – until the second anniversary of the date on which the registration was granted.

(2) If under subsection (1) the anniversary date is within 6 months of the commencement of this section, the registration of the building practitioner continues in force, subject to this Act, until:

(a) the building practitioner's application for renewal is determined by the Practitioners Board in accordance with the *Building Act 1993* as amended by the *Building Amendment Act 2004*; or

(b) 6 months elapses after that commencement,

whichever occurs first.

(3) A building practitioner referred to in this section may apply to renew his or her registration in accordance with the *Building Act 1993* as amended by the *Building Amendment Act 2004*.

174 Determinations under section 14 of *Building Act 1993* to continue in force

Despite the repeal of section 14(1)(a), a determination by the Practitioners Board under the section remains in force until a determination is made by the Minister under section 24G.

175 Commencement of Part 4A of *Building Act 1993*

(1) If, before the commencement of Part 4A:

(a) a building permit had been granted in respect of building work; and

(b) the owner of the land on which the building work was to be carried out had entered into a contract with a person to carry out the building work;

the person may, after that commencement, commence or continue to carry out the building work as if Part 4A had not commenced despite that the building work is building work to which the Part would otherwise apply.

(2) If, before the commencement of Part 4A:

(a) a building permit had been granted in respect of building work; and

(b) a person had commenced to carry out the building work for the owner of the land on which the building work was to be carried out (whether or not the owner had entered into a contract with the person to carry out the building work);

the person may, after that commencement, continue to carry out the building work as if Part 4A had not commenced despite that the building work is building work to which the Part would otherwise apply.

176 Commencement of Part 4B of *Building Act 1993*

If, before the commencement of Part 4B:

(a) a building permit had been granted in respect of building work; and

(b) the owner of the land on which the building work is to be carried out had commenced to carry out the building work;

the person may, after that commencement, continue to carry out the building work as if Part 4B had not commenced despite that the building work is building work to which the Part would otherwise apply.

179 Transitional Regulations

(1) For ensuring the orderly implementation of Parts 4A and 4B, the Administrator may make regulations that he or she considers necessary or convenient to be made.

(2) The power given by subsection (1) may only be exercised within 12 months after the commencement date.

(3) Regulations made under this section may be made retrospective to the commencement date or any date after the commencement date and will have force accordingly.

(4) To the extent that Regulations made under this section are inconsistent with this Act or a provision of an Act specified in the Regulations, the Regulations prevail.

(5) In this section:

commencement date means the commencement of Part 4A or 4B, as appropriate.

Part 17 Transitional matters for Building Legislation Amendment Act 2010

180 Definitions

In this Part:

commencement day means the day on which the *Building Legislation Amendment Act 2010* commences.

repealed, in relation to a specified provision, means that provision as in force immediately before the commencement day.

substituted, in relation to a specified provision, means that provision as in force on the commencement day.

181 Application for exemption certificate

Part 8, Division 3A applies in relation to an application for an exemption certificate even if the prescribed event specified in the application occurred before the commencement day.

182 Declaration made by corporation after commencement day for building work completed before commencement day

(1) This section applies if, before the commencement day:

(a) prescribed building work to which repealed section 48C(1) applied had been completed by a director or nominee of a corporation (the ***responsible builder***); and

(b) the declaration mentioned in that subsection had not been given to the building certifier under repealed regulation 20A(5) of the *Building Regulations 1993*.

(2) Substituted section 48C, other than subsection (4) of that section, applies in relation to the declaration relating to the prescribed building work.

(3) If the responsible builder ceased to be a director or nominee of the corporation after completing the prescribed work, the corporation must follow the procedures specified in substituted section 48CA as if a prescribed event had occurred.

(4) For this section, a responsible builder had completed prescribed building work if he or she had completely ceased to carry out the building work specified in the contract entered into under section 48B, regardless of whether the work was fully or partially completed.

(5) This section does not affect the liability of the responsible builder for an offence against repealed section 48C(1), repealed regulation 20A(5) of the *Building Regulations 1993* or substituted section 48C(2) or (3).

183 Declaration made by owner-builder after commencement day for building work completed before commencement day

(1) This section applies if, before the commencement day:

(a) building work to which repealed section 48G applied had been completed by the owner-builder; and

(b) the declaration mentioned in that section had not been given to the building certifier under repealed regulation 20A(5) of the *Building Regulations 1993*.

(2) For subsection (1), an owner-builder had completed building work specified in a building permit if he or she had completely ceased to carry out the building work, regardless of whether the work was fully or partially completed.

(3) Substituted section 48G applies in relation to the declaration relating to the building work.

(4) However, subsections (5) to (7) apply if the owner-builder (the ***original builder***):

(a) ceased to carry out the building work after partially completing the work; and

(b) before the commencement day, had transferred his or her interest in the land on which the building work is situated to another person (the ***new owner***).

(5) If the new owner intends to continue carrying out the building work as an owner-builder, the new owner must, as soon as practicable after the commencement day:

(a) satisfy himself or herself that the building work completed by the original builder was carried out in accordance with the building permit granted for the work; and

(b) make a declaration mentioned in section 69(1) relating to the building work completed by the original builder; and

(c) include in the declaration details about the way in which the new owner has satisfied himself or herself for paragraph (a); and

(d) give the declaration to the building certifier who granted the building permit for the building work.

Maximum penalty: 8 penalty units.

(6) For subsection (5)(a), the new owner must:

(a) take all the steps necessary and using proper care and diligence, which may include engaging suitably qualified and experienced persons to inspect and give reports about the building work; and

(b) ensure other prescribed certification required for the building work completed by the original builder has been obtained.

(7) If a person other than the new owner is to continue the building work, the new owner must apply for an exemption certificate for the building work completed by the original builder as if the reason the original builder had not made the declaration were the occurrence of a prescribed event.

Part 18 Transitional matters for Building Amendment (Registration and Other Matters) Act 2012

184 Definition

In this Part:

commencement day means the day on which this Part commences.

185 Application of Part

This Part applies despite anything to the contrary in section 12 of the *Interpretation Act 1978*.

186 Replacement provisions apply to existing registration applications

(1) The Practitioners Board must decide an existing registration application in accordance with the relevant replacement registration provision.

(2) The Practitioners Board may require the applicant to give the Board additional information to enable the Board to be satisfied about the matters mentioned in the relevant replacement registration provision.

(3) In this section:

existing registration application means one of the following applications made before the commencement day and not decided before that day:

(a) an application for registration made under section 23;

(b) an application for registration made under section 24A;

(c) an application for renewal of registration made under section 24E.

replacement registration provision means section 24, 24B or 24F, and a regulation made for the section, as in force on the commencement day.

187 Requirement to continue to hold determined net financial assets

(1) An individual or corporation registered before the commencement day as a building contractor must, during the remaining period of registration, continue to hold the relevant amount of determined net financial assets.

(2) For subsection (1), the relevant amount of determined net financial assets is the amount of net financial assets specified for the individual or corporation in the Minister's determination under section 24G as in force immediately before the commencement day.

188 Compliance with supervision requirement

(1) A corporation registered before the commencement day as a building contractor must comply with the supervision requirement during the term of registration.

(2) For subsection (1), the supervision requirement is the requirement that at least one director, or a nominee, of the corporation must provide adequate supervision of the building work carried out by the corporation.

(3) To avoid doubt, it is no longer necessary for the director or nominee to reside in the Territory to provide the adequate supervision.

189 Continuation of delegations

An instrument delegating a power or function under section 20 that was in force immediately before the commencement day continues in force.

Part 19 Transitional matters for Building Amendment (Residential Building Consumer Protection) Act 2012

190 Definitions

In this Part:

amended laws means this Act and the Regulations as in force on and after the commencement day.

approved insurance policy means an approved policy of insurance mentioned in section 61 of this Act as in force immediately before the commencement day.

commencement day means the day on which this Part commences.

former laws means this Act and the Regulations as in force immediately before the commencement day.

relevant building work means building work for which an approved insurance policy was required before the commencement day.

191 Continuation of building permit and approved insurance policy for relevant building work

(1) If, immediately before the commencement day, a building permit was in force for relevant building work:

(a) the permit continues in force; and

(b) the approved insurance policy for the work continues in force.

(2) The former laws continue to apply in relation to the relevant building work specified in the building permit as if those laws were still in force.

192 Relevant building work under residential building contract

(1) This section applies in relation to relevant building work that, under the former laws, was also prescribed building work for which a residential building contract was required.

(2) If, immediately before the commencement day, a residential building contract and an approved insurance policy were in force for the relevant building work but no building permit had been granted for the work:

(a) a building certifier may grant a building permit for the work in accordance with the former laws as if those laws were still in force; and

(b) if a building certifier grants a building permit as mentioned in paragraph (a):

(i) the certifier must specify in the permit that it is granted under the transitional provisions for the work; and

(ii) the former laws continue to apply in relation to the relevant building work as if those laws were still in force.

(3) If, immediately before the commencement day, a residential building contract was in force for the relevant building work but no approved insurance policy (and consequently no building permit), was in force for the work, the amended laws apply in relation to the work.

193 Relevant building work for which residential building contract not required

(1) This section applies in relation to relevant building work for which, under the former laws, a residential building contract was not required.

(2) If, immediately before the commencement day, an approved insurance policy was in force for the work but no building permit had been granted for the work:

(a) a building certifier may grant a building permit for the work in accordance with the former laws as if those laws were still in force; and

(b) if a building certifier grants a building permit as mentioned in paragraph (a):

(i) the certifier must specify in the permit that it is granted under the transitional provisions for the work; and

(ii) the former laws continue to apply in relation to the relevant building work as if those laws were still in force.

Part 20 Transitional matters for Building Amendment (Occupancy Certification) Act 2016

194 Definitions

In this Part:

amending Act means the *Building Amendment (Occupancy Certification) Act 2016*.

commencement means the commencement of the amending Act.

repealed Act occupancy application means an application under Part V of the repealed Act for the issue of a certificate of occupancy under section 40 of that Act.

195 Applications for certificate of occupancy under repealed Act

(1) This section:

(a) applies in relation to building work approved or commenced before 1 September 1993; and

(b) applies despite section 170.

(2) If, before the commencement, a repealed Act occupancy application had been made in relation to building work but the application had not been determined, the application:

(a) is taken to be an application for occupancy certification; and

(b) must be determined under Part 8 of this Act as in force after the commencement.

(3) After the commencement:

(a) a repealed Act occupancy application must not be made in relation to building work; but

(b) an application for occupancy certification under Part 8 of this Act as in force after the commencement may be made in relation to the work.

(4) For the purposes of determining an application mentioned in subsection (2) or (3):

(a) a reference in Part 8 to a building permit granted for building work is taken to be a reference to a building approval given under Part III of the repealed Act; and

(b) a reference to a requirement under the Act or the Regulations (however expressed) in that Part, except as set out in the Table to this section, is taken to be a reference to such a requirement:

(i) under the repealed Act, or the regulations made under the repealed Act; and

(ii) that was in force when the building work was approved or commenced.

Table of exceptions

	Provision	Reference
1	70(2)(c)(ii)	criteria prescribed by regulation
2	72B(1)(a)	building of a class prescribed by regulation
3	72B(1)(e)	further criteria prescribed by regulation
4	72C(c)	criteria mentioned in section 72B(1)(e)
5	Division 3	any requirements
6	76C	Schedule 3

196 Relevant applications – building certifiers

(1) This Act, as amended by the amending Act, applies in relation to the performance of a function by a building certifier to whom a relevant application has been made.

Examples for subsection (1)

1 Under section 39, the building certifier must consent to the engagement of another certifier to perform the function of determining the relevant application.

2 Under section 44, the building certifier may refer the determination of the relevant application to another building certifier if that certifier agrees to the referral.

(2) Despite anything to the contrary in this Act, a building certifier may refer a relevant application to the Director for determination if the building certifier has:

(a) considered the application, documents and information provided to the certifier by the applicant; and

(b) assessed the building work the subject of the application; and

(c) made a written recommendation to the Director in relation to:

(i) whether or not occupancy certification should be granted in relation to the building work; and

(ii) if the building certifier recommends the grant of occupancy certification – the type of certification to be granted.

(3) The building certifier or Director may require the applicant to provide further documents or information to facilitate a proper consideration of the application.

(4) In this section:

relevant application means an application mentioned in section 195(2) or (3).

197 Application in relation to building work approved or commenced before commencement

(1) This section applies in relation to building work:

(a) that commenced after 31 August 1993 but before the commencement; or

(b) for which a building permit was granted after 31 August 1993 but before the commencement.

(2) An application for an occupancy permit in relation to building work made but not determined before the commencement:

(a) is taken to be an application for occupancy certification; and

(b) must be determined under Part 8 of this Act as in force after the commencement.

(3) Part 8 (as in force after the commencement) applies, as if a reference to a requirement under the Act or the Regulations (however expressed) in that Part, except as set out in the Table to section 195, were a reference to such a requirement that was in force when the building work commenced or the building permit was granted, to:

(a) an application mentioned in subsection (2); or

(b) an application for occupancy certification made after the commencement.

198 Period of cover under approved insurance policy

(1) This section applies in relation to building work if:

(a) the building work, when complete, is covered by an approved insurance policy against non-compliance with the Regulations; and

(b) an occupancy permit or certificate of substantial compliance is granted for the work after the commencement.

(2) A reference in the approved insurance policy to the grant of an occupancy permit is taken to include a reference to the grant of a certificate of substantial compliance.

(3) The entitlement to make a claim in relation to the cover provided for the building work takes effect, in accordance with the approved insurance policy, on the grant of the occupancy permit or certificate of substantial compliance.

(4) However, despite anything to the contrary specified in the approved insurance policy, the period of cover for the building work commences on the earlier of the following:

(a) the day on which the initial building permit granted for the work ceased to be in force or, if renewed, would have ceased to be in force if not for the renewal;

(b) the day on which all the work essential to the class of the building to which the policy relates had been completed, as determined in writing by a building certifier.

(5) The approved insurance policy does not cover any building work specified in the initial building permit granted for the work that had not been completed before the day mentioned in subsection (4)(a) or (b), as relevant.

(6) In this section:

approved insurance policy means an approved policy of insurance issued before 1 January 2013 under section 61 as in force before that date.

199 Offences – before and after commencement

(1) Sections 38, 42 and 65 and Schedule 3, clause 1, as amended by the amending Act, apply only in relation to offences committed after the commencement.

(2) Sections 38, 42 and 65 and Schedule 3, clause 1, as in force before the commencement, continue to apply in relation to offences committed before the commencement.

(3) For this section, if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.

Part 21 Transitional matters for Building Amendment Act 2022

200 Definitions

In this Part:

amending Act means the *Building Amendment Act 2022.*

commencement means the commencement of the amending Act.

201 Application of increased inquiry period to building practitioners whose registration ceased before commencement

The 7 year period to which an inquiry is limited under section 34H(2), as amended by section 4 of the amending Act, also applies in relation to a building practitioner who ceased to be registered before the commencement.

202 Application of increased amount of civil penalty to professional misconduct engaged in before commencement

The maximum civil penalty that may be imposed on a building practitioner who is guilty of professional misconduct under section 34T(d), as amended by section 5 of the amending Act, also applies in relation to professional misconduct constituted by work performed or conduct engaged in by the practitioner before the commencement.

203 Application of increased amount of civil penalty to contraventions of Commissioner's decision before commencement

The maximum civil penalty that may be imposed on a residential builder under section 34Y(1)(b), as amended by section 6 of the amending Act, also applies in relation to a residential builder's contravention of a decision that was made by the Commissioner before the commencement.

Part 22 Transitional matters for Building Legislation Amendment Act 2024

Division 1 Transitional matters for stage 1 amendments

204 Definitions

In this Division:

amending Act means the *Building Legislation Amendment Act 2024*.

commencement means the day on which section 14 of the amending Act commences.

former Act means this Act as in force immediately before the commencement.

205 NTCAT review limited to decisions made after commencement

Section 35, as inserted by section 14 of the amending Act, applies only in relation to a reviewable decision that is made after the commencement.

206 Appeals not commenced before commencement

(1) This section applies to a person if, immediately before the commencement, the person:

(a) was entitled to appeal to the Local Court against a decision of the Practitioners Board under section 36 of the former Act; and

(b) had not yet commenced an appeal against the decision.

(2) The person may appeal to the Local Court against the decision in accordance with section 36 of the former Act, as if section 14 of the amending Act had not commenced.

(3) The Local Court must hear and determine the person's appeal in accordance with section 36 of the former Act, as if section 14 of the amending Act had not commenced.

207 Appeals not determined before commencement

(1) Subsection (2) applies in relation to an appeal to the Local Court that:

(a) was commenced by a person under section 36 of the former Act; and

(b) had not been finally determined by the Local Court before the commencement.

(2) The Local Court must continue to hear and determine the person's appeal in accordance with Part 3, Division 4 of the former Act, as if section 14 of the amending Act had not commenced.

Division 2 Transitional matters for stage 2 amendments

208 Commercial building work commenced before commencement

(1) This section applies in relation to commercial building work for which a building permit was granted before the commencement if the building permit was in force immediately before the commencement.

(2) The commercial building work may be carried out in accordance with this Act as if Part 3 of the amending Act had not commenced.

(3) In this section:

amending Act means the *Building Legislation Amendment Act 2024*.

commencement means the day on which Part 3 of the amending Act commences.

commercial building work means work that is for or in connection with the construction of any of the following:

(a) a building of Class 1b, 3, 4, 5, 6, 7, 8 or 9;

(b) a Class 10 building attached to a building referred to in paragraph (a) if it is constructed at the same time as that building;

(c) a retaining wall (whenever constructed) that is not attached to a building referred to in paragraph (a) but on which the integrity of such a building depends.

Part 23 Transitional matters for Lands, Planning and Environment Legislation Amendment Act 2025

209 Application of amendment to section 24D

The amendment to section 24D by the *Lands, Planning and Environment Legislation Amendment Act 2025* applies to the grant or renewal of a building practitioner's registration after the commencement of section 4 of that Act.

Schedule 1 Regulations

section 168(2)

1. Building lines to be fixed for buildings in relation to public roads.

2. Design and siting of buildings.

3. Preparation of land for building work.

4. Fire prevention, fire fighting equipment and precautions.

5. Classification of buildings and the application of the Regulations to different classes of buildings.

6. Certificates of accreditation for building products, construction methods, designs, components or systems.

7. Form and contents of plans and specifications for building work.

8. Structural strength of building work and materials.

9. Prevention of flooding of buildings and prescribing zones or areas as flood prone zones or areas and for the application of provisions of the Regulations that provide for reducing the likelihood of damage that may be caused to a building or structure by flooding in a zone or area so prescribed.

10. Moisture resistance of buildings.

11. Heating, cooling and air conditioning of buildings.

12. Regulating the manner of alteration and demolition of and additions to buildings.

13. Occupation of buildings and any change of classification, use and occupation of buildings.

14. Regulating fixtures projecting from buildings and dangers arising out of projections from building work.

15. Use of public space for building work.

16. Noise resistant construction of buildings.

17. Regulating the environmental efficiency of buildings.

18. Utility, safety and hygiene services located in, or related to, buildings.

19. Access to and egress from buildings.

20. The management and use of buildings, places and temporary structures used or proposed to be used for the purposes of public assembly.

20A. The control, regulation and standards for places of public assembly, temporary structures and related building applications.

21. The issue, duration, revocation and suspension of occupancy certification.

22. The imposition, variation and rescission of conditions of occupancy certification.

23. The manner and form of, and the fees payable in connection with, occupancy certification and applications for occupancy certification.

24. The variation of the application of the Regulations to or in respect of the holder of occupancy certification or the owner or occupier of a building, place or temporary structure used for public assembly, to which occupancy certification relates.

25. Making, keeping and production of records and returns.

26. Keeping of registers of occupancy certification.

27. Building permits.

28. Proceedings of the Practitioners Board.

29. Proceedings of the Appeals Board.

30. Proceedings of the Advisory Committee.

31. Fees payable for applications, referrals and appeals, and for other services provided and work done by the Director and other persons and bodies, under this Act.

32. Application of fees or a proportion of the fees received by building certifiers or other persons or bodies under the Act, including payment of money to the Director to be used for the purposes of the Act.

33. Procedure for making appeals under the Act or the Regulations.

34. Requiring public authorities to comply with any or all of the technical requirements of the Regulations.

35. Provision of copies of reports by reporting authorities and reports by such authorities.

36. Requiring, licensing and regulating the erection, maintenance and use of hoardings and fences on public places for the protection of the public during building work.

37. Regulation of the approval, construction and use of temporary structures.

38. Exemption of persons or classes of persons, or buildings or classes of buildings, or building work or classes of building work, from any or all of the provisions of this Act or the Regulations.

39. Insurance requirements for persons carrying out building work, building certifiers and other building practitioners.

39A. Continuing professional development requirements for building practitioners.

40. Procedure for applications, referrals and appeals to the Appeals Board.

41. The seal of the Appeals Board.

42. Inspection of registers kept by the Director.

43. Service of documents under this Act.

44. The issue of building certificates relating to notices and orders under this Act and the Regulations and ancillary matters.

45. Fees to be paid for the performance of a function under the Act by the Director including amounts for the recovery of costs incurred in performing the function.

46. The criteria for establishing the suitability of buildings for occupation.

47. The type of building work that building practitioners may carry out.

48. The building work that may only be carried out by building practitioners.

49. The threshold value for building work that may only be carried out by building practitioners.

50. The threshold value for building work carried out by owner-builders.

51. The method for determining the value of building work for the purposes of this Act.

53. Exemption certificates.

54. The making and giving of declarations.

55. Consumer protection in relation to prescribed residential building work carried out, or to be carried out, by a residential builder in connection with a building owned by a public authority.

56. Information sharing between persons exercising powers or performing functions under this Act.

Schedule 2 Members and procedures of Advisory Committee, Practitioners Board and Appeals Board

sections 10, 13 and 18

1 Period of appointment

(1) Subject to this Act, a member holds office until the expiration of such period, not exceeding 3 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

(2) Where a period of appointment is not specified in the instrument of appointment of a member, the member holds office, subject to this Act, for 3 years.

2 Acting appointment

(1) Where a member is or is expected to be absent from duty or from the Territory, the Minister may appoint a person (with, in the case of the Practitioners Board, the same qualification for appointment as the absent member) to act as the member during the absence.

(2) The Minister may, at any time, terminate an appointment made under subclause (1).

(3) The validity of a decision of the Committee or Board must not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person under subclause (1) had not arisen or that an appointment under subclause (1) had ceased to have effect.

3 Chairperson and Deputy Chairperson

(1) In the absence of the Chairperson from the Territory or from duty, or when the Chairperson is unable to perform his or her functions, the Deputy Chairperson may exercise the powers and must perform the functions of the Chairperson under this Act.

(2) Subject to subclause (3), a member elected or appointed as the Chairperson or Deputy Chairperson, while the person remains a member, holds office for a period not exceeding 3 years and is eligible for re-election or reappointment.

(3) The Committee or Board may at any time, by resolution, elect a new Chairperson or Deputy Chairperson and, on the passing of such a resolution, the person who held the office immediately before the resolution was passed ceases to hold the office.

4 Resignation of members

A member may resign office by writing signed by him or her and given to the Minister.

5 Dismissal of members

(1) The Minister may terminate the appointment of a member for inability, inefficiency, misbehaviour or physical or mental incapacity.

(2) If a member:

(a) is absent, except by leave of the Committee or Board, from 3 consecutive meetings of the Committee or Board; or

(b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;

the Minister must terminate the appointment of the member.

(3) The Minister may terminate the appointment of a member of the Practitioners Board who was nominated under section 12B(1) if the member ceases to reside in the Territory.

(4) The Minister must terminate the appointment of a member of the Practitioners Board if:

(a) the member ceases to be registered in the category of building practitioner the interests of which the member was appointed to represent; or

(b) the member is found guilty of professional misconduct under section 34P(1)(a).

5A Member of Practitioners Board must stand aside if subject of inquiry

A member of the Practitioners Board who is the subject of an inquiry under Part 3, Division 3A must stand aside until the inquiry is completed and the member has been notified under section 34P(2) of the decision on the inquiry.

6 Disclosure of interest

(1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Committee or Board (otherwise than as a member of, and in common with other members of, an incorporated company consisting of not less than 25 persons and of which he or she is not a director), must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of his or her interest at a meeting of the Committee or Board.

(2) A disclosure under subsection (1) must be recorded in the minutes of the Committee or Board and, unless the Committee or Board otherwise determines, the member:

(a) must not, while he or she has that interest, take part after the disclosure in a deliberation or decision of the Committee or Board; and

(b) must be disregarded for the purpose of constituting a quorum of the Committee or Board;

in relation to the matter.

(3) For the purpose of the making of a determination under subclause (2) in relation to a member who has made a disclosure under subclause (1), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates must not:

(a) be present during the deliberations of the Committee or Board for the purpose of making the determination; or

(b) take part in the making of the determination by the Committee or Board.

7 Meetings of Committee or Board

(1) The Chairperson must call the meetings of the Committee or Board that are necessary for the exercise of its powers and the performance of its functions.

(2) The Minister may, at any time, direct the Chairperson to call a meeting of the Committee or Board and the Chairperson must comply with the direction.

(3) Subject to sections 132 and 133, at a meeting of the Committee or Board:

(a) in the case of the Practitioners Board and the Advisory Committee, 3 members constitute a quorum; and

(b) the Chairperson must preside at all meetings at which he or she is present and, in the Chairperson's absence, the Deputy Chairperson must preside and, in the absence of both the Chairperson and Deputy Chairperson, the members present may appoint one of those members to preside; and

(c) questions arising must be determined by a majority of the votes of the members present and voting and, in the event of an equality of votes, the member presiding at the meeting has, in addition to his or her deliberative vote, a casting vote; and

(d) subject to this Act, the Committee or Board must determine the procedure to be followed at or in connection with the meeting.

(4) If the Committee or Board so determines, a member may participate in, and form part of a quorum at, a meeting of the Board by means of:

(a) telephone; or

(b) closed circuit television; or

(c) a prescribed method of communication.

(5) A member who participates in a meeting as provided by subclause (4) is taken, for the purposes of this Schedule, to be present at the meeting if the member is able to hear and be heard by each member taking part in the meeting, including for the purposes of being counted towards a quorum at the meeting.

(6) The Committee or Board must ensure records of its meetings are kept.

8 Confidentiality

Subject to this Act, the Chairperson, a member or the Registrar of the Committee or Board must not disclose information obtained in the course of his or her duties as Chairperson, member or Registrar, unless the disclosure is made in the course of those duties.

Maximum penalty: 17 penalty units.

9 Protection of members and Registrar

No action or proceeding, civil or criminal, lies against the Chairperson, a member or the Registrar of the Committee or Board for or in respect of an act or thing done or omitted to be done in good faith by the person in his or her capacity as Chairperson, member or Registrar.

Schedule 3 Building permits and occupancy certification

sections 57, 70(2)(a), 72B(2)(a), 72E(4)(b) and 76C

1 Agent to be authorised

A person must not act as an agent of an owner for the purpose of making an application for a building permit or occupancy certification unless the person is authorised in writing by the owner to do so.

Maximum penalty: 8 penalty units.

2 Building certifier not required to look beyond apparent authority

A building certifier is not required to inquire whether an agent who makes an application for a building permit or occupancy certification purportedly as the agent of an owner is authorised to do so in accordance with this Act.

3 Form of application

An application for a building permit or occupancy certification must be in an approved form, must contain the information required by the form and must be accompanied by the documents, if any, prescribed for the purposes of this clause.

4 Form of building permit or occupancy certification

A building permit or occupancy certification must be in an approved form.

5 Reporting authorities to be consulted

(1) Unless otherwise permitted by this Schedule to do so, a building certifier must not decide an application for a building permit or occupancy certification required by the Regulations or by or under any other Act to be reported on or consented to by a reporting authority unless the report or consent has been obtained and the building certifier has been supplied with a copy.

Maximum penalty: 85 penalty units.

(2) An applicant for a building permit or occupancy certification must notify the building certifier when the application is made whether the applicant has applied or intends to apply for a report or consent referred to in subclause (1) or has such a report or consent.

6 Applicant may obtain report or consent

(1) An applicant for a building permit or occupancy certification that must be reported on or consented to by a reporting authority may obtain a report or consent from the reporting authority.

(2) A building certifier need not obtain a report or consent from a reporting authority if the applicant notifies the building certifier that the applicant has applied for or intends to apply for the relevant report or consent or the applicant supplies a copy of a relevant report or consent made or given in the 12 months preceding the application.

(3) An applicant who applies for and obtains a relevant report or consent must supply a copy of it to the building certifier when the application for the building permit or occupancy certification is made or within such further time as is prescribed or allowed by the building certifier.

7 Failure of reporting authority to supply report or consent

A reporting authority is taken to have responded to a request for a report or consent if the response has not been provided to the applicant within the prescribed time, and where the request was for a report, the building certifier is taken to have been supplied with a copy of the report.

8 Building certifier to consider report

(1) A building certifier must consider a report of a reporting authority supplied to the building certifier in accordance with this Schedule before making a decision on the application to which the report relates.

(2) A building certifier is not required to implement a recommendation of a reporting authority's report.

9 Determination of application

(1) A building certifier must, within the prescribed time after an application for a building or building permit or occupancy certification (other than a certificate of existence) is made to the certifier:

(a) grant the permit or certification subject to any reasonable conditions the certifier considers appropriate; or

(b) refuse to grant the permit or certification.

(2) A building certifier is taken to have refused an application if the certifier has not granted the building permit or occupancy certification within the prescribed time.

(3) A building certifier must, within the prescribed time after an application for a certificate of existence is made to the certifier, make a recommendation under section 72E.

(4) The Director must, within the prescribed time after a recommendation is made to the Director under section 72E:

(a) grant the certificate of existence subject to any reasonable conditions the Director considers appropriate; or

(b) refuse to grant the certificate.

(5) The Director is taken to have refused an application for a certificate of existence if the Director has not granted the certificate within the prescribed time.

(6) A building certifier or the Director must refuse to grant occupancy certification in relation to building work if satisfied that the work contravenes:

(a) a disability access provision; or

(b) a requirement of a law in force in the Territory; or

(c) a consent or approval given under a law in force in the Territory.

10 Reasons to be given

(1) A decision maker must notify an applicant for a building permit or occupancy certification, in writing, of the following:

(a) a refusal to grant the permit or certification;

(b) if the permit or certification is granted subject to conditions – the reasons for the conditions.

(2) In this clause:

decision maker means:

(a) in relation to an application for the grant of a certificate of existence – the Director; or

(b) in relation to any other application – the building certifier to whom the application was made.

11 Approvals where reporting body involved

(1) If a building certifier grants a building permit or occupancy certification that must be reported on or consented to by a reporting authority, the building certifier must, within 7 days after so doing, send to the reporting authority:

(a) a copy of the relevant permit or certification; and

(b) where the grant of the permit or certification differs from or fails to require the implementation of a recommendation of the reporting authority, a copy of the decision of the building certifier in relation to the report of the reporting authority.

Maximum penalty: 40 penalty units.

(2) If the Director grants a certificate of existence that must be reported on or consented to by a reporting authority, the Director must, within 7 days after so doing, send to the reporting authority:

(a) a copy of the certificate; and

(b) where the grant of the certificate differs from or fails to require the implementation of a recommendation of the reporting authority, a copy of the Director's decision in relation to the report of the reporting authority.

12 Appeals

(1) The owner of a building or land on which building work is proposed to be carried out, or the owner's agent, may, in accordance with Part 11, appeal to the Appeals Board against a refusal of a building certifier to grant, or against a condition imposed on, a building permit for the work.

(2) The owner of a building or land on which building work is carried out, or the owner's agent, may, in accordance with Part 11, appeal to the Appeals Board against a refusal of a building certifier to grant, or against a condition imposed on, an occupancy permit or certificate of substantial compliance for the work.

(2A) The owner of a building or the owner's agent may, in accordance with Part 11, appeal to the Appeals Board against a refusal of a building certifier to grant, or against a condition imposed on, an approval to occupy the building on a temporary basis.

(2B) The owner of a building or land on which existing building work has been carried out, or the owner's agent, may, in accordance with Part 11, appeal to the Appeals Board against a refusal of the Director to grant, or against a condition imposed on, a certificate of existence.

(3) For this clause, a refusal to grant a building permit or occupancy certification includes a refusal mentioned in clause 9(2) or (5).

Schedule 4 Exemption certificates

section 73B

1 Prescribed event

For section 73C(2), a prescribed event is one of the following events or circumstances:

(a) the person required to provide the prescribed certification (***the relevant person***) has:

(i) died or cannot be found; or

(ii) become so severely incapacitated that he or she is unable to complete the prescribed certification;

(b) the relevant person (excluding an owner-builder) has become bankrupt or insolvent;

(c) if the relevant person is a building practitioner – the person has ceased to be registered;

(d) if the relevant person is required to provide the prescribed certification to a building practitioner – the person is withholding the certification because of the bankruptcy or insolvency of the building practitioner;

(e) the building contract relating to the building work has been terminated;

(f) the prescribed certification has been destroyed or cannot be found.

2 Entitlement to apply for exemption certificate

An owner of land on which building work has been carried out is entitled to apply for an exemption certificate only if:

(a) the building work has actually started to be carried out on the land; and

(b) there is a current building permit for the building work or the building permit for the building work has lapsed solely because of the occurrence of a prescribed event; and

(c) the owner has taken all reasonable steps to obtain the prescribed certification within a reasonable time after the occurrence of the prescribed event.

3 Application for exemption certificate

(1) An application for an exemption certificate must:

(a) be in the approved form; and

(b) describe the building work to which the application applies; and

(c) specify the prescribed certification for which the exemption certificate is required; and

(d) specify the prescribed event that has occurred and the steps the applicant has taken to obtain the certification; and

(e) include all the information the form states must be provided.

(2) No fee is payable for an application for an exemption certificate.

4 Consideration of application

(1) In considering an application for an exemption certificate, the Director:

(a) may require the applicant to provide additional information, which may include reports by suitably qualified persons about the status of the building work; and

(b) is not required to obtain information from anyone other than the applicant; and

(c) if the building permit for the building work has lapsed solely because of the occurrence of a prescribed event – must notify the applicant of the period of extension of the permit, which may be by reference to a specified date or occurrence (for example, the granting of an occupancy permit).

(2) The Director may also require the applicant to have any of the following carried out by suitably qualified persons:

(a) site inspections;

(b) anything that is reasonably necessary to inspect the building work, including demolishing, opening, cutting into and testing the building work;

(c) remedial building work.

(3) The applicant is responsible for all expenses incurred in obtaining information and complying with a requirement under subclause (2).

5 Determination of application

(1) In deciding whether to grant or refuse to grant an exemption certificate, the Director must take into account each of the following that is relevant to the building work to which the application relates:

(a) whether the owner has taken all reasonable steps to obtain the prescribed certification and any other information required by the Director;

(b) the opinions of relevantly qualified persons about the status and quality of the building work;

(c) the mandatory inspection stage the building work had reached when the prescribed event occurred;

(d) the stage the building work had reached between mandatory inspection stages;

(e) the certificates or other documents provided to the Director in relation to the stage the building work has reached;

(f) the status of the building work discovered after inspections have been carried out as required by the Director;

(g) the status of the building work after remedial work has been carried out as required by the Director;

(h) if the person who failed to give the prescribed certification is, or was, a building practitioner – the past performance of the building practitioner;

(i) whether the owner has complied with all the requirements of the Director;

(j) any other matters prescribed by regulation.

(2) The Director may grant an exemption certificate to the applicant only if the Director is satisfied:

(a) a prescribed event has occurred; and

(b) the information provided by the applicant, including any certificates and documents relating to inspections and remedial work required by the Director under clause 4(2), indicates that the work to which the prescribed certification would have related has been carried out materially in accordance with the building permit.

(3) An exemption certificate must not be granted on conditions.

(4) If the Director decides to refuse to grant an exemption certificate, the Director must give the applicant a notice stating:

(a) the decision; and

(b) the reasons for the decision; and

(c) that the person may appeal to the Appeals Board as specified in clause 6.

6 Appeal against refusal to grant exemption certificate

(1) An applicant who is given a notice of a decision under clause 5(4) may appeal to the Appeals Board against the decision.

(2) The appeal must be in accordance with Part 11.

Schedule 5 Reviewable decisions

section 35

Item	Reviewable decision	Affected person
1	A decision of the Practitioners Board under section 24(1) or (2) to refuse to register an individual or a corporation in a category of building practitioner (other than building contractor)	The individual or the corporation
2	A decision of the Practitioners Board under section 24(1) or (2) to register an individual or a corporation in a category of building practitioner (other than building contractor) on conditions imposed by the Board under section 24FAB(1)	The individual or the corporation
3	A decision of the Practitioners Board under section 24B(1) or (2) to refuse to register an individual or a corporation in a category of building contractor	The individual or the corporation
4	A decision of the Practitioners Board under section 24B(1) or (2) to register an individual or a corporation in a category of building contractor on conditions imposed by the Board under section 24FAB(1)	The individual or the corporation
5	A decision of the Practitioners Board under section 24EA(1) or (2) to refuse to renew the registration of a building practitioner (other than a building contractor)	The building practitioner
6	A decision of the Practitioners Board under section 24EA(1) or (2) to renew the registration of a building practitioner (other than a building contractor) on conditions imposed by the Board under section 24FAB(1)	The building practitioner
7	A decision of the Practitioners Board under section 24F(1) or (2) to refuse to renew the registration of a building contractor	The building contractor

8	A decision of the Practitioners Board under section 24F(1) or (2) to renew the registration of a building contractor on conditions imposed by the Board under section 24FAB(1)	The building contractor
9	A decision of the Inquiry Board under section 34P(1)(a) that a building practitioner is guilty, or is not guilty, of professional misconduct	The building practitioner or the Director
10	A decision of the Inquiry Board under section 34P(1)(b) to take, or to not take, an action against a building practitioner under section 34T or 34U	The building practitioner or the Director
11	A decision of the Practitioners Board under section 34VA(1) to suspend the registration of a building practitioner	The building practitioner
12	A decision of the Practitioners Board under section 34Y(1) or (2) to take an action against a residential builder	The residential builder or the Director

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Building Act 1993* (Act No. 29, 1993)**
Assent date 9 July 1993
Commenced 1 September 1993 (*Gaz* S72, 1 September 1993)

***Statute Law Revision Act (No. 2) 1993* (Act No. 70, 1993)**
Assent date 9 November 1993
Commenced 9 November 1993

***Statute Law Revision Act 1994* (Act No. 50, 1994)**
Assent date 20 September 1994
Commenced 20 September 1994

***Statute Law Revision Act 1995* (Act No. 14, 1995)**
Assent date 26 June 1995
Commenced 26 June 1995

***Fire and Emergency (Consequential Amendments) Act 1996* (Act No. 15, 1996)**
Assent date 19 April 1996
Commenced 1 May 1996 (s 2, s 2 *Fire and Emergency Act 1996* (Act No. 14, 1996) and *Gaz* S10, 1 May 1996)

***Sentencing (Consequential Amendments) Act 1996* (Act No. 17, 1996)**
Assent date 19 April 1996
Commenced 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

***Building Amendment Act 2003* (Act No. 42, 2003)**
Assent date 7 July 2003
Commenced 24 November 2004 (*Gaz* G47, 24 November 2004, p 5)

Building Amendment Act 2004 **(Act No. 65, 2004)**

Assent date	21 December 2004
Commenced	ss 5(d), 9, 16 – 20, 22 – 29, 33 (to ext ins ss 175, 176 and 178) and 35: 3 July 2006; ss 17 (to ext ins Part 4C) and 21: nc (rep by Act No. 7, 2012); rem: 14 December 2005 (*Gaz* G50, 14 December 2005, p 4 and *Gaz* S15, 3 July 2006, p 1)

Amending Legislation

Building Amendment Act 2005 **(Act No. 8, 2005)**

Assent date	17 March 2005
Commenced	pts 1 and 3: 17 March 2005; ss 26 and 29(2) and (3): 3 July 2006; ss 27 and 30: nc; rem: 14 December 2005 (*Gaz* G50, 14 December 2005, p 5 and *Gaz* S15, 3 July 2006, p 1) (rep by Act No 6, 2016)

Building Amendment (Residential Building Consumer Protection) Act 2012 **(Act No. 7, 2012)**

Assent date	27 April 2012
Commenced	1 January 2013 (*Gaz* S85, 28 December 2012)

Building Amendment Act 2005 **(Act No. 8, 2005)**

Assent date	17 March 2005
Commenced	pts 1 and 3: 17 March 2005; ss 26 and 29(2) and (3): 3 July 2006; ss 27 and 30: nc; rem: 14 December 2005 (*Gaz* G50, 14 December 2005, p 5 and *Gaz* S15, 3 July 2006, p 1) (rep by Act No 6, 2016)

Proportionate Liability Act 2005 **(Act No. 18, 2005)**

Assent date	5 May 2005
Commenced	1 June 2005 (*Gaz* S16, 16 May 2005)

Legal Profession (Consequential Amendments) Act 2007 **(Act No. 7, 2007)**

Assent date	17 May 2007
Commenced	s 10: 1 July 2007 (*Gaz* G26, 27 June 2007, p 3); rem: 17 May 2007

Statute Law Revision Act 2009 **(Act No. 25, 2009)**

Assent date	1 September 2009
Commenced	16 September 2009 (*Gaz* G37, 16 September 2009, p 3)

Building Legislation Amendment Act 2010 **(Act No. 22, 2010)**

Assent date	30 June 2010
Commenced	25 August 2010 (*Gaz* G34, 25 August 2010, p 7)

Statute Law Revision Act 2010 **(Act No. 29, 2010)**

Assent date	9 September 2010
Commenced	13 October 2010 (*Gaz* G41, 13 October 2010, p 2)

Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 **(Act No. 40, 2010)**

Assent date	18 November 2010
Commenced	1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and *Gaz* G7, 16 February 2011, p 4)

***Building Amendment (Disability Access and Other Matters) Act 2012* (Act No. 5, 2012)**

Assent date	27 April 2012
Commenced	ss 6(1), 7, 10, 15 and amdt to s 54 in sch: nc; rem: 1 January 2014 (*Gaz* S71, 20 December 2013)

***Building Amendment (Registration and Other Matters) Act 2012* (Act No. 6, 2012)**

Assent date	27 April 2012
Commenced	1 January 2013 (*Gaz* S85, 28 December 2012)

***Building Amendment (Residential Building Consumer Protection) Act 2012* (Act No. 7, 2012)**

Assent date	27 April 2012
Commenced	1 January 2013 (*Gaz* S85, 28 December 2012)

***Local Government Amendment Act 2014* (Act No. 19, 2014)**

Assent date	2 June 2014
Commenced	s 16: 1 July 2014; s 18: 1 December 2014; rem: 2 June 2014, (s 2)

***Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction Amendments) (No. 2) Act 2014* (Act No. 35, 2014)**

Assent date	13 November 2014
Commenced	pts 4, 9, 10 and 19: 1 June 2015 (*Gaz* S53, 29 May 2015, p 2); rem: 1 January 2015 (*Gaz* G51, 24 December 2014, p 7)

***Building Amendment (Occupancy Certification) Act 2016* (Act No. 6, 2016)**

Assent date	6 April 2016
Commenced	1 May 2016 (*Gaz* S32, 29 April 2016, p 1)

***Local Court (Related Amendments) Act 2016* (Act No. 8, 2016)**

Assent date	6 April 2016
Commenced	1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz* S34, 29 April 2016)

***Building Amendment Act 2022* (Act No. 17, 2022)**

Assent date	9 August 2022
Commenced	10 August 2022 (s 2)

***Building Legislation Amendment Act 2024* (Act No. 1, 2024)**

Assent date	1 March 2024
Commenced	pts 1 and 2: 15 April 2024 (*Gaz* G8, 11 April 2024, p 1); rem: 15 April 2025 (s 2(3))

***Lands, Planning and Environment Legislation Amendment Act 2025* (Act No. 25, 2025)**

Assent date	12 September 2025
Commenced	pt 6: nc; rem: 13 September 2025 (s 2(1))

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 4, 7, 21A, 54EI, 54F, 54FE, 117, 153, 163, 173, 174, 175, 176 and 185.

4 LIST OF AMENDMENTS

pt 1 hdg	amd No. 6, 2012, s 14; No. 6, 2016, s 24
s 3	amd No. 8, 2005, s 4; No. 65, 2004, s 4; No. 6, 2012, s 14; No. 7, 2012, s 13; No. 6, 2016, s 24
s 4	amd No. 14, 1995, s 12; No. 42, 2003, s 4; No. 65, 2004, s 5; No. 8, 2005, ss 5 and 23; No. 25, 2009, s 10; No. 22, 2010, s 4; No. 6, 2012, ss 4 and 14; No. 7, 2012, ss 4 and 13; No. 5, 2012, s 4; No. 19, 2014, s 26; No. 35, 2014, s 4; No. 6, 2016, s 4
s 4A	ins No. 65, 2004, s 6
s 6	amd No. 6, 2012, s 14
s 8	amd No. 8, 2005, ss 6 and 24; No. 6, 2012, s 14; No. 6, 2016, s 24
s 9	amd No. 6, 2012, s 14
s 11	amd No. 6, 2012, s 14
s 12	amd No. 8, 2005, s 7
s 12A	ins No. 8, 2005, s 8 amd No. 7, 2007, s 16; No. 6, 2012, s 14
s 12B	ins No. 8, 2005, s 8 amd No. 6, 2012, s 14
s 14	amd No. 65, 2004, s 7; No. 8, 2005, s 9; No. 6, 2012, s 14
s 15	amd No. 14, 1995, s 12 rep No. 65, 2004, s 8
s 16	amd No. 6, 2012, s 14; No. 5, 2012, s 5
s 17	amd No. 6, 2012, s 14
s 19	amd No. 14, 1995, s 12; No. 22, 2010, s 5; No. 6, 2012, s 14; No. 5, 2012, s 6; No. 6, 2016, s 24
pt 2	
div 5 hdg	sub No. 6, 2012, s 5
s 20	amd No. 42, 2003, s 5 sub No. 6, 2012, s 5
s 20A	ins No. 6, 2012, s 5
s 21	rep No. 42, 2003, s 6
pt 3 hdg	sub No. 8, 2005, s 10
pt 3	
div 1AA hdg	ins No. 8, 2005, s 11
s 21A	ins No. 8, 2005, s 11 amd No. 6, 2012, s 14
s 21B	ins No. 8, 2005, s 11 amd No. 1, 2024, s 19
s 22	amd No. 65, 2004, s 9; No. 6, 2012, s 14
s 22A	ins No. 6, 2012, s 6
s 23	amd No. 65, 2004, s 10 sub No. 6, 2012, s 6
s 24	amd No. 8, 2005, s 12; No. 65, 2004, s 11 sub No. 6, 2012, s 6 amd No. 1, 2024, s 4; No. 25, 2025, s 9
s 24A	ins No. 65, 2004, s 12 sub No. 6, 2012, s 6 amd No. 1, 2024, s 5
s 24B	ins No. 65, 2004, s 12 sub No. 6, 2012, s 6 amd No. 1, 2024, s 6; No. 25, 2025, s 9
s 24C	ins No. 65, 2004, s 12 rep No. 6, 2012, s 6
s 24D	ins No. 65, 2004, s 12 amd No. 1, 2024, s 7; No. 25, 2025, s 4
s 24E	ins No. 65, 2004, s 12
s 24EAA	ins No. 25, 2025, s 5

s 24EA	ins No. 1, 2024, s 8
	amd No. 25, 2025, s 9
s 24F	ins No. 65, 2004, s 12
	sub No. 6, 2012, s 7; No. 1, 2024, s 8
	amd No. 25, 2025, s 9
s 24FA	ins No. 65, 2004, s 12
	sub No. 6, 2012, s 7
	amd No. 1, 2024, s 19
s 24FAB	ins No. 5, 2012, s 8
s 24FB	ins No. 65, 2004, s 12
	amd No. 5, 2012, s 9; No. 1, 2024, s 9
s 24G	ins No. 65, 2004, s 12
	sub No. 6, 2012, s 8
	amd No. 1, 2024, s 10; No. 25, 2025, s 9
s 24H	ins No. 65, 2004, s 12
	amd No. 6, 2012, s 14
s 25	amd No. 65, 2004, s 13
	sub No. 6, 2012, s 9
	amd No. 1, 2024, s 19
s 25A	ins No. 65, 2004, s 14
	sub No. 6, 2012, s 9
	amd No. 1, 2024, s 19
ss 25B – 25C	ins No. 6, 2012, s 9
	amd No. 1, 2024, s 19
pt 3	
div 2 hdg	sub No. 8, 2005, s 13
s 26	amd No. 17, 1996, s 6
	sub No. 8, 2005, s 13
	amd No. 6, 2012, s 14
s 27	sub No. 8, 2005, s 13
s 28	sub No. 8, 2005, s 13
	amd No. 6, 2012, s 14
ss 29 – 32	sub No. 8, 2005, s 13
s 33	sub No. 8, 2005, s 13
	amd No. 6, 2012, s 14
s 34	sub No. 8, 2005, s 13
pt 3	
div 3 hdg	sub No. 8, 2005, s 13
s 34A	ins No. 8, 2005, s 13
	amd No. 7, 2012, s 13
ss 34B – 34D	ins No. 8, 2005, s 13
s 34E	ins No. 8, 2005, s 13
	amd No. 6, 2012, s 14
s 34F	ins No. 8, 2005, s 13
pt 3	
div 3A hdg	ins No. 8, 2005, s 13
s 34G	ins No. 8, 2005, s 13
s 34H	ins No. 8, 2005, s 13
	amd No. 6, 2012, s 14; No. 17, 2022, s 4
s 34J	ins No. 8, 2005, s 13
	amd No. 7, 2007, s 16; No. 6, 2012, s 14
ss 34K – 34M	ins No. 8, 2005, s 13
s 34N	ins No. 8, 2005, s 13
	amd No. 40, 2010, s 11; No. 6, 2012, s 14
s 34P	ins No. 8, 2005, s 13
	amd No. 6, 2012, s 14; No. 1, 2024, s 11

ss 34Q – 34R	ins No. 8, 2005, s 13
pt 3	
div 3B hdg	ins No. 8, 2005, s 13 sub No. 6, 2012, s 10
s 34S	ins No. 8, 2005, s 13 amd No. 6, 2012, s 14
s 34T	ins No. 8, 2005, s 13 amd No. 6, 2012, s 14; No. 17, 2022, s 5
ss 34U – 34V	ins No. 8, 2005, s 13
s 34VA	ins No. 65, 2004, s 15 amd No. 1, 2024, s 12
s 34VB	ins No. 65, 2004, s 15 amd No. 6, 2012, s 14
s 34W	ins No. 8, 2005, s 13
pt 3	
div 3C hdg	ins No. 7, 2012, s 5
s 34X	ins No. 7, 2012, s 5
s 34Y	ins No. 7, 2012, s 5 amd No. 17, 2022, s 6
s 34Z	ins No. 7, 2012, s 5 amd No. 1, 2024, s 13
pt 3	
div 4 hdg	ins No. 8, 2005, s 13 sub No. 1, 2024, s 14
s 35	sub No. 8, 2005, s 13 amd No. 65, 2004, s 15AA; No. 6, 2012, s 14; No. 7, 2012, s 6; No. 5, 2012, s 16 sub No. 1, 2024, s 14
s 36	sub No. 8, 2005, s 13 amd No. 65, 2004, s 15A; No. 6, 2012, s 14; No. 7, 2012, s 13 rep No. 1, 2024, s 14
ss 36A – 36B	ins No. 8, 2005, s 13 amd No. 6, 2012, s 14 rep No. 1, 2024, s 14
s 36C	ins No. 8, 2005, s 13 rep No. 1, 2024, s 14
s 36D	ins No. 8, 2005, s 13 amd No. 6, 2012, s 14 rep No. 1, 2024, s 14
s 37	amd No. 6, 2012, s 14
s 37A	ins No. 22, 2010, s 6 amd No. 6, 2012, s 14
s 38	amd No. 8, 2005, s 25; No. 6, 2012, s 14; No. 6, 2016, s 5
s 39	amd No. 14, 1995, s 12; No. 6, 2012, s 14
s 40	sub No. 8, 2005, s 26; No. 65, 2004, s 16 amd No. 22, 2010, s 7; No. 6, 2016, s 24
s 41	rep No. 42, 2003, s 6
pt 4	
div 2 hdg	amd No. 6, 2012, s 14
s 42	amd No. 6, 2012, s 14; No. 6, 2016, s 56
s 43	amd No. 6, 2012, s 14
s 45	amd No. 6, 2012, s 14
pt 4	
div 3 hdg	rep No. 42, 2003, s 6
s 46	rep No. 42, 2003, s 6

pt 4	
div 4 hdg	sub No. 6, 2012, s 14
s 47	amd No. 6, 2012, s 14; No. 6, 2016, s 7
pt 4	
div 5 hdg	sub No. 6, 2012, s 14
s 48	amd No. 6, 2012, s 14
pt 4A hdg	ins No. 65, 2004, s 17
s 48A	ins No. 65, 2004, s 17
	amd No. 6, 2012, s 14; No. 1, 2024, s 28
s 48B	ins No. 65, 2004, s 17
	amd No. 6, 2012, s 11
s 48C	ins No. 65, 2004, s 17
	sub No. 22, 2010, s 8
	amd No. 6, 2012, s 14; No. 6, 2016, s 24
s 48CA	ins No. 22, 2010, s 8
	amd No. 6, 2012, s 14; No. 6, 2016, s 24
pt 4B hdg	ins No. 65, 2004, s 17
s 48D	ins No. 65, 2004, s 17
	amd No. 6, 2012, s 14; No. 1, 2024, s 29
ss 48E – 48F	ins No. 65, 2004, s 17
	amd No. 6, 2012, s 14
s 48G	ins No. 65, 2004, s 17
	sub No. 22, 2010, s 9
	amd No. 6, 2012, s 14; No. 6, 2016, s 24
ss 50 – 51	amd No. 6, 2012, s 14
s 52	amd No. 6, 2012, s 14; No. 25, 2025, s 6
s 52A	ins No. 25, 2025, s 7
ss 53 – 54	amd No. 6, 2012, s 14
pt 5A hdg	ins No. 7, 2012, s 7
pt 5A	
div 1 hdg	ins No. 7, 2012, s 7
ss 54A – 54AD	ins No. 7, 2012, s 7
pt 5A	
div 2 hdg	ins No. 7, 2012, s 7
ss 54B – 54BC	ins No. 7, 2012, s 7
pt 5A	
div 3 hdg	ins No. 7, 2012, s 7
ss 54C – 54CJ	ins No. 7, 2012, s 7
pt 5A	
div 4 hdg	ins No. 7, 2012, s 7
ss 54D – 54DF	ins No. 7, 2012, s 7
pt 5A	
div 5 hdg	ins No. 7, 2012, s 7
ss 54E – 54EI	ins No. 7, 2012, s 7
pt 5A	
div 6 hdg	ins No. 7, 2012, s 7
ss 54F – 54FF	ins No. 7, 2012, s 7
s 55	amd No. 6, 2012, s 14
s 58A	ins No. 65, 2004, s 18
pt 6	
div 3 hdg	sub No. 6, 2012, s 14

s 59	amd No. 14, 1995, s 12; No. 65, 2004, s 19; No. 6, 2012, s 14; No. 7, 2012, s 8; No. 5, 2012, s 11; No. 6, 2016, s 24
s 60	amd No. 6, 2012, s 14
pt 6	
div 4 hdg	ins No. 65, 2004, s 20
s 60A	ins No. 65, 2004, s 20
	amd No. 6, 2012, s 14; No. 7, 2012, s 9
s 60B	ins No. 65, 2004, s 20
pt 7 hdg	sub No. 7, 2012, s 13
s 61	amd No. 6, 2012, s 14
	rep No. 7, 2012, s 10
s 62	amd No. 65, 2004, s 22; No. 6, 2012, s 14
s 63	amd No. 65, 2004, s 23; No. 6, 2012, s 14
s 64	amd No. 65, 2004, s 24
pt 8 hdg	amd No. 6, 2016, s 8
pt 8	
div 1 hdg	amd No. 6, 2016, s 24
s 65	amd No. 6, 2012, s 14; No. 6, 2016, s 9
s 66	amd No. 6, 2012, s 14
pt 8	
div 2 hdg	amd No. 6, 2016, s 10
s 67	amd No. 6, 2012, s 14; No. 6, 2016, s 11
s 68	rep No. 6, 2016, s 12
pt 8	
div 3 hdg	om No. 6, 2016, s 13
s 69	amd No. 65, 2004, s 25
	sub No. 22, 2010, s 10
	amd No. 6, 2012, s 14; No. 6, 2016, s 24
s 69A	ins No. 65, 2004, s 26
	amd No. 6, 2012, s 14
	rep No. 6, 2016, s 14
s 70	amd No. 65, 2004, s 27; No. 6, 2012, s 14; No. 6, 2016, s 15
s 71	amd No. 65, 2004, s 28; No. 6, 2012, s 14
	rep No. 6, 2016, s 16
s 72	amd No. 65, 2004, s 29
pt 8	
div 2A hdg	ins No. 6, 2016, s 17
ss 72A – 72C	ins No. 6, 2016, s 17
pt 8	
div 3 hdg	ins No. 6, 2016, s 17
ss 72D – 72G	ins No. 6, 2016, s 17
s 73	amd No. 6, 2012, s 14
	rep No. 6, 2016, s 18
pt 8	
div 3A hdg	ins No. 22, 2010, s 11
s 73A	ins No. 22, 2010, s 11
	amd No. 6, 2016, s 24
ss 73B – 73C	ins No. 22, 2010, s 11
s 73D	ins No. 22, 2010, s 11
	amd No. 6, 2016, s 24
s 74	amd No. 6, 2012, s 14
s 75	rep No. 6, 2016, s 18
s 76	amd No. 6, 2012, s 14
pt 8	
div 5 hdg	ins No. 6, 2016, s 19
ss 76A – 76D	ins No. 6, 2016, s 19
ss 77 – 79	amd No. 6, 2012, s 14

ss 81 – 82	amd No. 6, 2012, s 14
ss 84 – 88	amd No. 6, 2012, s 14
ss 90 – 96	amd No. 6, 2012, s 14
s 100	amd No. 6, 2012, s 14
ss 102 – 103	amd No. 6, 2012, s 14
ss 105 – 107	amd No. 6, 2012, s 14
s 108	amd No. 6, 2012, s 14; No. 6, 2016, s 24
s 110	sub No. 29, 2010, s 4
s 112 – 116	amd No. 6, 2012, s 14
s 117	amd No. 15, 1996, s 4
ss 119 – 120	amd No. 6, 2012, s 14
ss 122 – 123	amd No. 6, 2012, s 14
s 125	amd No. 6, 2012, s 14
ss 127 – 129	amd No. 6, 2012, s 14
pt 10A hdg	ins No. 5, 2012, s 12
pt 10A div 1 hdg	ins No. 5, 2012, s 12
ss 129A – 129C	ins No. 5, 2012, s 12
pt 10A div 2 hdg	ins No. 5, 2012, s 12
ss 129D – 129H	ins No. 5, 2012, s 12
pt 10A div 3 hdg	ins No. 5, 2012, s 12
ss 129J – 129K	ins No. 5, 2012, s 12
pt 11 hdg	sub No. 5, 2012, s 13
pt 11 div 1 hdg	sub No. 5, 2012, s 14
ss 130 – 134	amd No. 6, 2012, s 14
s 130A	ins No. 65, 2004, s 30
pt 11 div 2 hdg	sub No. 6, 2012, s 14
ss 135 – 136	amd No. 6, 2012, s 14
ss 138 – 140	amd No. 6, 2012, s 14
s 144	amd No. 6, 2012, s 14
ss 146 – 147	amd No. 6, 2012, s 14
s 148	sub No. 40, 2010, s 12
s 149	amd No. 6, 2012, s 14
s 150	amd No. 8, 2005, s 14; No. 6, 2012, s 14; No. 8, 2016, s 45
s 151	amd No. 17, 1996, s 6; No. 6, 2012, s 14
s 152	amd No. 6, 2012, s 14
s 153	amd No. 70, 1993, s 8; No. 6, 2012, s 14
ss 154 – 158	rep No. 18, 2005, s 18
s 160	No. 6, 2016, s 24
s 162	amd No. 6, 2012, s 14
s 163	amd No. 50, 1994, s 16; No. 6, 2012, s 14; No. 8, 2016, s 45
ss 164 – 166	amd No. 6, 2012, s 14
s 166AA	ins No. 6, 2016, s 20
s 166A	ins No. 8, 2005, s 19
s 167	amd No. 6, 2012, s 14
s 167AA	ins No. 8, 2005, s 15
s 167A	ins No. 65, 2004, s 31
s 167B	ins No. 6, 2012, s 12
s 168	amd No. 6, 2012, s 14; No. 17, 2022, s 7; No. 1, 2024, s 15
pt 15 hdg	sub No. 8, 2005, s 20
s 170	amd No. 6, 2012, s 14; No. 6, 2016, s 21

ss 171 – 172	amd No. 6, 2012, s 14
pt 15A hdg	ins No. 8, 2005, s 21
ss 172A – 172B	ins No. 8, 2005, s 21
pt 15C hdg	ins No. 8, 2005, s 16
s 172H	ins No. 8, 2005, s 16
pt 16 hdg	ins No. 65, 2004, s 33
ss 173 – 174	ins No. 65, 2004, s 33
ss 175 – 176	ins No. 65, 2004, s 33 amd No. 6, 2012, s 14
ss 177 – 178	ins No. 65, 2004, s 33 rep No. 7, 2012, s 10
s 179	ins No. 65, 2004, s 33 amd No. 7, 2012, s 13
pt 17 hdg	ins No. 22, 2010, s 12
ss 180 – 182	ins No. 22, 2010, s 12
s 183	ins No. 22, 2010, s 12 amd No. 6, 2012, s 14
pt 18 hdg	ins No. 6, 2012, s 13
ss 184 – 189	ins No. 6, 2012, s 13
pt 19 hdg	ins No. 7, 2012, s 11
ss 190 – 193	ins No. 7, 2012, s 11
pt 20 hdg	ins No. 6, 2016, s 22
s 194	ins No. 7, 2012, s 11 exp No. 7, 2012, s 194(5) ins No. 6, 2016, s 22
ss 195 – 199	ins No. 6, 2016, s 22
pt 21 hdg	ins No. 17, 2022, s 8
ss 200 – 203	ins No. 17, 2022, s 8
pt 22 hdg	ins No. 1, 2024, s 16
pt 22 div 1 hdg	ins No. 1, 2024, s 16
ss 204 – 207	ins No. 1, 2024, s 16
pt 22 div 2 hdg	ins No. 1, 2024, s 30
s 208	ins No. 1, 2024, s 30
pt 23 hdg	ins No. 25, 2025, s 8
s 209	ins No. 25, 2025, s 8
sch 1	amd No. 65, 2004, s 34; No. 8, 2005, s 28; No. 22, 2010, s 13; No. 7, 2012, s 12; No. 6, 2016, s 24; No. 1, 2024, s 17
sch 2	amd No. 14, 1995, s 12; No. 8, 2005, s 17; No. 6, 2012, s 14
sch 3	amd No. 65, 2004, s 35; No. 6, 2012, s 14; No. 6, 2016, s 23
sch 4	ins No. 22, 2010, s 14
sch 5	ins No. 1, 2024, s 18