

Home Building Regulation 2004

As at 1 January 2014

Reprint history:

Reprint No 1

28 March 2006

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Part 1 – Preliminary

1 Name of Regulation

This Regulation is the *Home Building Regulation 2004*.

2 Commencement

This Regulation commences on 1 September 2004.

This Regulation replaces the *Home Building Regulation 1997* which is repealed on 1 September 2004 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Interpretation

(1) In this Regulation: "**apprentice**" has the same meaning as in the *Apprenticeship and Traineeship Act 2001*. "**authority**" means a contractor licence (whether or not an endorsed contractor licence), an owner-builder permit or a certificate. "**certificate**" means a supervisor certificate or tradesperson certificate. "**consent declaration**" means a declaration by an individual who is, or is proposed to be, the nominated supervisor for a contractor licence, being a declaration to the effect that the individual understands the responsibilities of a nominated supervisor and consents to being that nominated supervisor. "**development consent**" has the same meaning as in the *Environmental Planning and Assessment Act 1979*. "**exempt corporation**" means:

(a) a council or county council within the meaning of the *Local Government Act 1993*, or

(b) a corporation that is constituted by or under an Act, other than:

(i) a company within the meaning of the *Corporations Act 2001* of the Commonwealth, or

(ii) a corporation that is subject to control under the *Co-operatives Act 1992* or the *Associations Incorporation Act 1984*.

"**fixed apparatus**" means apparatus fixed to a dwelling or part of a dwelling with the intention that it should remain in that position permanently. "**structural element**", in relation to a building, means a component or part of an assembly which provides necessary supporting structure to the whole or any part of the building. "**the Act**" means the *Home Building Act 1989*. "**trainee**" has the same meaning as in the *Apprenticeship and Traineeship Act 2001*.

(4) (a) of the *Public Sector Employment and Management (General) Order 2003*, a reference to the Director-General of the Department of Fair Trading in, or in relation to, the *Home Building Act 1989* is to be construed as a reference to the Commissioner for Fair Trading, Department of Commerce.

(2) In this Regulation, a reference to a Form is a reference to a form in Schedule 1.

(3) The notes in the text of this Regulation do not form part of this Regulation.

Part 2 – Prescriptions for the purposes of definitions in the Act

4 (Repealed)

5 Definition of "dwelling"--certain structures and improvements included

For the purposes of the definition of "**dwelling**" in section 3 (1) of the Act, the following structures and improvements are declared to form part of a dwelling when constructed for use in conjunction with a dwelling:

- (a) parts of a building containing more than one dwelling (whether or not the building is also used for non-residential purposes), being stairways, passageways, rooms, and the like, that are used in common by the occupants of those dwellings, together with any pipes, wires, cables or ducts that are not for the exclusive enjoyment of any one dwelling,
- (b) parts of a building containing one dwelling only (where the building is also used for non-residential purposes), being stairways, passageways and the like which provide access to that dwelling,
- (c) if non-residential parts of a building containing one or more dwellings give support or access to the residential part--the structural elements of the non-residential parts giving such support or access,
- (d) cupboards, vanity units and the like fixed to a dwelling,
- (e) detached garages and carports,
- (f) detached decks, porches, verandahs, pergolas and the like,
- (g) cabanas and non-habitable shelters,
- (h) detached workshops, sheds and other outbuildings (but not jetties, slipways, pontoons or boat ramps and any

structures ancillary to these exceptions),

(i) concrete tennis courts and the like,

(j) driveways, paths and other paving,

(k) retaining walls,

(l) agricultural drainage designed or constructed to divert water away from the footings of a dwelling or a retaining wall,

(m) fences and gates,

(n) ornamental ponds and water features, and other structural ornamentation, the construction or installation of which requires development consent.

6 Definition of "dwelling"--certain residential buildings and other structures excluded

For the purposes of the definition of "dwelling" in section 3 (1) of the Act, the following are declared to be excluded from that definition:

(a) a boarding house, guest house, hostel or lodging house,

(b) all residential parts of a hotel or motel,

(c) any residential part of an educational institution,

(d) accommodation (other than self-contained units) specially designed for the aged, persons with a disability or children,

(e) any residential part of a health care building that accommodates staff,

(f) a house or unit designed, constructed or adapted for commercial use as tourist, holiday or overnight accommodation,

(g) any part of a non-residential building that is constructed or adapted for use as a caretaker's residence,

(h) a moveable dwelling (with or without a flexible annexe) within the meaning of the *Local Government Act 1993* that is, or is a vehicle of a kind capable of being, registered within the meaning of the *Road Transport Act 2013* (such as a caravan or a motor home),

(i) a residential building for the purposes of which development consent can be granted only because of *State Environmental Planning Policy No 15--Rural Landsharing Communities*.

7 Definition of "relevant law"

For the purposes of the definition of "relevant law" in section 3 (1) of the Act, the following Acts and statutory instruments are declared as regulating the following kinds of specialist work:

(a) gasfitting work:

(i) *Gas Supply Act 1996*

(ii) *Gas Supply (Consumer Safety) Regulation 2004*

(b) plumbing work:

(i) *Sydney Water Act 1994*

(ii) *Hunter Water Act 1991*

(iii) *Local Government Act 1993*

(iv) *Water Management Act 2000*.

8 Definition of "residential building work"--installation of certain fixtures and apparatus included

For the purposes of the definition of "residential building work" in section 3 (1) of the Act, any fixture or fixed apparatus designed for the heating or cooling of water, food or the atmosphere or for air ventilation or the filtration of water in a swimming pool or spa is prescribed.

9 Definition of "residential building work"--certain work excluded

(1) For the purposes of the definition of "residential building work" in section 3 (1) of the Act, the following is declared to be excluded from that definition:

(a) any work (other than specialist work) the reasonable market cost of the labour and materials involved in which does not exceed \$1,000 (inclusive of GST),

(b) any work (other than specialist work) involved in the manufacturing of moveable dwellings, within the meaning of the *Local Government Act 1993* (other than moveable dwellings that are manufactured homes, within the meaning of that Act),

(c) any work (other than specialist work) involved in the site preparation for, or the assembling or erection on site of, moveable dwellings excluded by paragraph (b), unless the work requires development consent,

(d) any work referred to in paragraph (c) done in relation to land on which a council has authorised a moveable dwelling to be placed by issuing an approval under the *Local Government Act 1993*, whether or not a development consent is also required,

(e) subject to subclause (2), any work that would otherwise be residential building work but that by or under an Act (other than the *Home Building Act 1989*) a person is prohibited from doing unless the person is the holder of a contractor licence or another authority under that other Act,

(f) subject to subclause (3), any work (other than specialist work) done in relation to the removal and transport of a dwelling,

(g) the supervision only of residential building work:

(i) by a person registered as an architect under the *Architects Act 1921* or the *Architects Act 2003*, or

(ii) by a person supervising owner-builder work for no reward or other consideration, or

(iii) by any other person, if all the residential building work is being done or supervised by the holder of a contractor licence authorising its holder to contract to do that work,

(h) demolition work,

(i) any work involved in the installation of any material that forms an upper layer or wearing surface of a floor (even if installed as a fixture) that does not include any structural changes to the floor,

(j) any work that involves the installation or maintenance of any fixed apparatus such as a lift, an escalator, an inclinator or a garage door by means of which persons or things are raised or lowered or moved in some direction that is restricted by fixed guides.

(2) Work referred to in subclause (1) (e) is not excluded from the definition of "**residential building work**" if it is part only of the work to be done under a contract to do residential building work.

(3) Work referred to in subclause (1) (f) is not excluded from the definition of "**residential building work**" if it is part only of the work to be done under a contract to do residential building work at the new site of the dwelling (whether or not that work is done under the same contract as the contract to remove and transport the dwelling).

10 "Roof plumbing work" defined

For the purposes of the Act, any work involved in the fixing, installation, renovation, alteration, repair and maintenance of guttering, downpipes, roof flashing and roof coverings on any building or structure is declared to be "**roof plumbing work**", except work in relation to roof coverings consisting of:

- (a) non-metallic tiles and slates, or
- (b) glass (being work usually performed by glaziers), or
- (c) concrete, or
- (d) timber and timber products, or
- (e) thatching, or
- (f) malthoid, bituminous or similar membrane material.

Work declared to be "**roof plumbing work**" is referred to in the definitions of "**plumbing work**", "**residential building work**" and "**specialist work**" in section 3 (1), and in section 37 (b), of the Act.

11 "Air-conditioning work" and "refrigeration work" defined

(1) The following work is declared to be air-conditioning work for the purposes of the definition of "**specialist work**" in section 3 (1) of the Act and for the purposes of section 15 of the Act:

(a) any work required to install, maintain and service an air-conditioning system (other than a self-contained single-phase plug-in domestic air-conditioning system) in a structure, building, vessel, container or railway vehicle,

(b) work required to comply with the requirements of Australian Standard *AS 1668.2--2002, The use of ventilation and airconditioning in buildings, Part 2: Ventilation design for indoor air contaminant control*,

(c) work required to comply with the requirements of Australian/New Zealand Standard *AS/NZS 3666:2002, Air-handling and water systems of buildings--Microbial control*, relating to the maintenance of cooling towers,

(d) associated electrical wiring work of the kind described in subclause (4).

(2) Despite subclause (1), the following work is not air-conditioning work for the purposes of this clause:

(a) the installation of an air-conditioning system in a railway vehicle by the manufacturer of the vehicle,

(b) the installation, maintenance or repair of ducting or insulation in premises other than a dwelling.

(3) The following work is declared to be refrigeration work for the purposes of the definition of "**specialist work**" in section 3 (1) of the Act and for the purposes of section 15 of the Act:

(a) any work required to install, maintain and service a refrigeration system (other than a self-contained single-phase plug-in domestic refrigeration system) in a structure, building, vessel, container or vehicle,

(b) work required to comply with the requirements of Australian/New Zealand Standard *AS/NZS 1677:1998, Refrigerating Systems*,

(c) associated electrical wiring work of the kind described in subclause (4).

(4) The "**associated electrical wiring work**" referred to in subclauses (1) and (3) consists of electrical wiring work, relating to the general servicing and maintenance of an air-conditioning system or a refrigeration system, that involves any of the following:

(a) the testing of, and diagnosis of problems in, control and power circuits and electrical equipment and electric motors,

(b) the disconnection and reconnection of electrical components designed to be permanently connected,

(c) the replacement of electrical components on the load side of the mains supply,

(d) the repair and adjustment (in accordance with normal trade practice) of electrical components,

(e) the repair, replacement or making good of cable terminations or defective electrical wiring,

(f) minor alterations to electrical wiring.

Part 3 – Regulation of residential building work, specialist work and the supply of kit homes

Division 1 – Contracting for work

11A Thresholds for contract requirements

(1) The prescribed amount for the purposes of section 7 (Form of contracts) of the Act is \$5,000.

(2) The prescribed amount for the purposes of section 7AAA (Form of contracts--small jobs) of the Act is \$1,000.

(3) The prescribed amount for the purposes of section 7BA (Cooling-off period: person may rescind a contract for residential building work within 5 days without penalty) of the Act is \$20,000.

12 Conditions to be included in certain contracts

(1) Pursuant to section 7E of the Act, a contract to do residential building work must include each of the conditions set out in Part 1 of Schedule 2.

(2) Pursuant to section 16DE of the Act, a contract to supply a kit home must include each of the conditions set out in Part 2 of Schedule 2.

13 Requirements for contracts for residential building work

(1) A contract to which section 7 of the Act applies between a person and the holder of a contractor licence for residential building work to be done by the holder must include a checklist in the form set out in Schedule 3.

(2) This clause does not apply to a contract of a class referred to in clause 16.

14 Exemptions relating to contracting and advertising

(1) In this clause: "**electrical installation**" and "**electricity supply authority**" have the same meanings as they have in the *Electricity (Consumer Safety) Act 2004*. "**general contractor**" means a contractor who or which carries on a business the principal object of which is to supply goods or services otherwise than by the doing of specialist work but the supply of which goods or services may incidentally involve the doing of specialist work.

(2) A person is exempt from the requirements of section 4 (Unlicensed contracting) of the Act if:

- (a) the contract concerned is made by or on behalf of an exempt corporation and the exempt corporation does not contract to do specialist work only under the contract, or
- (b) the contract concerned is made by or on behalf of a general contractor, the general contractor contracts to do specialist work (none of which is residential building work) under the contract and that specialist work is part only of the work to be done under the contract by the general contractor, or
- (c) the contract concerned is made by or on behalf of an electricity supply authority and the electricity supply authority contracts under the contract to do only installation, alteration or maintenance work on power lines forming part of an electrical installation.

(3) A person is exempt from the requirements of section 5 (Seeking work by or for unlicensed person) of the Act if:

- (a) the representation concerned is made by or about an exempt corporation and the representation does not relate to specialist work only, or
- (b) the representation concerned is made by or about a general contractor and the representation relates to specialist work none of which is residential building work and that specialist work is only part of the work to be done, or
- (c) the representation concerned is made by or about an electricity supply authority and the representation relates only to installation, alteration or maintenance work on power lines forming part of an electrical installation.

15 Exemptions from contract requirements for holders of contractor licences

The holder of a contractor licence is exempt from the requirements of sections 7 (Form of contracts) and 7AAA (Form of contracts--small jobs) of the Act if the contract concerned:

- (a) is subordinate to a principal contract to do residential building work (for example, if the contract concerned is a contract between a licensed builder and a licensed subcontractor), or
- (b) is made between a licensed builder doing work on premises that the licensed builder owns and a licensed trade contractor, or
- (c) is for the doing of specialist work that is not also residential building work, or
- (d) (Repealed)

16 Exemptions relating to provision of consumer information

Section 7AA (Consumer information) of the Act does not apply to the following classes of contract:

- (a) a contract referred to in clause 15,
- (b) a contract for residential building work entered into between the holder of a contractor licence and a developer who is taken under section 3A (1) of the Act to be a developer who does the work,
- (c) a contract for residential building work that is required to be completed urgently so as to rectify a hazard, or potential hazard, to the health or safety of persons or to prevent substantial damage to property.

17 Exemptions relating to cooling-off periods in contracts

Section 7BA (Cooling-off period: person may rescind a contract for residential building work within 5 days without penalty) of the Act does not apply to the following classes of contract:

- (a) a contract referred to in clause 15 (a) or (b) or clause 16 (b) or (c),
- (b) a contract for residential building work that is supplied and fully prepared by or on behalf of the person who contracts with the holder of the contractor licence and no part of which is supplied or prepared by or on behalf of the holder of the contractor licence.
- (c) (Repealed)

The exemption under paragraph (b) does not apply to a contract supplied and prepared by the person who contracts with the holder of a contractor licence if any terms or conditions are added to the contract by the holder of the contractor licence or his or her representative.

18 Maximum insurance excess

The maximum excess for the purposes of section 102 (6) of the Act is \$250.

19 (Repealed)

Division 2 – Restrictions on who may do certain work

20 Exemption relating to the doing of residential building work

An individual who does residential building work is exempt from the requirements of sections 12 (Unlicensed work) and 13 (Unqualified residential building work) of the Act if the individual owns the dwelling in connection with which the work is done, the work does not include specialist work and the work does not need to be authorised by an owner-builder permit because:

- (a) it does not require development consent, or
- (b) the reasonable market cost of the labour and materials involved in the work does not exceed the amount prescribed for the purposes of the definition of "**owner-builder work**" in section 29 of the Act.

21 Exemption relating to employees of certain corporations

An individual who does residential building work (not being specialist work) is exempt from the requirements of section 12 (Unlicensed work) of the Act if:

- (a) the individual is employed by an exempt corporation, and
- (b) the residential building work concerned is done in the ordinary course of the employee's duties.

22 Exemptions relating to the doing of specialist work

(1) An individual who does specialist work is exempt from the requirements of section 12 (Unlicensed work) of the Act if the individual is the holder of an appropriate supervisor certificate and the work is done in connection with:

- (a) premises which the holder owns or a dwelling in which he or she resides, or
- (b) premises owned or occupied by the holder's employer.

(2) An individual who does electrical wiring work is exempt from the requirements of section 12 (Unlicensed work) and section 14 (Unqualified electrical wiring work) of the Act if:

- (a) the individual is employed by an electricity supply authority principally for the performance of work other than electrical wiring work, and
- (b) the electrical wiring work concerned is done in the ordinary course of the employee's duties.

23 Exemption relating to the doing of electrical wiring work by apprentices and trainees

An individual who does electrical wiring work without complying with section 14 (2) of the Act is exempt from the requirement of holding an authority referred to in section 14 (1) of the Act if:

- (a) the individual is an apprentice or trainee, and
- (b) the course of studies undertaken as part of the individual's apprenticeship or traineeship includes a study of the kind of electrical wiring work the individual is doing, and
- (c) a qualified supervisor (being the holder of an endorsed contractor licence, or a supervisor certificate, authorising its holder to do that work) supervises the electrical wiring work being done by that individual, and
- (d) the qualified supervisor is of the opinion that the individual's knowledge and experience in doing such electrical wiring work is such that the individual does not need the level of supervision required by section 14 (2) of the Act, and
- (e) the individual does that work under the supervision, and in accordance with the directions, if any, of the qualified supervisor.

Division 3 – Supply of kit homes

24 Exemptions relating to the supply of kit homes

A person is exempt from all requirements of the Act which relate to the supply of kit homes if the kit home the person contracts to supply or supplies consists of:

- (a) a set of building components that the purchaser states in writing at the time of purchase is purchased for erection outside New South Wales, or
- (b) a set of building components the contract price for which is \$1,000 (inclusive of GST) or less, or
- (c) a set of building components for the construction of a structure or improvement declared in clause 5 (a)-(d), (f), (g) or (i)-(n) to form part of a dwelling, unless that set of building components is supplied (under a contract) together with the set of building components for the construction of the dwelling in conjunction with which the structure or improvement is to be used.

Part 4 – Contractor licences, certificates and owner-builder permits

Division 1 – Requirements to obtain contractor licences and certificates

25 General requirements for obtaining certain authorities under Act

- (1) Before an authority (other than an owner-builder permit) is issued, the Director-General must be satisfied that:
- (a) each relevant person in relation to the application for an authority:
 - (i) is not disqualified from holding the authority or an authority of the kind applied for, or from being a member of a partnership or a director of a corporation that is the holder of the authority or an authority of the kind applied for, and has not been so disqualified within 3 years before the date of the application, and
 - (ii) is not a debtor under a judgment for money owed to the Director-General or the Administration Corporation that has not been satisfied, and
 - (iii) is not a debtor under a judgment for money that has not been satisfied where the judgment is for the payment of money in relation to a building claim under Part 3A of the Act or the payment of money to an insurer in relation to a claim relating to home warranty insurance (within the meaning of Part 6 of the Act), and
 - (iv) is not (and has not been within the period of 3 years before the date of the application) a director of a corporation that is a debtor under a judgment for money as referred to in subparagraph (iii), and
 - (v) is not subject to any order of a court in relation to a building claim under Part 3A of the Act that has not been satisfied within the period required for satisfaction of the order, and
 - (vi) is not subject to any order of the Tribunal that has not been satisfied within the period required by the Tribunal, and
 - (vii) has not had what the Director-General considers to be an unreasonable number of complaints made against him, her or it, and
 - (viii) has not had what the Director-General considers to be an unreasonable number of formal cautions given to him, her or it, and
 - (ix) has not had what the Director-General considers to be an unreasonable number of penalty notices issued against him, her or it (being penalty notices for offences under the Act that were not dealt with by a court and dismissed), and
 - (x) has not carried out work in respect of which the Director-General considers an unreasonable number of insurance claims have been paid, and
 - (xi) was not a director of, a partner of, or a person concerned in the management of, a body corporate or

partnership that was disqualified from holding an authority within 3 years before the date of the application, unless the Director-General is satisfied that the applicant took all reasonable steps to prevent the conduct that led to the disqualification, and

(xii) except in relation to an application for a tradesperson certificate--is not an undischarged bankrupt and is not a director of, or a person concerned in the management of, an externally-administered body corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth) except in a case of a voluntary winding up of the body corporate, and

(xiii) except in relation to an application for a tradesperson certificate--within the period of 3 years before the date of the application, was not an undischarged bankrupt and was not a director of, or a person concerned in the management of, an externally-administered body corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth) except in a case of a voluntary winding up of the body corporate, and

(b) the applicant, if an individual, is not an apprentice or a trainee.

(2) For the purpose of subclause (1) (a), each of the following persons is a "**relevant person**" in relation to an application for an authority:

(a) the applicant,

(b) if the applicant is a partnership:

(i) every partner of the applicant, and

(ii) if a member of the partnership is a corporation--every director of that corporation,

(c) if the applicant is a corporation--every director of the applicant.

Section 24 (4) of the Act provides that an application for a tradesperson certificate or supervisor certificate may be made only by an individual, and not by a corporation, partnership or other association.

(3) Subclause (1) (a) (v) or (vi) does not prevent the Director-General from issuing an authority if the Director-General is satisfied that the person:

(a) has complied with the order of the court or Tribunal after the period required by the court or Tribunal, and

(b) has a reasonable excuse for the failure to comply with the order within that period.

Additional requirements for obtaining specific authorities are set out in this Division.

26 Additional requirements for obtaining contractor licences

(1) Before a contractor licence is issued, the Director-General must be satisfied that:

(a) the applicant has, or proposes to have, such numbers of nominated supervisors for the contractor licence as the Director-General considers are needed to ensure that all work for which the contractor licence is required will be done or supervised by qualified individuals, and

(b) the applicant, if also applying for an endorsement of the contractor licence to show that it is the equivalent of a supervisor certificate:

(i) complies with the requirements prescribed by clause 28 (1), and

(ii) is not disqualified from holding a supervisor certificate or a supervisor certificate of a particular kind, and

(iii) is not the holder of a supervisor certificate that is suspended.

(2) Despite clause 25 (1) (a) (xii), the Director-General may issue a contractor licence if:

(a) the licence authorises its holder to do residential building work or specialist work of the kind prescribed by clause 46 (clause 46 (1) (a) and (b) excepted) but not of any other kind, and

(b) the Director-General is of the opinion that:

(i) there is no evident risk to the public that the applicant will be unable to complete building contracts entered into in the future for the doing of residential building work or specialist work of that kind, or both, and

(ii) the relevant person concerned took all reasonable steps to avoid the bankruptcy, liquidation or appointment of a controller or administrator, and

(c) the licence is subject to a condition that the holder not do work:

(i) if the contract price exceeds \$20,000 (inclusive of GST), or

(ii) if the contract price is not known--where the reasonable cost of the labour and materials involved in the work exceeds \$20,000 (inclusive of GST).

(3) Despite clause 25 (1) (a) (xiii), the Director-General may issue a contractor licence if the Director-General is of the opinion that:

(a) there is no evident risk to the public that the applicant will be unable to complete building contracts entered into in the future for the doing of residential building work or specialist work of that kind, or both, and

(b) the relevant person concerned took all reasonable steps to avoid the bankruptcy, liquidation or appointment of a controller or administrator.

(3A) A contractor licence issued under subclause (3) may be issued subject to any of the following conditions:

(a) that the licence authorises its holder to do residential building work or specialist work of the kind prescribed by clause 46 (clause 46 (1) (a) and (b) excepted) but not of any other kind,

(b) that the holder of the licence not do work:

(i) if the contract price exceeds \$20,000 (inclusive of GST), or

(ii) if the contract price is not known--where the reasonable cost of the labour and materials involved in the work exceeds \$20,000 (inclusive of GST).

(4) An individual may be a nominated supervisor for a contractor licence only if the individual:

(a) holds an endorsed contractor licence or a supervisor certificate that authorises its holder to supervise some or all of the work done under contracts for which the contractor licence applied for or held is required, and

(b) is, or is proposed by the applicant or holder to be, an employee of, or a member of the partnership or director of the corporation that is, the applicant or holder, and

- (c) made a consent declaration that is lodged with the Director-General and has not been revoked.
- (5) In subclause (4) (b), "**employee**" means an employee who is required, by the terms of employment, to work for his or her employer otherwise than on a casual or temporary basis.
- (6) Subject to subclause (7), an individual cannot be the nominated supervisor for more than one contractor licence unless the Director-General:
- (a) is satisfied that special circumstances exist that will ensure that the individual, either alone or in conjunction with one or more other nominated supervisors, will supervise all work done under contracts for which each contractor licence is required, and
 - (b) gives written permission.
- (7) The holder of an endorsed contractor licence does not require the Director-General's permission to become the nominated supervisor for only one other contractor licence.
- (8) The Director-General may, by order, exempt an applicant from a requirement in relation to nominated supervisors if the Director-General is satisfied that there are special circumstances that warrant it.

27 (Repealed)

28 Additional requirements for obtaining certificates

- (1) Before a certificate is issued, the Director-General must be satisfied that the applicant:
- (a) has such qualifications or has passed such examinations or practical tests, or both, as the Director-General determines to be necessary to enable the applicant to do, or to supervise, the work for which the certificate is required, and
 - (b) has had experience of such a kind and for such a period, as the Director-General considers would enable the applicant to do, or to supervise, the work for which the certificate is required, and
 - (c) is capable of doing or supervising work for which the certificate is required.
- (2) Despite clause 25 (1) (a) (xii) and (xiii), the Director-General may issue a qualified supervisor certificate if the Director-General is satisfied that the relevant person took all reasonable steps to avoid the bankruptcy, winding up or appointment of a controller or administrator.

28A Disqualifications from holding authorities

- (1) For the purposes of the Act, a person is disqualified from holding an authority (other than an owner-builder permit) if the person:
- (a) has been convicted in New South Wales or elsewhere of an offence involving dishonesty within the last 10 years, unless the Director-General has determined under subclause (2) that the offence should be ignored, or
 - (b) has been convicted within the last 5 years for an offence under section 46A (Lending of authority prohibited) of the Act, unless the Director-General has determined under subclause (2) that the offence should be ignored, or
 - (c) is disqualified from holding a licence, certificate of registration or other authority under a corresponding law or is the holder of such a licence, certificate of registration or other authority that is suspended, or
 - (d) is the holder of a licence, permit or other authority that is suspended under the *Fair Trading Act 1987* or any other Act administered by the Minister, or
 - (e) is in partnership with a person who is, or is a director of a corporation that is, disqualified from holding an authority, or
 - (f) is for the time being declared to be a person who is disqualified from holding an authority under Part 4 (Disciplinary proceedings) of the Act, or
 - (g) has failed to pay any monetary penalty payable by the person under Part 4 (Disciplinary proceedings) of the Act or has failed to comply with a condition imposed under section 62 (d) of the Act, and the failure continues, or
 - (h) is in breach of any provision of the Act or this Regulation that is prescribed by this Regulation as a disqualifying breach.
- (2) The Director-General may determine that an offence committed by a person should be ignored for the purposes of this clause because of the time that has passed since the offence was committed or because of the triviality of the acts or omissions giving rise to the offence.
- (3) In this clause: "**corresponding law**" means a law of another Australian jurisdiction that is declared by the Minister from time to time by an order published in the Gazette to be a law that corresponds to the Act. For orders under this definition see Gazette No 55 of 21.4.2006, p 2349.

29 Provisional authorities

In deciding whether or not special circumstances exist that would warrant issuing a provisional supervisor certificate, the Director-General must at least be satisfied that:

- (a) the applicant for the supervisor certificate has a knowledge of English that enables the applicant to read and understand drawings and specifications and Australian Standards or Codes of Practice to the extent necessary for the supervision of the work which the certificate will authorise its holder to do or to supervise, and
- (b) the applicant has passed a minimum standard test set or approved by the Director-General to establish the applicant's credentials as an experienced tradesperson in relation to the work the certificate would authorise its holder to do or to supervise, and
- (c) the applicant will have the opportunity to satisfy the prescribed requirements for the certificate within 12 months of being issued the certificate provisionally.

Division 2 – Conditions of contractor licences and certificates

30 Conditions of authorities generally

For the purposes of section 36 (1) (a) of the Act, authorities are subject to the conditions contained in this Division.

31 Contractor licences generally

The holder of a contractor licence must notify the Director-General in writing of the following particulars within 7 days of the specified events occurring and must provide any specified documents:

- (a) If the holder becomes aware of any material change in the circumstances that warranted the Director-General giving permission allowing an individual to be a nominated supervisor for more than one contractor licence or making an order exempting a licensee from having a nominated supervisor--the date on which the holder became aware of that change and the details of the change.
- (b) If a nominated supervisor for the contractor licence ceases to be an employee, member or director of the holder--the date of cessation, the supervisor's name, and the type of authority held by the qualified supervisor and its number.
- (c) If a person is selected to be a nominated supervisor for the contractor licence after it has been issued--the qualified supervisor's name, the type of authority held and its number. (The person's consent declaration must accompany any such notification.)

32 Individual contractor licences

Under section 24 (1) of the *Licensing and Registration (Uniform Procedures) Act 2002* (as modified by section 19 (3) (d) of the *Home Building Act 1989*), it is a condition of each contractor licence that the licensee must notify the Director-General, within 7 days after the change, of any change that occurs in the licensee's name, address or other registered particulars.

- (1) An individual who is the holder of a contractor licence must, within 7 days of becoming or ceasing to be a nominated supervisor, notify the Director-General in writing of the following particulars:
 - (a) If the holder becomes a nominated supervisor for another contractor licence--the date of the consent declaration, the name of the holder of the other contractor licence and its number.
 - (b) If the holder ceases to be a nominated supervisor for another contractor licence--the date of so ceasing, the name of the holder of the other contractor licence and its number.
- (2) An individual who is the holder of a contractor licence and the nominated supervisor for more than one contractor licence must, within 7 days after becoming aware of any material change in the circumstances that warranted the Director-General giving permission allowing the individual to be a nominated supervisor for more than one contractor licence, notify the Director-General in writing of the following particulars:
 - (a) the date on which the holder became aware of the change,
 - (b) details of the change.

33 Partnership contractor licences

Under section 24 (1) of the *Licensing and Registration (Uniform Procedures) Act 2002* (as modified by section 19 (3) (d) of the *Home Building Act 1989*), it is a condition of each contractor licence that the licensee must notify the Director-General, within 7 days after the change, of any change that occurs in the licensee's name, address or other registered particulars.

A partnership that is the holder of a contractor licence must notify the Director-General in writing of the following particulars within 7 days of the specified events occurring:

- (a) If a corporation is a member of the partnership holding the contractor licence--particulars of the events and details required by clause 34 for each corporation which is such a member.
- (b) If there is a change in the membership or in the name of a member of the partnership or the partnership is dissolved--the date and details of the change or dissolution, including the name, date of birth and address of each former partner and new partner (if applicable).

34 Corporation contractor licences

Under section 24 (1) of the *Licensing and Registration (Uniform Procedures) Act 2002* (as modified by section 19 (3) (d) of the *Home Building Act 1989*), it is a condition of each contractor licence that the licensee must notify the Director-General, within 7 days after the change, of any change that occurs in the licensee's name, address or other registered particulars.

- (1) A corporation that is the holder of a contractor licence must notify the Director-General in writing within 7 days of any change of directors of the corporation.
- (2) The notification referred to in subclause (1) must include the name, date of birth and address of each new and former director.

35 (Repealed)

36 Qualified supervisor certificates and tradesperson certificates

Under section 24 (1) of the *Licensing and Registration (Uniform Procedures) Act 2002* (as modified by section 24 (3) (d) of the *Home Building Act 1989*), it is a condition of each tradesperson certificate and supervisor certificate that the holder of the certificate must notify the Director-General, within 7 days after the change, of any change that occurs in the holder's name, address or other registered particulars.

- (1) The holder of a qualified supervisor certificate must, within 7 days of becoming or ceasing to be a nominated supervisor, notify the Director-General in writing of the following particulars:
 - (a) if the holder becomes a nominated supervisor for a contractor licence--the date of the consent declaration, the name of the holder of the contractor licence and its number, and
 - (b) if the holder ceases to be a nominated supervisor for a contractor licence--the date of so ceasing, the name of the holder of the contractor licence and its number.
- (2) The holder of a qualified supervisor certificate who is the nominated supervisor for more than one contractor licence must, within 7 days after becoming aware of any material change in the circumstances that warranted the Director-General giving permission allowing the individual to be a nominated supervisor for more than one contractor licence, notify the Director-General in writing of the following particulars:
 - (a) the date on which the holder became aware of the change,
 - (b) details of the change.

37 Further details

The holder of an authority must provide further details of the changes referred to in this Division if requested to do so by the Director-General and, if the Director-General so requests, must provide those further details in a form approved by the Director-General.

38 Lost, stolen, defaced or destroyed authorities

The holder of an authority that is lost, stolen, defaced or destroyed must notify the Director-General of the event or condition within 7 days of becoming aware of it.

Division 3 – Cancellation

39 Cancellation of contractor licence not compulsory in certain cases

The Director-General is not required to cancel a contractor licence under section 22 (1) (c) of the Act if:

- (a) the licence authorises its holder to do residential building work or specialist work of the kind prescribed by clause 46 (clause 46 (1) (a) and (b) excepted) but not of any other kind, and
- (b) the Director-General is of the opinion that there is no evident risk to the public that the licensee will be unable to complete any building contract (whether an existing contract or a contract in the future) for the doing of residential building work or specialist work of that kind, or both, and
- (c) the licence is subject to a condition that the holder not contract to do work:
 - (i) if the contract price exceeds \$20,000 (inclusive of GST), or
 - (ii) if the contract price is not known, where the reasonable cost of the labour and materials involved in the work exceeds \$20,000 (inclusive of GST).

Division 4 – Renewals, restorations and replacements

39A General requirements for renewal or restoration of authorities

- (1) Before an authority is renewed or restored, the Director-General must be satisfied that each relevant person:
 - (a) is not a mentally incapacitated person, and
 - (b) is not disqualified from holding the authority, and
 - (c) is not an undischarged bankrupt and is not a director of, or a person concerned in the management of, an externally-administered body corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth) except in a case of a voluntary winding up of the body corporate, and
 - (d) within the period of 3 years before the date of the application, was not an undischarged bankrupt and was not a director of, or a person concerned in the management of, an externally-administered body corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth) except in a case of a voluntary winding up of the body corporate, and
 - (e) is not subject to any order of the Tribunal that has not been satisfied within the period required by the Tribunal, and
 - (e1) is not subject to any order of a court in relation to a building claim under Part 3A of the Act that has not been satisfied within the period required for satisfaction of the order, and
 - (e2) is not a debtor under a judgment for money that has not been satisfied where the judgment is for the payment of money in relation to a building claim under Part 3A of the Act or the payment of money to an insurer in relation to a claim pursuant to home warranty insurance (within the meaning of Part 6 of the Act), and
 - (e3) is not (and has not been within the period of 3 years before the date of the application) a director of a corporation that is a debtor under a judgment for money as referred to in paragraph (e2), and
 - (f) has not had what the Director-General considers to be an unreasonable number of complaints made against him, her or it, and
 - (g) has not had what the Director-General considers to be an unreasonable number of formal cautions given to him, her or it, and
 - (h) has not had what the Director-General considers to be an unreasonable number of penalty notices issued against him, her or it (being penalty notices for offences under the Act that were not dealt with by a court and dismissed), and
 - (i) has not carried out work in respect of which the Director-General considers an unreasonable number of insurance claims have been paid.

(1A) Despite subclause (1) (c) and (d), the Director-General may renew or restore a contractor licence if the Director-General is of the opinion that:

- (a) there is no evident risk to the public that the applicant will be unable to complete building contracts entered into in the future for the doing of residential building work or specialist work of that kind, or both, and
- (b) the relevant person concerned took all reasonable steps to avoid the bankruptcy, liquidation or appointment of a controller or administrator.

(1B) A contractor licence renewed or restored under subclause (1A) may be renewed or restored subject to any of the following conditions:

- (a) that the licence authorises its holder to do residential building work or specialist work of the kind prescribed by clause 46 (clause 46 (1) (a) and (b) excepted) but not of any other kind,
- (b) that the holder of the licence not do work:
 - (i) if the contract price exceeds \$20,000 (inclusive of GST), or
 - (ii) if the contract price is not known--where the reasonable cost of the labour and materials involved in the work exceeds \$20,000 (inclusive of GST).

(2) For the purposes of this clause, each of the following persons is a "**relevant person**" in relation to an application for renewal or restoration of an authority:

- (a) the applicant,
- (b) if the applicant is a partnership:
 - (i) every partner of the applicant, and
 - (ii) if a member of the partnership is a corporation--every director of that corporation,
- (c) if the applicant is a corporation--every director of the corporation.

(3) Subclause (1) (c) and (d) do not prevent the Director-General from renewing or restoring a supervisor or tradesperson certificate.

(4) Subclause (1) (e) or (e1) does not prevent the Director-General from renewing or restoring an authority if the Director-General is satisfied that the person:

- (a) has complied with the order of the court or Tribunal after the period required by the court or Tribunal, and
- (b) has a reasonable excuse for the failure to comply with the order within that period.

40 Renewal and restoration of certain contractor licences and supervisor certificates

(1) A contractor licence (whether or not it is an endorsed contractor licence) granted, renewed or restored to the holder of a contractor licence issued by the Plumbing Industry Commission of Victoria, who takes advantage of the provisions of clause 42 (2), is in force for the period commencing on the grant or, in the case of renewal or restoration, on the day after the date of expiry, of the contractor licence and ending 1 year later or on the expiry of the contractor licence issued by that Commission, whichever occurs first.

(2) A supervisor certificate granted, renewed or restored to the holder of a contractor licence issued by the Plumbing Industry Commission of Victoria, who takes advantage of the provisions of clause 42 (2), is in force for the period commencing on the grant or, in the case of renewal or restoration, on the day after the date of expiry, of the supervisor certificate and ending 3 years later or on the expiry of the contractor licence issued by that Commission, whichever occurs first.

(3) This clause is subject to section 42 (Term of licence or certificate) of the Act.

41 Replacement authorities

Under Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002* (as applied by sections 19 (2), 24 (2), 30 (2) and 32A (2) of the *Home Building Act 1989*), an application for the replacement of an authority may be made to the Director-General by the authority holder if the authority is lost, damaged or destroyed.

The holder of an authority that is replaced by the Director-General:

- (a) must surrender the original authority if it is recovered, or
- (b) in the case of a damaged authority that is replaced, must surrender the damaged authority.

Maximum penalty: 10 penalty units.

Division 5 – Fees

42 Application fees

(1) An application for the grant, renewal, restoration, variation or replacement of an authority must be accompanied by the fee payable for the purposes of the Act as listed in Column 1 of Schedule 4.

(2) The amount of each fee is to be calculated by adding together the various components set out in Columns 3 and 4 of Schedule 4 in relation to that fee, the total fee being as set out in Column 5 of that Schedule.

(3) An amount specified in relation to an application fee in Column 3 of Schedule 4 under the heading " Processing component " is taken to be a fee to cover the costs incurred by the Director-General in processing the application. This amount is consequently a "**processing fee**" for the purposes of Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002*. If an application is made by electronic communication, the processing fee is discounted (see section 13 of that Act). If an application is refused, the applicant is not entitled to a refund of the processing fee (see section 22 of that Act).

(4) There is no prescribed fee for an application:

- (a) for the grant, renewal or restoration of a contractor licence authorising the holder to contract to do plumbing work or gasfitting work, or both, made by the holder of a contractor licence issued by the Plumbing Industry Commission of Victoria, but only if the holder's business is carried on principally in Victoria, or
- (b) for the grant of a supervisor certificate authorising the holder to do or supervise plumbing work or gasfitting work, or both, made by the holder of a contractor licence issued by that Commission, but only if the holder's principal place of residence is in Victoria, or
- (c) for the grant, renewal or restoration of a tradesperson certificate authorising the holder to do plumbing work or gasfitting work, or both, made by the holder of a certificate of registration issued by that Commission, but only if the holder's principal place of residence is in Victoria, or
- (d) for the grant of a supervisor certificate to do electrical wiring work to a person who held an electrical mechanic's contractor licence under the *Electricity Safety Act 1945*, authorising the person to do electrical wiring work without supervision, immediately before 21 March 1990 (the date of commencement of clause 10 of Schedule 4 to the *Home Building Act 1989*).

(5) (Repealed)

42A Refund of application fees for certain 3-year licences and certificates

(1) This clause applies to an application fee paid by or on behalf of a person who has had his or her licence or certificate cancelled by the Director-General because:

- (a) the person requested that the licence or certificate be cancelled, or
- (b) the person died,

but only if the licence or certificate was for a 3-year duration.

(2) A person may apply to the Director-General for a refund of an application fee to which this clause applies if the person:

- (a) paid the application fee, or
- (b) is the legal personal representative of a deceased person who paid the application fee, or
- (c) is applying for or on behalf of the person who paid the application fee.

(3) A person who makes an application under subclause (2) is:

- (a) in the case of an application relating to a licence or certificate that was cancelled not more than one year after the date of the grant, renewal or restoration of the licence or certificate--to be refunded two-thirds of the fixed component of the application fee so paid, or
- (b) in the case of an application relating to a licence or certificate that was cancelled more than one year but not

more than two years after the date of the grant, renewal or restoration of the licence or certificate--to be refunded one-third of the fixed component of the application fee so paid.

(4) In this clause: "**application fee**" means any of the following:

- (a) an application fee for the grant of a new licence or certificate,
- (b) an application fee for the renewal of a licence or certificate,
- (c) an application fee for the restoration of a licence or certificate.

"**certificate**" means:

- (a) an other construction or specialist work supervisor certificate, or
- (b) a tradesperson certificate.

"**fixed component**" of an application fee is the amount set out in Column 4 of Schedule 4 in relation to the fee. "**licence**" means a contractor licence.

42B Modification of Part 2 of Licensing and Registration (Uniform Procedures) Act 2002

Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002* is modified in such a manner that sections 24 (2) and 25 of that Act do not apply in relation to a licence.

43 Examination fees

The Director-General may from time to time determine fees payable by candidates for examinations conducted by or on behalf of the Director-General and by applicants for the re-marking of the results of such examinations.

44 Refund of examination fees

(1) If a person makes an application to sit for an examination conducted by or on behalf of the Director-General or for the re-marking of the result of such an examination, the Director-General:

- (a) must refund the whole or any part of the relevant fee if the application is refused, and
- (b) may refund the whole or any part of the relevant fee if the application is withdrawn or the applicant does not attend for such an examination.

(2) Any such refund is to be paid to:

- (a) the applicant for the examination or the re-mark, or
- (b) any other person who appears to the Director-General to be entitled to the refund.

Division 6 – Miscellaneous

45 Owner-builder permits

(1) For the purposes of the definition of "**owner-builder work**" in section 29 (1) of the Act, the prescribed amount is \$5,000 (inclusive of GST).

(2) For the purposes of section 29 (3) of the Act, a person has a prescribed interest in land (so that the person is an owner of land for the purposes of Division 3 of Part 3 of the Act) if the person individually, jointly or in common, either at law or in equity:

- (a) has a freehold interest in the land (such as where the person is duly registered under the *Real Property Act 1900* as the proprietor of an estate in fee simple, whether unconditionally, for life or in remainder), or
- (b) has a leasehold interest in the land in perpetuity, for life, or for a term exceeding 3 years.

(3) The Director-General may require an applicant for an owner-builder permit who has a leasehold interest in the land concerned (other than a leasehold in perpetuity) to obtain the written permission of the person who has the freehold interest or leasehold interest in perpetuity in that land to carry out the work for which the permit is required.

46 Categories of residential building work or specialist work

(1) For the purposes of sections 21 (1) (a) and 27 (1) (a) of the Act, the following categories of residential building work are prescribed:

- (a) general building work,
- (b) swimming pool building,
- (c) swimming pool repairs and servicing,
- (d) structural landscaping,
- (e) carpentry,
- (f) joinery,
- (g) (Repealed)
- (h) bricklaying,
- (i) stonemasonry,
- (j) dry plastering,
- (k) wet plastering,
- (l) painting,
- (m) decorating,
- (n) wall and floor tiling,
- (o) general concreting,
- (p) (Repealed)
- (q) excavating,
- (r) underpinning or piling,
- (s) fencing,
- (t) glazing,
- (u) waterproofing,
- (v) roof tiling,
- (w) roof slating,
- (x) roof plumbing,
- (y) (Repealed)

- (z) metal fabrication,
- (aa) minor tradework,
- (ab) minor maintenance and cleaning,
- (ac) kitchen, bathroom and laundry renovation,
- (ad) erection of pre-fabricated metal-framed home additions and structures.

(2) For the purposes of sections 21 (1) (b) and 27 (1) (b) of the Act, the following categories of specialist work are prescribed:

- (a) plumbing work,
- (b) water plumbing work,
- (c) draining work,
- (d) gasfitting work,
- (e) liquefied petroleum gasfitting work,
- (f) advanced liquefied petroleum gasfitting work,
- (g) air-conditioning work,
- (h) refrigeration work,
- (i) electrical wiring work,
- (j) disconnection and reconnection of fixed electrical equipment.

47 (Repealed)

48 Exemption from requirement to show insurance has been obtained

(1) The holder of, or an applicant for, a contractor licence is exempt from the provisions of sections 20 (3) (c), 22A and 40 (2A) of the Act unless the contractor licence is a contractor licence that authorises the holder to do residential building work or specialist work described in the contractor licence by means of or to the effect of any of the following descriptions:

- (a) above ground pool builder,
- (b) bathroom renovations,
- (c) builder,
- (d) carport builder,
- (e) concrete pre-engineered swimming pool,
- (f) demountable swimming pool building,
- (g) enclosed rooms,
- (h) enclosure of sub-floor areas,
- (i) fibreglass swimming pool building,
- (j) garage building,
- (k) glass enclosures,
- (l) inclined elevators,
- (m) (Repealed)
- (n) kitchen renovations,
- (o) laundry renovations,
- (p) modular extensions,
- (q) modular pools,
- (r) restore heritage buildings,
- (s) saunas,
- (t) screened enclosures,
- (u) semi construction of fibreglass pools,
- (v) sheds,
- (w) spa building,
- (x) structural landscaping,
- (y) sunrooms,
- (z), (aa), (ab) (Repealed)
- (ac) swimming pool building.

(2) The holder of, or an applicant for, a contractor licence is exempt from the provisions of sections 20 (3) (c), 22A and 40 (2A) of the Act if the contractor licence only authorises the holder to contract to do work of a kind that is not required to be insured under Part 6 of the Act.

49 Exemption from requirement to return authority when conditions are imposed

A person is exempt from the requirements of section 44 (Return of cancelled or varied authority) of the Act if the Director-General states in the notice imposing a condition on the authority concerned that there is no need for the condition to be endorsed on the authority.

50 Work descriptions on contractor licences or certificates

- (1) Extended descriptions of the work that the holders of various categories of contractor licences or certificates are authorised to do or contract to do are provided in Schedule 5.
- (2) If the work that a contractor licence authorises its holder to contract to do is described in the contractor licence by the use of a work description specified in Column 1 of the Table in Schedule 5, the description is to be taken to refer to the work specified for the work category in Column 2 of that Table.

51 Modification of Part 2 of Licensing and Registration (Uniform Procedures) Act 2002

Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002* is modified in the following manner:

- (a) sections 9 and 10 do not apply in relation to an owner-builder permit,
- (b) section 14 (1) is taken to read as follows:

- (1) The relevant licensing authority may serve notice on an applicant requiring the applicant:
- (a) to provide:
 - (i) such information further to the original information contained in the application, and
 - (ii) such documentary or other evidence in support of the original or further information, as the authority may require to enable it to deal with the application, or
 - (b) to have his or her photograph taken by the licensing authority, or to provide a photograph in a form specified by the authority.
- (c) section 21 is taken to include the following subsection after section 21 (2):
- (2A) Except for the purposes of any proceedings for an offence or relating to a complaint under Part 4 of the *Home Building Act 1989*, an authority that is the subject of an application for restoration (a "**restoration application**") that has been duly made is to be taken to have continued in force from the time the authority expired until one of the following occurs:
- (a) the authority is renewed by the Director-General, or
 - (b) if the Director-General rejects the application and:
 - (i) an application for a review of the rejection is not lodged with the Civil and Administrative Tribunal within 30 days after that rejection--the expiry of that 30 day period, or
 - (ii) an application for the review of the rejection is lodged with the Civil and Administrative Tribunal within 30 days after that rejection--the application is decided or withdrawn, or
 - (c) the restoration application is withdrawn.
- (d) section 21 is taken to include the following subsection after section 21 (8):
- (9) Nothing in this section prevents the suspension of a contractor licence (within the meaning of the *Home Building Act 1989*).

Part 5 – Insurance requirements

Division 1 – Preliminary

52 Definitions

- (1) In this Part: "**beneficiary**" means a person entitled to claim a benefit provided under an insurance contract. "**common property**" means:
- (a) common property within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*, or
 - (b) association property within the meaning of the *Community Land Development Act 1989*.
- "**contractor**" means a person required by section 92 of the Act not to do residential building work under a contract unless an insurance contract is in force in relation to the work. "**insolvent**" means:
- (a) in relation to an individual, that the individual is insolvent under administration (within the meaning of the *Corporations Act 2001* of the Commonwealth), or
 - (b) in relation to a corporation, that the corporation is an externally-administered body corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth).
- "**insurance contract**" means a contract of insurance required to be entered into under Part 6 of the Act. "**insurer**" means the issuer or provider of an insurance contract. "**owner-builder work**" means owner-builder work within the meaning of Division 3 of Part 3 of the Act that involves:
- (a) the construction of a dwelling, or
 - (b) the alteration of, or additions to, a dwelling, or
 - (c) the construction of an inground swimming pool.
- "**principal certifying authority**" has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.
- (2) In this Part, work is taken not to be completed even though it has not commenced.
- (3) A reference in this Part to the disappearance of a contractor or owner-builder includes a reference to the fact that, after due search and inquiry, the contractor or owner-builder cannot be found.

53 Application

- (1) This Part is subject to the conditions of any approval given by the Minister under section 103A of the Act.
- (2) Nothing in this Part affects the requirements of the *Insurance Contracts Act 1984* of the Commonwealth.

Division 2 – Insurance contracts generally

54 Persons who may arrange insurance contracts

An insurance contract may be entered into for the purposes of Part 6 of the Act by a contractor, or by a beneficiary in respect of the work done, and may be arranged by any such person.

55 Beneficiaries

- (1) An insurance contract must provide that the beneficiaries under the contract are:
- (a) a person:
 - (i) on whose behalf residential building work covered by the contract is done or is to be done, or
 - (ii) (Repealed)
 - (iii) who is a purchaser of land on which owner-builder work, or work required by section 95 or 96 of the Act to be insured, and covered by the contract, is done, or
 - (b) a successor in title to any person referred to in paragraph (a) (i), (ii) or (iii).
- (2) The following persons are not required to be beneficiaries under an insurance contract:
- (a) a developer who does residential building work,
 - (b) a person who does residential building work other than under a contract,
 - (c) a holder of a contractor licence who or that carried out residential building work,
 - (d) related companies, within the meaning of section 50 of the *Corporations Act 2001* of the Commonwealth, to

- any corporate person referred to in paragraph (a), (b) or (c),
- (e) a body corporate that is related, within the meaning of section 50 of the *Corporations Act 2001* of the Commonwealth, to any corporate person referred to in paragraph (a), (b) or (c),
- (f) a body corporate that is a related party, within the meaning of section 228 of the *Corporations Act 2001* of the Commonwealth, of any corporate person referred to in paragraph (a), (b) or (c).

(3) Nothing in this clause prevents a person referred to in subclause (2) from being a beneficiary under an insurance contract.

(4) For the purposes of this clause, the owner or owners of common property the subject of work referred to in section 95 or 96 of the Act are taken to be purchasers of the land on which the common property is situated.

56 Losses indemnified

(1) An insurance contract must indemnify beneficiaries under the insurance contract for the following losses or damage in respect of residential building work covered by the insurance contract:

- (a) loss or damage resulting from non-completion of the work because of the insolvency, death or disappearance of the contractor,
- (b) loss or damage arising from a breach of a statutory warranty, being loss or damage in respect of which the beneficiaries cannot recover compensation from the contractor or owner-builder or have the contractor or owner-builder rectify because of the insolvency, death or disappearance of the contractor or owner-builder.

(2) (Repealed)

(3) Without limiting subclause (1) or (2), an insurance contract (other than an insurance contract in relation to owner-builder work) must indemnify a beneficiary for the following loss or damage, being loss or damage in respect of which a beneficiary cannot recover compensation from the contractor concerned, or have the contractor rectify, because of the insolvency, death or disappearance of the contractor:

- (a) loss or damage resulting from faulty design, where the design was provided by the contractor, or
- (b) loss or damage resulting from non-completion of the work because of early termination of the contract for the work because of the contractor's wrongful failure or refusal to complete the work, or
- (c) the cost of alternative accommodation, removal and storage costs reasonably and necessarily incurred as a result of an event referred to in subclause (1) or (2), or
- (d) loss of deposit or progress payment due to an event referred to in subclause (1) or (2), or
- (e) any legal or other reasonable costs incurred by a beneficiary in seeking to recover compensation from the contractor for the loss or damage or in taking action to rectify the loss or damage.

(4) Without limiting subclause (1) or (2), an insurance contract in relation to owner-builder work must indemnify a beneficiary for the following loss or damage, being loss or damage in respect of which a beneficiary cannot recover compensation from the owner-builder concerned, or have the owner-builder rectify, because of the insolvency, death or disappearance of the owner-builder:

- (a) loss or damage resulting from faulty design, where the design was provided by the owner-builder, or
- (b) the cost of alternative accommodation, removal and storage costs reasonably and necessarily incurred as a result of an event referred to in subclause (1) or (2), or
- (c) any legal or other reasonable costs incurred by a beneficiary in seeking to recover compensation from the owner-builder for the loss or damage or in taking action to rectify the loss or damage.

(5) The insurance contract must state that the risks indemnified include the acts and omissions of all persons contracted by the contractor, owner-builder or other person to perform the work resulting in loss or damage of a kind referred to in this clause.

57 Exclusion of amounts of deposit or progress payment

Despite clause 56, an insurance contract may contain a provision that excludes the insurer from liability for the amount of any part of:

- (a) a deposit or payment that exceeds the amount specified for such a deposit or payment in section 8 of the Act, or
- (b) a progress payment that exceeds the amount specified for such a payment under any contract related to the work concerned.

58 Limitations on liability and cover

(1) An insurance contract may contain the following limitations on liability under the contract:

- (a) the contract may limit claims that may otherwise arise under the building contract in the nature of liquidated damages for delay or damages for delay provided that any such limitation must not extend to any increase in rectification costs caused by the effluxion of time,
- (b) if the contract is required to be entered into under section 95 of the Act, the contract may provide that the insurer is not liable in respect of any defect that is referred to in any report on the owner-builder work required by the insurer to be obtained before the insurance contract was entered into,
- (c) the contract may exclude a claim for such loss or damage as could be reasonably expected to result from fair wear and tear of the building work covered by the contract or failure by the beneficiary to maintain the building work,
- (d) the contract may exclude a claim in relation to a defect in, or the repair of damage to, structural elements in the non-residential part of a building that supports or gives access to the residential part, unless it is a defect or damage that adversely affects the structure of the residential part or the access to it,
- (e) the contract may exclude a claim in relation to damage caused by the normal drying out of the building work, if the damage has occurred despite the contractor taking all reasonable precautions in allowing for the normal drying out when carrying out the building work,
- (f) the contract may exclude a claim in relation to damage due to, or made worse by, the failure of any beneficiary to take reasonable and timely action to minimise the damage,
- (g) the contract may exclude a claim in relation to an appliance or apparatus (such as a dishwasher or air-

conditioning unit) if the claim is made after the expiry of the manufacturer's warranty period for the appliance or apparatus or, if there is no warranty period, outside the reasonable lifetime of the appliance or apparatus,

(h) the contract may exclude a claim in relation to damage to work or materials that is made outside the reasonable lifetime of the work or materials or the manufacturer's warranty period for the materials,

(i) the contract may exclude a claim in relation to a defect due to a faulty design provided by a beneficiary or a previous owner,

(j) the contract may limit liability resulting from non-completion of building work to an amount that is not less than 20% of the contract price (including any agreed variation to the contract price) for the work,

(k) the contract may exclude a claim for loss or damage resulting from any of the following if the exclusion is a standard policy provision of the insurer and the exclusion is not inconsistent with this Regulation and does not contravene this Regulation:

- (i) war,
- (ii) an act of terrorism,
- (iii) civil unrest,
- (iv) asbestos contamination or removal,
- (v) a nuclear event,
- (vi) risks normally insured under a policy for public liability or contract works,
- (vii) an act of God or nature,
- (viii) failure by the beneficiary to maintain appropriate protection against pest infestation or exposure of natural timbers,
- (ix) consequential loss, including, without limitation, loss of rent or other income, loss of enjoyment, loss of business opportunity, inconvenience or distress,
- (x) malfunction in any mechanical or electrical equipment or appliance, if the insurer proves that the malfunction is not attributable to the workmanship of, or installation by, the contractor.

(2) An insurance contract may contain any other limitation on liability, but only if it is not inconsistent with this Regulation and does not contravene any requirement of this Regulation.

(3) For the purposes of this clause, an "**act of terrorism**" is an act that, having regard to the nature of the act, and the context in which the act was done, it is reasonable to characterise as an act of terrorism.

(4) Any lawful activity or any industrial action cannot be characterised as an act of terrorism for the purposes of this clause. An act can only be so characterised if it:

- (a) causes or threatens to cause death, personal injury or damage to property, and
- (b) is designed to influence a government or to intimidate the public or a section of the public, and
- (c) is carried out for the purpose of advancing a political, religious, ideological, ethnic or similar cause.

58A Reduction of liability for failure to enforce statutory warranty

(1) An insurance contract may contain a provision to the effect that the insurer may reduce its liability under the contract or reduce any amount otherwise payable in respect of a claim because of a failure by the beneficiary to take action to enforce a statutory warranty from the breach of which the insured loss arises, but only to the extent of an amount that fairly represents the extent to which the insurer's interests were prejudiced as a result of the failure.

(2) A provision included in an insurance contract under this clause does not limit the operation of any provision included in the insurance contract to the effect of a provision required to be included by clause 63.

59 Amount of cover where one or more dwellings

An insurance contract may provide that the minimum amount of cover otherwise payable under section 102 of the Act or this Regulation, in respect of a dwelling in a building or complex containing more than one dwelling, may be reduced by not more than an amount calculated by dividing the amount of any claim paid by the insurer in relation to common property of the building or complex by the number of dwellings contained in the building or complex.

60 Minimum insurance cover

(1) For the purposes of section 102 (3) of the Act, the amount prescribed is \$340,000 in relation to each dwelling to which the insurance relates, subject to clause 69 (Requirements for insurance for residential flat buildings).

(2), (3) (Repealed)

(4) An insurance contract must provide that the minimum amount of cover payable is to be the amount provided for from time to time by the Act and this Regulation.

(5) Subclause (4) does not prevent an insurance contract from providing for a minimum amount of cover that exceeds the amount referred to in that subclause.

(6) An insurance contract that is entered into using any existing stock is taken to refer to the amount of cover that is, for the time being, the amount provided by or under this clause.

(7) For the purposes of subclause (6), "**existing stock**" means a form that:

- (a) has been printed before the date of any increase in the amount of cover provided by or under this clause, and
- (b) refers to the amount of cover provided by or under this clause immediately before that date.

61 (Repealed)

62 Misrepresentation or non-disclosure

An insurance contract must contain a provision to the effect that the insurer is not entitled either to refuse to pay a claim under the contract or to cancel the contract on the ground that the contract was obtained by misrepresentation or non-disclosure by the contractor or owner-builder or that the policy premium was not paid providing, in the latter case, that a certificate evidencing insurance has been given or the insurer has otherwise accepted cover.

62A Time within which insurer taken to have accepted claim

(1) Provision to be contained in insurance contract An insurance contract entered into on or after 1 September 2005 must contain a provision to the effect that an insurer is taken to have accepted liability for an insurance claim if written

notice of the insurer's decision in relation to the claim is not given to the beneficiary within:

- (a) 90 days of the lodging of the claim with the insurer, or
 - (b) such further time as may be agreed between the beneficiary and the insurer.
- (2) Existing stock Despite subclause (1), an insurance contract that does not contain the provision referred to in that subclause may be entered into on or after 1 September 2005 if the form on which that contract is printed was in existence before 1 September 2005.
- (3) Such a contract is taken to contain the provision referred to in subclause (1).

Division 3 – Miscellaneous

63 Time limits for notice of loss or damage

(1) An insurance contract must contain a provision to the effect that the insurer may not reduce its liability under the contract or reduce any amount otherwise payable in respect of a claim merely because of a delay in a claim being notified to the insurer if the claim is notified within the period set out below:

- (a) except as referred to in paragraph (b), not later than 6 months after the beneficiary first becomes aware, or ought reasonably to be aware, of the fact or circumstance under which the claim arises, or
- (b) in the case of a fact or circumstance that may give rise to a claim for loss or damage resulting from incomplete work, not later than 12 months after:

- (i) the contract date, or
- (ii) the date provided in the contract for commencement of work, or
- (iii) the date work ceased,

whichever is the later.

(2) Despite subclause (1), an insurance contract may contain a provision extending the time within which notice of a fact or circumstance may be given or enabling the insurer to waive or extend the time within which notice may be given.

(3) If a beneficiary gives notice of a loss (the "**notified loss**") to the insurer, the beneficiary is taken for the purposes of a provision included in an insurance contract pursuant to this clause to have given notice of every loss (a "**related loss**") that was caused by the same defect as caused the notified loss, whether or not the claim in respect of the notified loss has been settled.

(4) The giving of notice of or the making of a claim for the notified loss does not constitute the giving of notice of or the making of a claim for any related loss for the purposes of sections 103BA-103BC of the Act, and those sections are not affected by this clause or any provision included in an insurance contract pursuant to this clause.

63A (Repealed)

64 Refusal of insurance claims

(1) For the purposes of making an appeal against a decision of an insurer, an insurance claim is taken to have been refused if written notice of the insurer's decision is not given to the beneficiary within 45 days of the lodging of the claim with the insurer or within such further time as may be agreed between the beneficiary and the insurer.

(2) This clause does not apply to an insurance claim made in relation to an insurance contract entered into on or after 1 September 2005.

65 Insurance appeals

(1) An appeal against a decision of an insurer that is a building claim made under Part 3A of the Act or a consumer claim under the *Consumer Claims Act 1998* must be made not later than 45 days after written notice of the decision is given to the beneficiary.

(2) Nothing in subclause (1) limits the time within which an appeal may be made if a claim is taken to have been refused because of the operation of clause 64 and written notice of a decision has not been given to the beneficiary.

(3) However, an appeal may, with the leave of the Tribunal or court, be lodged with the principal registrar of the Tribunal or court after the end of the period referred to in subclause (1), if:

- (a) an application is made to the Tribunal or court for leave to lodge the appeal out of time, and
- (b) in the opinion of the Tribunal or court, there are special circumstances to grant leave, and
- (c) the Tribunal or court grants leave.

(4) Without limiting the type of circumstances that may be considered special circumstances, the time taken for a decision to be reviewed by the insurer is a factor in determining special circumstances.

66 Certificates evidencing insurance

(1) For the purposes of section 92 of the Act, the prescribed form of the certificate of insurance is the form set out in Form 1.

(2) (Repealed)

(3) For the purposes of section 95 of the Act, the prescribed form of the certificate of insurance is the form set out in Form 3.

(4) For the purposes of section 96 of the Act, the prescribed form of the certificate of insurance is the form set out in Form 1.

(5) For the purposes of section 96A of the Act, the prescribed form of the certificate of insurance is the form set out in Form 1.

67 Evidence of acceptance of risk

Pursuant to section 103I (2) (f) of the Act, the indemnity provided under section 103I of the Act applies in connection with any matter covered by an insolvent insurer's policy issued by HIH Casualty and General Insurance Limited or FAI General Insurance Company Limited despite the fact that no certificate of insurance evidencing the insolvent insurer's policy was issued if the person claiming to be a beneficiary demonstrates to the satisfaction of the Guarantee Corporation that the insolvent insurer accepted the risk on or before:

- (a) 15 March 2001 in the case where an owner-builder entered into a contract of insurance in order to comply with the requirements of section 95 of the Act, or
- (b) 20 June 2001 in the following cases:

- (i) where section 92 (1) (a) or 96 (1) of the Act required a person to ensure a contract of insurance was in force to enable the person to do residential building work,
- (ii) where section 93 (1) (a) of the Act required a person to ensure a contract of insurance was in force to enable the person to supply a kit home.

68 Access for work

- (1) An insurance contract may require a beneficiary to give access to the relevant property to a contractor for the purpose of inspection, rectification or completion of work.
- (2) Any such requirement is to be subject to the beneficiary's right to refuse access on reasonable grounds.

69 Requirements for insurance for residential flat buildings

- (1) This clause applies to the following work in relation to an existing single residential flat building where the contract price (inclusive of GST) exceeds \$20,000:
 - (a) work on the common property of the existing single residential flat building (where the building comprises strata, community scheme or company title home units),
 - (b) work on an existing single residential flat building if the whole building is owned by the same person.
- (2) For the purposes of section 102 (3) of the Act:
 - (a) if the amount obtained by dividing the contract price (inclusive of GST) by the number of dwellings in the building does not exceed \$20,000--the contract of insurance must provide for cover of no less than a total of \$340,000, or
 - (b) if the amount obtained by dividing the contract price (inclusive of GST) by the number of dwellings in the building exceeds \$20,000--the contract of insurance must provide cover of no less than \$340,000 in relation to each dwelling in the building.
- (3) In this clause: "**dwelling**", in relation to a strata, community scheme or company title home unit, includes any garage or storage area that is included in the same title as the unit. "**residential flat building**" means a building containing 2 or more dwellings.

70 Insurance thresholds

The amount of \$20,000 (inclusive of GST) is prescribed for the purposes of sections 92, 95 and 96 of the Act.

71 Meaning of "structural defect"

- (1) For the purposes of sections 18E (1) (b) and 103B (2) of the Act, "**structural defect**" means any defect in a structural element of a building that is attributable to defective design, defective or faulty workmanship or defective materials (or any combination of these) and that:
 - (a) results in, or is likely to result in, the building or any part of the building being required by or under any law to be closed or prohibited from being used, or
 - (b) prevents, or is likely to prevent, the continued practical use of the building or any part of the building, or
 - (c) results in, or is likely to result in:
 - (i) the destruction of the building or any part of the building, or
 - (ii) physical damage to the building or any part of the building, or
 - (d) results in, or is likely to result in, a threat of imminent collapse that may reasonably be considered to cause destruction of the building or physical damage to the building or any part of the building.
- (2) In subclause (1): "**structural element of a building**" means:
 - (a) any internal or external load-bearing component of the building that is essential to the stability of the building or any part of it, including things such as foundations, floors, walls, roofs, columns and beams, and
 - (b) any component (including weatherproofing) that forms part of the external walls or roof of the building.

72 Persons entitled to apply for exemptions from insurance requirements

For the purposes of section 97 (1A) of the Act:

- (a) a developer who is required to comply with section 96A of the Act is prescribed as a person entitled to apply for an exemption under that subsection, and
- (b) a contractor doing residential building work is prescribed as entitled to apply in relation to that work for the exemption referred to in that subsection.

73 Temporary exemption from section 92B requirements

- (1) A contract of insurance is exempt from a requirement arising under section 92B of the Act that the operation of the contract be extended to residential building work done at the address stated in the certificate of insurance, but this exemption applies only in respect of:
 - (a) a contract of insurance entered into in the period commencing on 4 July 2003 (being the date of commencement of clause 57BB of the *Home Building Regulation 1997*) and ending on 31 December 2014, and
 - (b) residential building work done or to be done in the period commencing on 4 July 2003 and ending on 31 December 2014 (regardless of when the contract of insurance concerned was entered into).
- (2) (Repealed)

73A (Repealed)

74 Exemptions from insurance for multi-storey buildings

- (1) A person who does, or enters into a contract to do, residential building work relating to the construction of a multi-storey building is exempt from the requirements of Part 6 of the Act in respect of that residential building work.
- (2) A developer who enters into a contract for the sale of land on which residential building work relating to the construction of a multi-storey building has been done, or is to be done, is exempt from the requirements of section 96A of the Act in relation to that residential building work.
- (3) This clause does not apply in respect of residential building work commenced before 31 December 2003 (being the date of commencement of clause 57BC of the *Home Building Regulation 1997*, the corresponding earlier version of this clause).

(4) If a developer entered into a contract for the sale of land on which residential building work in relation to a multi-storey building was proposed to be carried out but was not commenced before 31 December 2003 and the developer complied with clause 77 in relation to that contract:

- (a) the provisions of the contract complying with clause 77 (b) (ii) and (iii) cease to have effect, and
- (b) the developer must notify the purchaser of the land in writing that they no longer have effect and of the exemption from the requirements of Part 6 of the Act in relation to the residential building work conferred by this clause.

(5) In this clause: "**multi-storey building**" means a building:

- (a) that has a rise in storeys of more than 3, and
- (b) that contains 2 or more separate dwellings.

"**rise in storeys**" has the same meaning as it has in the *Building Code of Australia*. "**storey**" does not include a space within a building if the space includes accommodation only intended for vehicles.

75 Exemption from insurance in relation to retirement villages

(1) A holder of a contractor licence who does, or enters into a contract to do, residential building work on behalf of a developer, being residential building work relating to the construction of a self contained dwelling in a retirement village, is exempt from the requirements of Part 6 of the Act in respect of that residential building work.

(2) For the purposes of this clause, "**retirement village**" has the same meaning as in the *Retirement Villages Act 1999*, except that it does not include a retirement village that is subject to a community land scheme, company title scheme or strata scheme.

(3) In this clause: "**community land scheme**" means a scheme (other than a strata scheme) within the meaning of the *Community Land Management Act 1989*. "**company title scheme**" has the same meaning as it has in the *Retirement Villages Act 1999*. "**strata scheme**" has the same meaning as it has in the *Strata Schemes Management Act 1996*.

76 Exemption from insurance for certain work funded through Department of Ageing, Disability and Home Care

A holder of a contractor licence who does, or enters into a contract to do, residential building work that is funded by the Home and Community Care Program through the Home Modification and Maintenance sub-program administered by the Department of Ageing, Disability and Home Care is exempt from the requirements of Part 6 of the Act in respect of that work.

76A Exemption from insurance for certain work funded through Teacher Housing Authority of NSW

A holder of a contractor licence who does, or enters into a contract to do, residential building work that is funded by the Teacher Housing Authority of New South Wales is exempt from the requirements of Part 6 of the Act in respect of that work.

77 Exemption from certificate requirement where work not commenced

A developer is exempt from the requirements of section 96A of the Act if:

- (a) work under a contract for the carrying out of residential building work entered into by the developer has not commenced when a contract of sale is entered into for the sale of the land on which the residential building work is to be done, and
- (b) the contract of sale contains provisions:
 - (i) informing the purchaser of the land under the contract that the exemption applies, and
 - (ii) informing the purchaser that the Act requires residential building work (whether or not done under a contract) to be insured, and
 - (iii) requiring the developer or any assignee of the developer's rights under the contract to provide a certificate of insurance in respect of any residential building work (as required by section 96A (1) of the Act) to the purchaser within 14 days after the contract of insurance in respect of that work is made, and
 - (iv) enabling the purchaser to rescind if the developer or any assignee of the developer fails to provide the certificate of insurance within that period of 14 days.

Part 6 – Resolution of building disputes and building claims

78 Transfer of proceedings from other courts

(1) For the purposes of section 48L of the Act:

- (a) proceedings are to be transferred by order of the court hearing the proceedings, and
- (b) notice of the transfer is to be given to the principal registrar of the Tribunal by the registrar of the court hearing the proceedings, and
- (c) all documents relating to the proceedings in the custody of the court hearing the building claim are to be transferred by the registrar of the court to the principal registrar of the Tribunal.

(2) On receipt of such a notice of transfer and accompanying documents, the principal registrar must serve on all of the parties a notice fixing a date and time for the holding of the hearing or a directions hearing in relation to the proceedings.

79 Warning notice for Tribunal orders

For the purposes of section 48R of the Act, the following warning must be included in an order made under Part 3A of the Act:

WARNING FOR HOME BUILDING LICENCE HOLDERS You must notify the Office of Fair Trading's Home Building Service in writing when you have complied with this order (for example, when you have done the work or paid the money). If you do not notify the Home Building Service, your public record will show that you have failed to comply with the order and you may be unable to renew your licence when it expires. You can be fined up to \$22,000 if you falsely claim you have complied with this order.

Part 7 – General

80 Register

For the purposes of section 120 of the Act, the register must include the following registered particulars:

(a) in respect of contractor licences:

- (i) the name, date of birth and business address of contractor licence holder,
- (ii) the contractor licence number and a description of work the contractor licence authorises the holder to contract to do,
- (iii) the date of issue and current expiry date,
- (iv) conditions endorsed on the contractor licence, if any, and date of any alteration to the conditions,
- (v) variations of the description of the work the contractor licence authorises the holder to contract to do and the date of the variations,
- (vi) whether the contractor licence, if held by an individual, is an endorsed contractor licence,
- (vii) if the holder is the nominated supervisor of the holder of another contractor licence, the name and contractor licence number of that other contractor licence holder, the date of the consent declaration and the date of ceasing to be a nominated supervisor,
- (viii) if the holder is a partnership, the names, dates of birth and addresses of the members of the partnership,
- (ix) if the holder is a corporation, the names, dates of birth and addresses of the directors of the corporation,
- (x) the name, type of authority and authority number held by any nominated supervisor for the contractor licence, the date of the consent declaration and the date of ceasing to be nominated supervisor,
- (xi) if the holder has been exempted from a requirement in relation to nominated supervisors, the date of the order and revocation of the order, if any,
- (xii) the results of any relevant determination under Part 4 of the Act (other than any determination that no further action be taken),
- (xiii) the results of any prosecutions against the holder under the Act (other than any prosecution which does not result in the holder being found guilty of an offence under the Act),
- (xiv) the number of insurance claims paid in respect of work done by the holder,
- (xv) details of any penalty notices issued to the holder,
- (xvi) any instance of non-compliance with a Tribunal order to do work or to pay money,
- (xvii) details of any public warnings issued regarding the holder under section 23 of the Act,
- (xviii) details of any formal cautions issued to the holder regarding his, her or its conduct,
- (xix) any cancellation or suspension of the contractor licence, whether made under the Act or the *Fair Trading Act 1987*,

(b) (Repealed)

(c) in respect of supervisor certificates:

- (i) the name, date of birth and residential address of holder,
- (ii) the certificate number and a description of work the certificate authorises the holder to do and to supervise,
- (iii) the date of issue and current expiry date,
- (iv) conditions endorsed on the contractor licence, if any, and the date of any alterations to the conditions,
- (v) variations of the description of work the certificate authorises the holder to do or supervise,
- (vi) if the holder is the nominated supervisor of a contract licence holder, the name and contractor licence number of that contractor licence holder, the date of the consent declaration and the date of ceasing to be a nominated supervisor,
- (vii) the results of any relevant determination under Part 4 of the Act (other than any determination that no further action be taken),
- (viii) results of any prosecutions against the holder under the Act (other than any prosecution which does not result in the holder being found guilty of an offence under the Act),
- (ix) the number of insurance claims paid in respect of work done by the holder as the holder of a contractor licence,
- (x) details of any penalty notices issued to the holder,
- (xi) any instance of non-compliance with a Tribunal order to do work or to pay money,
- (xii) details of any public warnings issued regarding the holder under section 23 of the Act,
- (xiii) details of any formal cautions issued to the holder regarding his or her conduct,
- (xiv) any cancellation or suspension of the supervisor certificate, whether made under the Act or the *Fair Trading Act 1987*,

(d) in respect of tradesperson certificates:

- (i) the name, date of birth and residential address of holder,
- (ii) the certificate number and a description of work the certificate authorises the holder to do,
- (iii) the date of issue and current expiry date,
- (iv) conditions endorsed on the certificate, if any, and the date of any alterations to the conditions,
- (v) variations of the description of work the certificate authorises the holder to do,
- (vi) results of any relevant determination under Part 4 of the Act (other than any determination that no further action be taken),
- (vii) results of any prosecutions against the holder under the Act (other than any prosecution which does not result in the holder being found guilty of an offence under the Act),
- (viii) details of any penalty notices issued to the holder,
- (ix) any instance of non-compliance with a Tribunal order to do work or to pay money,
- (x) details of any public warnings issued regarding the holder under section 23 of the Act,
- (xi) details of any formal cautions issued to the holder regarding his or her conduct,
- (xii) any cancellation or suspension of the certificate, whether made under the Act or the *Fair Trading Act 1987*,

- (e) in respect of owner-builder permits:
 - (i) the name and residential address of holder,
 - (ii) the place where the owner-builder work is to be done,
 - (iii) the number of permit and date of issue,
 - (iv) a description of work the permit authorises the holder to do.

81 Administrative review by Civil and Administrative Tribunal

(1) For the purposes of section 83B (3) (b) of the Act, the following decisions of the Director-General under Part 4 of the Act are prescribed:

- (a) a decision to vary an authority by imposing a condition on the authority,
- (b) a decision to suspend an authority (other than a contractor licence),
- (c) a decision to cancel an authority (other than a contractor licence),
- (d) a decision to disqualify the holder of an authority from being:
 - (i) the holder of an authority, or
 - (ii) a member of a partnership, or an officer of a corporation that is a member of a partnership, that is the holder of an authority, or
 - (iii) an officer of a corporation that is the holder of an authority.

Section 83B (3) (a) of the Act provides for the administrative review by the Civil and Administrative Tribunal of a decision to impose a penalty or to cancel or suspend a contractor licence.

(2) In this clause, "**authority**" has the same meaning as it has in section 55 of the Act.

82 Certificate evidence

(1) For the purposes of section 131 of the Act, the Director-General or any officer of the Office of Fair Trading, Department of Commerce authorised in writing by the Director-General for the purposes of this clause are the prescribed officers.

(2) A fee of \$22 is payable for the issue of a certificate under section 131 of the Act unless waived by the Director-General.

83 Proceedings for offences under other Acts

For the purposes of section 135 of the Act, the Director-General or any officer of the Office of Fair Trading, Department of Commerce authorised in writing by the Director-General for the purposes of this clause are the prescribed officers.

84 Display of signs

(1) This clause applies when the holder of a contractor licence authorising its holder to contract to do residential building work does such work on a site if the work involves:

- (a) the construction of a dwelling, a detached garage or carport or an inground swimming pool, or
- (b) the making of alterations or additions to any such structure, being work that requires development consent.

(2) This clause does not apply to the holder of a contractor licence who or that has entered into a sub-contract with another holder of a contractor licence to do the work concerned or who or that contracts to do work which has been authorised by an owner-builder permit.

(3) If this clause applies, a licensee must prominently display on some part of the land on which the licensee is doing residential building work a sign showing in clear and legible characters:

- (a) the name of the licensee shown on the contractor licence, and
- (b) the words "licensed contractor" or words to that effect, and
- (c) the number of the contractor licence held by the licensee.

Maximum penalty: 20 penalty units in the case of a corporation and 10 penalty units in any other case.

85 Advertising

In any advertisement of any kind relating to the doing or contracting to do residential building work or specialist work by the holder of a contractor licence, the following details must be included:

(a) if the holder is an individual:

- (i) the holder's name or, if the holder has a business name registered under the *Business Names Registration Act 2011* of the Commonwealth in respect of the work to which the contractor licence applies--that business name, and
- (ii) the number of the contractor licence held by the individual,

(b) if the holder is a partnership:

- (i) the names of all the members of the partnership or, if the partnership has a business name registered under the *Business Names Registration Act 2011* of the Commonwealth in respect of the work to which the contractor licence applies--that business name, and
- (ii) the number of the contractor licence held by the partnership,

(c) if the holder is a corporation:

- (i) the name of the corporation or, if the corporation has a business name registered under the *Business Names Registration Act 2011* of the Commonwealth in respect of the work to which the contractor licence applies--that business name, and
- (ii) the number of the contractor licence held by the corporation.

Maximum penalty: 20 penalty units in the case of a corporation and 10 penalty units in any other case.

86 Hazardous specialist work: do-it-yourself publications and public addresses

(1) In this clause: "**document**" includes a film, tape or disc or other article from which sounds or images are capable of being reproduced. "**hazardous specialist work**" means:

- (a) electrical wiring work, and
- (b) gasfitting work, and
- (c) plumbing work to which *AS/NZS 3500.4:2003, Plumbing and drainage, Part 4: Heated water services*,

published by Standards Australia, applies.

"publish" includes distribute, display or exhibit. **"unauthorised person"**, in relation to the doing of hazardous specialist work, is a person who is not the holder of an endorsed contractor licence or supervisor certificate authorising its holder to do such work or who is not appropriately supervised in the doing of the work by the holder of such a licence or certificate.

(2) A person must not publish a document or deliver a public address (whether or not in the form of a lecture or talk in public or in a radio or television broadcast) in which the person:

- (a) describes or advises how hazardous specialist work may be done, or
- (b) states, suggests or implies that an unauthorised person may do such work,

unless the person complies with subclause (3). Maximum penalty: 40 penalty units in the case of a corporation and 20 penalty units in any other case.

(3) The person must include in the document or address a statement that:

- (a) is expressed in the language used in the document or address, and
- (b) is legible or audible, as the case requires, and
- (c) is located prominently in the document or during the address, and
- (d) informs the reader, the viewer or the audience, as the case may be, that:
 - (i) it is illegal and potentially dangerous for unauthorised persons to do electrical wiring work, gasfitting or hot water plumbing, and
 - (ii) penalties on conviction for doing such work illegally are severe.

(4) Subclauses (2) and (3) do not apply to a document or public address used or intended to be used for training or addressing persons engaged or concerned in the relevant specialist work industry.

87 Penalty notice offences

For the purposes of section 138A of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 6 is prescribed as a penalty notice offence, and
- (b) the prescribed penalty for such an offence is the amount specified in relation to the offence in Column 2 of Schedule 6 (in respect of an individual) or in Column 3 of Schedule 6 (in respect of a corporation).

88 Savings

Any act, matter or thing that, immediately before the repeal of the *Home Building Regulation 1997*, had effect under that Regulation continues to have effect under this Regulation.

89 Exemptions--Bonnyrigg Living Communities Project

(1) Exemption from requirements of Act and Regulation Each of the following is exempt from the requirements of the Act and this Regulation, but only in respect of the housing project known as the "Bonnyrigg Living Communities Project":

- (a) Becton Bonnyrigg Equity Pty Limited (ACN 075 580 406) as trustee for the Becton Bonnyrigg Equity Trust,
- (b) Bonnyrigg Development Pty Limited (ACN 122 647 483),
- (c) Bonnyrigg Partnerships Nominee Pty Limited (ACN 123 052 362),
- (d) WEST BP Pty Limited (ACN 122 967 186) as trustee for the WEST BP Trust.

(2) Exemption in relation to developer contracting with unlicensed contractor The New South Wales Land and Housing Corporation is exempt from the requirements of section 4 (4) of the Act, but only to the extent that the Corporation contracts with a person referred to in subclause (1) in respect of the housing project known as the "Bonnyrigg Living Communities Project".

90 Crown exemption

(1) The Crown (including any statutory body representing the Crown) is exempt from the requirements of the Act and this Regulation, but only in respect of a project for the construction of community housing or public housing that is or was the subject of a contract with a body corporate that has become an externally-administered body corporate.

(2) Subclause (1) does not apply to the requirements of section 14 of the Act and of section 136 of the Act in their application to contraventions concerning electrical wiring work.

(3) In this clause: **"community housing"** means housing for people on a very low, low or moderate income or people with additional needs. **"externally-administered body corporate"** has the same meaning as in the *Corporations Act 2001* of the Commonwealth. **"public housing"** has the same meaning as in the *Housing Act 2001*.

Schedule 1 Forms

(Clauses 3 (2) and 66)

Form 1

(Clause 66 (1), (4) and (5))

HOME BUILDING ACT 1989

Section 92/96/96A*

Certificate in respect of insurance

RESIDENTIAL BUILDING WORK BY CONTRACTORS

A contract of insurance complying with sections 92 and 96 of the *Home Building Act 1989* has been issued by:

(insert name of insurer)

in respect of:

*

(insert brief description of building work)

at:

(insert the address or description of the land)

carried out by:

(insert name of contractor)

or

*

(insert name and address of contractor insured and period of insurance)

Subject to the Act and the *Home Building Regulation 2004* and the conditions of the insurance contract, cover will be provided to:

* a beneficiary described in the contract and successors in title to the beneficiary, OR

* the immediate successor in title to the contractor or developer who did the work and subsequent successors in title.

Date:		
	(insert date)	
	Signed for or on behalf of the insurer:	
		(insert signature)

* Delete whichever is not applicable.

Form 2 – (Repealed)

Form 3

(Clause 66 (3))

HOME BUILDING ACT 1989

Section 95

Certificate in respect of insurance

OWNER-BUILDER WORK

A contract of insurance complying with section 95 of the *Home Building Act 1989* has been issued by:

(insert name of insurer)

in respect of:

(insert brief description of building work)

at:

(insert the address or description of the land)

carried out by:

(insert name of owner-builder)

Subject to the Act and the *Home Building Regulation 2004* and the conditions of the insurance contract, cover will be provided to the immediate successor in title to the owner-builder named above and subsequent successors in title.

Date:		
	(insert date)	

	Signed for or on behalf of the insurer:	
		(insert signature)

Schedule 2 Conditions to be included in certain contracts

(Clause 12)

Part 1 – Contracts to do residential building work

1 Plans and specifications

- (1) All plans and specifications for work to be done under this contract, including any variations to those plans and specifications, are taken to form part of this contract.
- (2) Any agreement to vary this contract, or to vary the plans and specifications for work to be done under this contract, must be in writing signed by or on behalf of each party to this contract.
- (3) This clause does not apply to a contract of the kind referred to in clause 16 of the *Home Building Regulation 2004*.

2 Quality of construction

- (1) All work done under this contract will comply with:
 - (a) the *Building Code of Australia* (to the extent required under the *Environmental Planning and Assessment Act 1979*, including any regulation or other instrument made under that Act), and
 - (b) all other relevant codes, standards and specifications that the work is required to comply with under any law, and
 - (c) the conditions of any relevant development consent or complying development certificate.
- (2) Despite subclause (1), this contract may limit the liability of the contractor for a failure to comply with subclause (1) if the failure relates solely to:
 - (a) a design or specification prepared by or on behalf of the owner (but not by or on behalf of the contractor), or
 - (b) a design or specification required by the owner, if the contractor has advised the owner in writing that the design or specification contravenes subclause (1).

Part 2 – Contracts to supply kit homes

3 Plans and specifications

- (1) All plans and specifications for building components to be supplied under this contract, including any variations to those plans and specifications, are taken to form part of this contract.
- (2) Any agreement to vary this contract, or to vary the plans and specifications for building components to be supplied under this contract, must be in writing signed by or on behalf of each party to this contract.

4 Quality of construction

- (1) All building components supplied under this contract will comply with:
 - (a) the *Building Code of Australia* (to the extent required under the *Environmental Planning and Assessment Act 1979*, including any regulation or other instrument made under that Act), and
 - (b) all other relevant codes, standards and specifications that the work is required to comply with under any law, and
 - (c) the conditions of any relevant development consent or complying development certificate.
- (2) Despite subclause (1), this contract may limit the liability of the contractor for a failure to comply with subclause (1) if the failure relates solely to:
 - (a) a design or specification prepared by or on behalf of the owner (but not by or on behalf of the contractor), or
 - (b) a design or specification required by the owner, if the contractor has advised the owner in writing that the design or specification contravenes subclause (1).

Schedule 3 Additional contract provisions

(Clause 13 (1))

Checklist for owners entering building contracts

Checklist

1	Does the contractor hold a current contractor licence?	Yes \hat{a} -j	No \hat{a} -j
2	Does the licence cover the type of work included in the contract?	Yes \hat{a} -j	No \hat{a} -j
3	Is the name and number on the contractor's licence the same as on the contract?	Yes \hat{a} -j	No \hat{a} -j
4	Is the work to be undertaken covered in the contract, drawings or specification?	Yes \hat{a} -j	No \hat{a} -j
5	Does the contract clearly state a contract price or contain a warning that the contract price is not known?	Yes \hat{a} -j	No \hat{a} -j

6	If the contract price may be varied, is there a warning and an explanation about how it may be varied?	Yes â-j	No â-j
7	Are you aware of the cooling off provisions relating to the contract?	Yes â-j	No â-j
8	Is the deposit within the legal limit? The limit is 10% for work costing \$20,000 or less or 5% for work costing more than \$20,000.	Yes â-j	No â-j
9	Is the procedure for variations understood?	Yes â-j	No â-j
10	Are you aware of who is to obtain any council or other approval for the work?	Yes â-j	No â-j
11	Do you understand that the contractor must have a policy of home warranty insurance under the <i>Home Building Act 1989</i> and provide you with a certificate of insurance before receiving any money under the contract (including a deposit) or before doing any work for more than \$20,000?	Yes â-j	No â-j
12	Has the contractor given you a document that explains the operation of the <i>Home Building Act 1989</i> and the procedures for the resolution of contract and insurance disputes?	Yes â-j	No â-j

Signatures

Do not sign this contract unless you have read and understand the clauses as well as the notes and explanations contained in this document.

If you have answered "no" to any question in the checklist, you may not be ready to sign the contract.

Both the contractor and the owner should retain an identical signed copy of this contract including the drawings, specifications and other attached documents. Make sure that you initial all attached documents and any amendments or deletions to the contract.

Signed copy of contract

Under the *Home Building Act 1989* a signed copy of the contract must be given to the owner within 5 working days after the contract is entered into.

Home warranty insurance

The contractor must provide the owner with a certificate of home warranty insurance (for work over \$20,000) before commencement of work and before demanding or receiving any payment. Your contractor may be able to organise optional home warranty insurance for work up to \$20,000, and you can discuss this with your contractor.

Owners acknowledgement

I/we have been given a copy of the Consumer Building Guide and I/we have read and understand it.

I/we have completed the checklist and answered " Yes " to all items on it.

Where the owner is a company or partnership or the contract is to be signed by an authorised agent of the owner, the capacity of the person signing the contract, eg director, must be inserted.

Signature

Name [print]

Capacity [print]

Signature

Name [print]

Capacity [print]

Schedule 4 Application fees

(Clause 42)

	Column 1	Column 2	Column 3	Column 4	Column 5
	Type of application	Duration	Processing component	Fixed component	Total fee
	Contractor licence				
	Building contractor				
(Individual)	New licence	1 year	\$267	\$348	\$615
		3 years	\$267	\$881	\$1,148
	Variation to add a category or categories referred to in clause 46 (1) (a), (b), (d), (ac) or (ad)	Not applicable	\$267	Nil	\$267
	Variation to add a category or categories referred to in clause 46 (1) (c) or (e)-(ab) or (2) (a)-(j)	Not applicable	\$136	Nil	\$136
	Renewal	1 year	\$63	\$348	\$411
		3 years	\$63	\$921	\$984
	Restoration	1 year	\$128	\$331	\$459
		3 years	\$128	\$905	\$1,033
(Partnership)	New licence	1 year	\$624	\$402	\$1,026
		3 years	\$624	\$943	\$1,567
	Variation to add a category or categories referred to in clause 46 (1) (a), (b), (d), (ac) or (ad)	Not applicable	\$267	Nil	\$267
	Variation to add a category or categories referred to in clause 46 (1) (c) or (e)-(ab) or (2) (a)-(j)	Not applicable	\$145	Nil	\$145
	Renewal	1 year	\$63	\$402	\$465
		3 years	\$63	\$1,053	\$1,116
	Restoration	1 year	\$128	\$386	\$514
		3 years	\$128	\$1,037	\$1,165
(Corporation)	New licence	1 year	\$681	\$550	\$1,231
		3 years	\$681	\$1,284	\$1,965
	Variation to add a category or categories referred to in clause 46 (1) (a), (b), (d), (ac) or (ad)	Not applicable	\$267	Nil	\$267
	Variation to add a category or categories referred to in clause 46 (1) (c) or (e)-(ab) or (2) (a)-(j)	Not applicable	\$145	Nil	\$145
	Renewal	1 year	\$63	\$550	\$613
		3 years	\$63	\$1,408	\$1,471

	Restoration	1 year	\$128	\$534	\$662
		3 years	\$128	\$1,392	\$1,520
	Other construction or specialist contractor				
(Individual)	New licence	1 year	\$136	\$142	\$278
		3 years	\$136	\$415	\$551
	Variation to add a category or categories referred to in clause 46 (1) (a), (b), (d), (ac) or (ad)	Not applicable	\$267	Nil	\$267
	Variation to add a category or categories referred to in clause 46 (1) (c) or (e)-(ab) or (2) (a)-(j)	Not applicable	\$136	Nil	\$136
	Renewal	1 year	\$63	\$142	\$205
		3 years	\$63	\$489	
	Restoration	1 year	\$128	\$126	\$254
		3 years	\$128	\$538	
(Partnership)	New licence	1 year	\$145	\$243	\$388
		3 years	\$145	\$800	
	Variation to add a category or categories referred to in clause 46 (1) (a), (b), (d), (ac) or (ad)	Not applicable	\$624	Nil	\$624
	Variation to add a category or categories referred to in clause 46 (1) (c) or (e)-(ab) or (2) (a)-(j)	Not applicable	\$145	Nil	\$145
	Renewal	1 year	\$63	\$243	\$306
		3 years	\$63	\$736	
	Restoration	1 year	\$128	\$227	\$355
		3 years	\$128	\$783	
(Corporation)	New licence	1 year	\$145	\$300	\$445
		3 years	\$145	\$936	
	Variation to add a category or categories referred to in clause 46 (1) (a), (b), (d), (ac) or (ad)	Not applicable	\$681	Nil	\$681
	Variation to add a category or categories referred to in clause 46 (1) (c) or (e)-(ab) or (2) (a)-(j)	Not applicable	\$145	Nil	\$145
	Renewal	1 year	\$63	\$300	\$363
		3 years	\$63	\$871	
	Restoration	1 year	\$128	\$284	\$412
		3 years	\$128	\$919	
	Supervisor certificate				
	Building supervisor				
(Individual)	New certificate	3 years	\$79	\$145	\$224

	Variation to add a category or categories referred to in clause 46	Not applicable	\$79	Nil	\$79
	Renewal	3 years	Nil	Nil	Nil
	Restoration	3 years	Nil	Nil	Nil
	Other construction or specialist work supervisor				
(Individual)	New certificate	3 years	\$79	\$125	\$204
	Variation to add a category or categories referred to in clause 46	Not applicable	\$79	Nil	\$79
	Renewal	3 years	Nil	Nil	Nil
	Restoration	3 years	Nil	Nil	Nil
	Tradesperson certificate				
(Individual)	New certificate	3 years	\$83	\$51	\$134
	Variation to add a category or categories referred to in clause 46 (2) (a)-(j)	Not applicable	\$79	Nil	\$79
	Renewal	3 years	Nil	Nil	Nil
	Restoration	3 years	Nil	Nil	Nil
	Owner-builder permit				
		Not applicable	\$63	\$100	\$163
	Replacement contractor licence, certificate or owner-builder permit				
		Not applicable	\$46	Nil	\$46

Schedule 5 Extended descriptions of work authorised by contractor licences or certificates

(Clause 50)

Holders of contractor licences or certificates on which are endorsed one or more of the work categories listed in Column 1 of the Table are authorised to contract to do or to do, as the case may be, the specialist work or the residential building work more fully described in Column 2 of the Table opposite each such work category. Work categories endorsed on contractor licences or certificates but not listed in Column 1 are to be taken as referring to the work involved, as a matter of trade practice, in the trade or building activity described by the endorsed work category.

Table

Column 1	Column 2
Work Category	Description of Work Authorised
A. Specialist work	
Advanced LP gasfitting	Gasfitting work as defined in the <i>Gas Supply Act 1996</i> involving liquefied petroleum gas only, without any restriction as to pressure and whether or not the gas will be conveyed in liquid or vapour phase, and including work on pipes, fittings, or appliances attached to or forming part of a liquefied petroleum gas transport container.
Draining	Work of sanitary drainage as defined in <i>AS/NZS 3500.0:2003, Plumbing and drainage</i> , including work on a house drain connected to a septic tank, effluent system and sullage system.
Water plumbing--Fire protection systems	Water plumbing involved in a fire service as defined in <i>AS/NZS 3500.0:2003, Plumbing and drainage</i> , including a fire sprinkler system and connection of the system to a water main.

Water plumbing--Fire sprinkler systems	Water plumbing involved in the fire sprinkler system installed beyond the sprinkler valve assembly.
Gasfitting	Gasfitting work as defined in the <i>Gas Supply Act 1996</i> including work on a gas installation (other than an autogas installation) connected or intended to be connected to a compressed natural gas container.
LP gasfitting	Gasfitting work as defined in the <i>Gas Supply Act 1996</i> restricted to work on a gas installation designed to carry liquefied petroleum gas in vapour phase only at pressures not exceeding 150 kilopascals.
Plumbing	Water plumbing, roof plumbing and work of sewerage as defined in <i>AS/NZS 3500.0:2003, Plumbing and drainage</i> , including such work on premises on which any part of the sewerage service is connected to a septic tank, effluent system or sullage system, but not including the work of draining.
Water plumbing--Urban irrigation	Work of irrigation, including the construction, alteration, extension, disconnection, removal, maintenance, repair, renewal or clearing of any pipes, fittings or equipment of any irrigation system communicating or intending to communicate directly or indirectly with any water main, and the connection of the system to a water main.
Water plumbing	Work of water supply as defined in <i>AS/NZS 3500.0:2003, Plumbing and drainage</i> , including such work on pipes and fittings, whether or not connected or intended to be connected to a water main, that are in a building in which any part of the sewerage service is connected to a septic tank, effluent system or sullage system.
B. Residential building work	
Structural landscaping	Work involved in the construction of pergolas and the like, cabanas and other non-habitable shelters, driveways, paths and other paving and retaining walls not associated with dwelling construction, as well as the construction or installation of ornamental ponds, water features and other structural ornamentation, the construction or installation of which requires development consent. (The holder of such a category of contractor licence may also contract to do the specialist work of water plumbing--urban irrigation. However, such work must be done by the holder of an appropriate specialist work endorsed contractor licence or supervisor certificate.)
Water proofing	Work involved in any protective treatment of a dwelling designed to prevent the penetration of water or moisture into the dwelling or in the protective treatment of wet areas in a dwelling designed to prevent the unwanted escape of water from those areas by using solid membranes or membranes applied by brush, roller or any other method.
Kitchen, bathroom and laundry renovation	Work involved in the installation, refurbishment, restoration and on-site repairs of or to a kitchen, bathroom or laundry, other than work affecting any internal or external load bearing component of the building that is essential to the stability of the building or any part of it, including things such as foundations, floors, walls, roofs, columns and beams.
Erection of pre-fabricated metal-framed home additions and structures	Work involved in the erection of pre-fabricated metal-framed home additions and structures comprising decks, patios, gazebos, awnings, porches, verandahs, pergolas, screened or glass enclosures, modular rooms, carports, garages, workshops, sheds and other similar additions and structures, including any residential building work incidental to the erection of such additions or structures.

Schedule 6 Penalty notice offences

(Clause 87)

Column 1	Column 2	Column 3
Offence	Penalty--Individual	Penalty--Corporation

	Offences under the Act	
Section 4 (1)-(4)	\$750	\$1,500
Section 5 (1) and (2)	\$250	\$500
Section 7AA (1)	\$250	\$500
Section 7A	\$250	\$500
Section 7B	\$250	\$500
Section 8 (1)	\$500	\$1,000
Section 9 (2)	\$250	\$500
Section 12	\$500	Nil
Section 13 (1)	\$500	Nil
Section 14 (1), (3) and (4)	\$500	Nil
Section 15	\$500	Nil
Section 16	\$750	\$1,500
Section 16A (1) and (2)	\$750	\$1,500
Section 16DAA (1)	\$250	\$500
Section 16DA	\$250	\$500
Section 16DB	\$250	\$500
Section 16E (1)	\$500	\$1,000
Section 16F (2)	\$250	\$500
Section 18H (1) and (2)	\$750	\$1,500
Section 18L (1)	\$250	\$500
Section 18N	\$250	\$500
Section 18O	\$250	\$500
Section 18T	\$500	Nil
Section 18U	\$750	\$1,500
Section 22A (4)	\$250	\$500
Section 22B (5)	\$250	\$500
Section 32AA (1)	\$750	Nil
Section 34 (1)	\$250	\$500
Section 36 (2)	\$250	\$500
Section 44 (1)	\$250	\$500
Section 46A (1)	\$750	\$1,500
Section 47	\$250	\$500
Section 48T (2)	\$500	Nil
Section 65 (3)	\$500	\$1,000
Section 66 (1)	\$250	\$500
Section 92 (1) and (2)	\$1,500	\$3,000
Section 92A	\$250	\$500
Section 93 (1) and (2)	\$1,500	\$3,000
Section 93A	\$250	\$500
Section 95 (1) and (2)	\$1,500	\$3,000
Section 95 (2A)	\$250	\$500
Section 96 (1) and (2)	\$1,500	\$3,000
Section 96 (2B)	\$250	\$500
Section 96A (1)	\$1,500	\$3,000
Section 96A (1A)	\$250	\$500
Section 127 (4)	\$500	\$1,000
Section 127A (4)	\$500	Nil
	Offences under this Regulation	
Clause 41	\$250	\$500
Clause 84 (3)	\$250	\$500
Clause 85	\$250	\$500

Historical notes

The following abbreviations are used in the Historical notes:

	Am	amended	LW	legislation website	Sch	Schedule
	Cl	clause	No	number	Schs	Schedules
	ClI	clauses	p	page	Sec	section
	Div	Division	pp	pages	Secs	sections
	Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
	GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
	Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments *Home Building Regulation 2004* published in Gazette No 138 of 27.8.2004, p 6843 and amended as follows: *Occupational Health and Safety Amendment (Dangerous Goods) Act 2003 No 38*. Assented to 22.7.2003. The amendments were not commenced and the Act was repealed by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2005 No 98*. Amended by *Statute Law (Miscellaneous Provisions) Act (No 2) 2004 No 91*. Assented to 10.12.2004. Date of commencement of Sch 2.62, assent, sec 2 (2). *Electricity (Consumer Safety) Act 2004 No 4*. Assented to 17.3.2004. Date of commencement of Sch 4.10, 3.2.2006, sec 2 (1) and GG No 16 of 3.2.2006, p 532. Amended by *Statute Law (Miscellaneous Provisions) Act (No 2) 2004 No 91*. Assented to 10.12.2004. Date of commencement of Sch 1.9 [4], 3.2.2006, Sch 1.9 and GG No 16 of 3.2.2006, p 532. *Home Building Amendment (Gasfitting Work) Regulation 2004* (GG No 166 of 22.10.2004, p 8124)

2004	No 101	<i>Home Building Amendment Act 2004</i> . Assented to 15.12.2004. Date of commencement of Sch 8, 29.4.2005, sec 2 and GG No 50 of 29.4.2005, p 1530.
2005	(233)	<i>Home Building Amendment (Application Fees) Regulation 2005</i> . GG No 73 of 17.6.2005, p 2364. Date of commencement, 1.7.2005, cl 2.
	(483)	<i>Home Building Amendment (Insurance Exemptions) Regulation 2005</i> . GG No 107 of 26.8.2005, p 5191. Date of commencement, on gazettal.
	(484)	<i>Home Building Amendment (Insurance Claims) Regulation 2005</i> . GG No 107 of 26.8.2005, p 5193. Date of commencement, 1.9.2005, cl 2.
	(679)	<i>Home Building Amendment (Forms) Regulation 2005</i> . GG No 132 of 28.10.2005, p 8961. Date of commencement, 7.11.2005, cl 2.
	(728)	<i>Home Building Amendment (Fees and Penalties) Regulation 2005</i> . GG No 140 of 18.11.2005, p 9410. Date of commencement, 21.11.2005, cl 2.
	No 98	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2005</i> . Assented to 24.11.2005. Date of commencement of Sch 2.30, assent, sec 2 (2).
	(833)	<i>Home Building Further Amendment (Application Fees) Regulation 2005</i> . GG No 157 of 16.12.2005, p 10909. Date of commencement, 16.1.2006, cl 2.
	(834)	<i>Home Building Further Amendment (Insurance Exemptions) Regulation 2005</i> . GG No 157 of 16.12.2005, p 10917. Date of commencement, on gazettal.
2006	(281)	<i>Home Building Amendment (Contractor Licences) Regulation 2006</i> . GG No 75 of 9.6.2006, p 3963. Date of commencement, on gazettal.
	(317)	<i>Home Building Amendment (Application Fees) Regulation 2006</i> . GG No 82 of 23.6.2006, p 4617. Date of commencement, 1.7.2006, cl 2.
	(415)	<i>Home Building Amendment (Categories of Residential Building Work) Regulation 2006</i> . GG No 95 of 28.7.2006, p 5926. Date of commencement, on gazettal.
	(740)	<i>Home Building Amendment (Register) Regulation 2006</i> . GG No 183 of 15.12.2006, p 10894. Date of commencement, on gazettal.

	(790)	<i>Home Building Amendment (Exemption) Regulation 2006</i> . GG No 189 of 22.12.2006, p 11704. Date of commencement, on gazettal.
2007	(87)	<i>Home Building Amendment (Minimum Insurance Cover) Regulation 2007</i> . GG No 33 of 23.2.2007, p 1009. Date of commencement, 1.3.2007, cl 2.
	(88)	<i>Home Building Amendment (Exemptions) Regulation 2007</i> . GG No 33 of 23.2.2007, p 1012. Date of commencement, on gazettal.
	(325)	<i>Home Building Amendment (Authorities) Regulation 2007</i> . GG No 87 of 6.7.2007, p 4384. Date of commencement, on gazettal.
	(343)	<i>Home Building Amendment (Fees) Regulation 2007</i> . GG No 92 of 20.7.2007, p 4692. Date of commencement, 20.7.2007, cl 2.
	(596)	<i>Home Building Amendment (Temporary Exemption) Regulation 2007</i> . GG No 182 of 14.12.2007, p 9546. Date of commencement, on gazettal.
2008	(108)	<i>Home Building Amendment (Demolition Work) Regulation 2008</i> . GG No 44 of 24.4.2008, p 2791. Date of commencement, 2.5.2008, cl 2.
	(235)	<i>Home Building Amendment (Fees) Regulation 2008</i> . GG No 76 of 27.6.2008, p 6067. Date of commencement, 1.7.2008, cl 2.
	(565)	<i>Home Building Amendment (Temporary Exemption) Regulation 2008</i> . GG No 157 of 12.12.2008, p 11900. Date of commencement, on gazettal.
	(599)	<i>Home Building Amendment (Claims) Regulation 2008</i> . GG No 158 of 19.12.2008, p 12335. Date of commencement, on gazettal.
2009	(107)	<i>Home Building Amendment (Exemption) Regulation 2009</i> . LW 27.3.2009. Date of commencement, 1.4.2009, cl 2.
	(147)	<i>Home Building Amendment (Fees) Regulation 2009</i> . LW 1.5.2009. Date of commencement, 1.7.2009, cl 2.
	No 24	<i>Home Building Amendment (Insurance) Act 2009</i> . Assented to 19.5.2009. Date of commencement, assent, sec 2.
	No 61	<i>Occupational Licensing Legislation Amendment (Regulatory Reform) Act 2009</i> . Assented to 16.9.2009. Date of commencement of Sch 3, assent, sec 2 (1).
	(588)	<i>Home Building Amendment (Temporary Exemption) Regulation 2009</i> . LW 18.12.2009. Date of commencement, on publication on LW.
2010	(152)	<i>Home Building Amendment (Fees) Regulation 2010</i> . LW 30.4.2010. Date of commencement, 1.7.2010, cl 2.
	(511)	<i>Home Building Amendment Regulation 2010</i> . LW 3.9.2010. Date of commencement, 3.9.2010, cl 2.

	(674)	<i>Home Building Amendment (Temporary Exemption) Regulation 2010</i> . LW 10.12.2010. Date of commencement, on publication on LW, cl 2.
	(729)	<i>Home Building Amendment (Relevant Law) Regulation 2010</i> . LW 17.12.2010. Date of commencement, on publication on LW, cl 2.
2011	(213)	<i>Home Building Amendment (Fees) Regulation 2011</i> . LW 2.5.2011. Date of commencement, 1.7.2011, cl 2.
	No 44	<i>Business Names (Commonwealth Powers) Act 2011</i> . Assented to 20.9.2011. Date of commencement of Sch 3, 28.5.2012, sec 2 and 2012 (209) LW 25.5.2012.
	No 52	<i>Home Building Amendment Act 2011</i> . Assented to 25.10.2011. Date of commencement of Sch 3 [1]-[8] and [11]-[15], 1.2.2012, sec 2 (2) and 2011 (690) LW 23.12.2011; date of commencement of Sch 3 [9] and [10], assent, sec 2 (1).
	No 59	<i>Plumbing and Drainage Act 2011</i> . Assented to 16.11.2011. Date of commencement, 1.7.2012, sec 2 and 2012 (298) LW 29.6.2012.
	(695)	<i>Home Building Amendment (Owners Checklist) Regulation 2011</i> . LW 23.12.2011. Date of commencement, on publication on LW, cl 2.
	(696)	<i>Home Building Amendment (Temporary Exemption) Regulation 2011</i> . LW 23.12.2011. Date of commencement, on publication on LW, cl 2.
2012	(39)	<i>Home Building Amendment (Home Warranty Insurance) Regulation 2012</i> . LW 17.2.2012. Date of commencement, on publication on LW, cl 2.
	(87)	<i>Home Building Amendment (Threshold for Home Warranty Insurance) Regulation 2012</i> . LW 9.3.2012. Date of commencement, on publication on LW, cl 2.
	(180)	<i>Home Building Amendment (Fees) Regulation 2012</i> . LW 11.5.2012. Date of commencement of Sch 1, 28.5.2012, cl 2 (1); date of commencement of Sch 2, 1.7.2012, cl 2 (2).
	No 42	<i>Statute Law (Miscellaneous Provisions) Act 2012</i> . Assented to 21.6.2012. Date of commencement of Sch 2.18, 6.7.2012, sec 2 (1).
	(363)	<i>Home Building Amendment (Exemption) Regulation 2012</i> . LW 10.8.2012. Date of commencement, on publication on LW, cl 2.
	(620)	<i>Home Building Amendment (Temporary Exemption) Regulation 2012</i> . LW 14.12.2012. Date of commencement, on publication on LW, cl 2.

2013	No 19	<i>Road Transport Legislation (Repeal and Amendment) Act 2013</i> . Assented to 3.4.2013. Date of commencement, 1.7.2013, sec 2 and 2013 (329) LW 28.6.2013.
	(171)	<i>Home Building Amendment (Fees) Regulation 2013</i> . LW 3.5.2013. Date of commencement, 1.7.2013, cl 2.
	No 95	<i>Civil and Administrative Legislation (Repeal and Amendment) Act 2013</i> . Assented to 20.11.2013. Date of commencement, 1.1.2014, sec 2.

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