



Queensland

Building and Other Legislation Amendment Act 2008

Act No. 13 of 2008



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Building and Other Legislation Amendment Act 2008

Act No. 13 of 2008

An Act to amend the *Building Act 1975*, the *Fire and Rescue Service Act 1990* and the *Local Government Act 1993*

[Assented to 23 April 2008]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Building and Other Legislation Amendment Act 2008*.

Part 2 Amendment of Building Act 1975

2 Act amended in pt 2

This part and the schedule amend the *Building Act 1975*.

3 Replacement of s 67 (Temporary building or structure that does not comply with other building assessment provisions)

Section 67—

omit, insert—

‘67 Temporary building or structures

‘(1) A building development approval for any temporary building or structure must include a condition that—

- (a) limits the period during which the temporary building or structure may remain in place; and
- (b) requires removal or demolition of the temporary building or structure at the end of the period.

‘(2) Subsection (3) applies to a building development application for a temporary building or structure if—

-
- (a) no building assessment provision is expressed to apply specifically to temporary buildings or structures generally or to temporary buildings or structures of the same type as the temporary building or structure; and
- (b) the building or structure, would not otherwise comply with the building assessment provisions.
- ‘(3) The assessment manager must not approve the application unless the building certifier has decided the temporary building or structure—
- (a) is structurally sound and capable of withstanding the loadings likely to arise from its use; and
- (b) reasonably provides for all of the following—
- (i) the safety of persons to be accommodated in the building or structure if there is a fire (including, for example, means of egress);
- (ii) the prevention and suppression of fire;
- (iii) the prevention of the spread of fire;
- (iv) the health and amenity of persons to be accommodated in the building or structure.’.

4 Amendment of s 103 (Certificate requirements)

Section 103(e)—

omit, insert—

- ‘(e) if the development uses alternative solutions—state the materials, systems, methods of building, procedures, specifications and other things required under the alternative solutions.

Examples of possible alternative solution requirements relating to materials—

- a limitation on the use of finishes with fire hazard properties as defined under the BCA
- a prohibition on storing hazardous materials above a stated height
- a limitation on storing or using stated materials.

[s 5]

Examples of possible alternative solution requirements relating to systems or procedures—

- a requirement that all of the building’s final exit doors be unlocked before it is occupied on the start of any day
- a requirement to implement stated evacuation strategies or procedures
- a restriction on the number and the distribution of the building’s occupants
- a requirement that evacuation routes be kept clear of fittings and furnishings or be kept sterile
- a prohibition on carrying out any hazardous processes or storage mentioned in BCA, part E1.5, table E1.5, note 3, paragraph (a).’

5 Insertion of new s 108A

Chapter 5, part 2—

insert—

‘108A Owner’s obligations about access to certificate of classification

- ‘(1) This section applies to the owner of a building if—
- (a) a certificate of classification has been given for the building; and
 - (b) the certificate was given on or after 1 July 1997; and
 - (c) all or part of the building is occupied.
- ‘(2) If the building is not a class 1a building, the owner must ensure the certificate is conspicuously displayed as near as practicable to the building’s main entrance.

Maximum penalty—165 penalty units.

Notes—

- 1 See, however, section 284 (Transitional provision for s 108A).
- 2 A certificate of classification is not required to be given for a single detached class 1a building or a class 10 building or structure. See section 100.

-
- ‘(3) An authorised officer may require the owner to produce the certificate for inspection at the building.
- ‘(4) The owner must comply with the requirement.
Maximum penalty—165 penalty units.
- ‘(5) Subsections (3) and (4) do not apply if the certificate is displayed as mentioned in subsection (2).
- ‘(6) For subsections (2) to (5), a reference to the certificate includes a reference to a copy of the certificate.
- ‘(7) In this section—
authorised officer means—
- (a) a fire service officer under the *Fire and Rescue Service Act 1990*; or
 - (b) an authorised person under the *Local Government Act 1993* carrying out functions in relation to this Act.’.

6 Insertion of new s 114A

After section 114—

insert—

‘114A Owner’s obligation to comply with certificate of classification

- ‘(1) This section applies if—
- (a) a certificate of classification has been given for a building; and
 - (b) the certificate states a restriction mentioned in section 103(d) or a requirement of a type mentioned in section 103(e).
- ‘(2) The owner of the building must, unless the owner has a reasonable excuse, ensure the requirement or restriction is complied with.
Maximum penalty—165 penalty units.’.

[s 7]

7 Amendment of s 154 (Role of building surveying technician)

- (1) Section 154(1)(a), ‘, other than a designated local government’—
omit.
- (2) Section 154(2)—
omit.

8 Amendment of s 185 (Function of accreditation standards body)

- (1) Section 185(3)—
renumber as section 185(4).
- (2) Section 185—
insert—
- ‘(3) However, subsection (2)(b) does not apply in relation to the issuing of accreditation to—
 - (a) a building surveying technician employed as mentioned in section 154(a); or
 - (b) a person who has applied to be licensed as a building surveying technician and who will, if so licensed, be employed as mentioned in section 154(a).’.

9 Amendment of s 216 (Meaning of *budget accommodation building*)

- (1) Section 216(1)(b)(i), after ‘guesthouse’—
insert—
‘, share-house’.
- (2) Section 216(2)(d)—
omit.
- (3) Section 216(2)(e) to (l)—

renumber as section 216(2)(d) to (k).

(4) Section 216(2) to (4)—

renumber as section 216(3) to (5).

(5) Section 216—

insert—

‘(2) A building is not prevented from being a budget accommodation building under subsection (1) because of—

(a) the fact that none, or only some, of the 6 or more persons mentioned in subsection (1)(b) are provided with food or meals at the building; or

(b) the legal basis, or the absence of any established legal basis, on which the accommodation is provided for the persons; or

(c) the fact that all or some of the persons are provided the accommodation free of charge; or

(d) the fact that all or some of the persons have a right to occupy parts of the building other than parts used to provide the accommodation.’.

(6) Section 216(3), as renumbered, ‘However’—

omit, insert—

‘Despite subsections (1) and (2),’.

10 Amendment of s 217 (Fire safety standard)

Section 217(1)(a)—

omit, insert—

‘(a) QDC, part MP 2.1; and’.

11 Amendment of s 256 (Prosecution of offences)

(1) Section 256(2)(a) and (b)—

renumber as section 256(2)(b) and (c).

[s 12]

(2) Section 256(2)—

insert—

‘(a) for an offence against section 108A or 114A—

(i) a fire service officer under the *Fire and Rescue Service Act 1990*; or

(ii) an authorised person under the *Local Government Act 1993* carrying out functions in relation to this Act; or’.

12 Omission of s 282 (Local government building surveying technicians)

Section 282—

omit.

13 Amendment of s 283 (Existing rainwater tank provisions in planning schemes)

Section 283(4)—

insert—

‘*Note—*

The only amendment or replacement of QDC part 25 from 1 September 2006 to 1 July 2007 was a replacement that took effect on 1 January 2007. That version was replaced by a new part MP 4.2 that took effect on 1 January 2008.’.

14 Insertion of new ch 11, pt 6

After section 283—

insert—

[s 15]

Part	Description	Former part reference
Siting and amenity—detached housing		
MP 1.1	Design and siting standard for single detached housing on lots under 450m ² , but only— (a) the headings ‘application’ and ‘commencement’ and the words under those headings; and (b) performance criteria 1, 2, 3 and 6; and (c) the relevant acceptable solutions for the performance criteria; and (d) definitions relevant to the provisions mentioned in paragraphs (a) to (c).	11
MP 1.2	Design and siting standard for single detached housing on lots 450m ² and over, but only— (a) the headings ‘application’ and ‘commencement’ and the words under those headings; and (b) performance criteria 1, 2, 3 and 6; and (c) the relevant acceptable solutions for the performance criteria; and (d) definitions relevant to the provisions mentioned in paragraphs (a) to (c).	12
Fire safety		
MP 2.1	Fire safety in budget accommodation buildings	14
MP 2.2	Fire safety in residential care buildings	14.1
Special buildings		
MP 3.1	Floating buildings	31
MP 3.2	Tents	28

Part	Description	Former part reference
Building sustainability		
MP 4.1	Sustainable buildings	29
MP 4.2	Water savings targets	25
MP 4.3	Alternative water sources—commercial buildings	—
General health, safety and amenity		
MP 5.1	Workplaces	1
MP 5.2	Higher risk personal appearance services	15
MP 5.3	Retail meat premises	4
MP 5.4	Child care centres	22
MP 5.5	Private health facilities	7
MP 5.6	Pastoral workers' accommodation	21
MP 5.7	Residential services building standard	20
MP 5.8	Workplaces involving spray painting	2'

16 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition *fire safety installation*—

insert—

‘3 Also, if an alternative solution to a performance requirement under the BCA relating to the fire safety system has been used for a building or structure, a *fire safety installation*, for the building or structure, includes any thing required to comply with the alternative solution.’

(2) Schedule 2, definition, *QDC boundary clearance and site cover provisions*, ‘parts 11 and 12’—

21 Amendment of s 728 (Application of Ombudsman Act 2001)

- (1) Section 728(1)(a)—
omit.
 - (2) Section 728(1)(b) to (d)—
renumber as section 728(1)(a) to (c).
 - (3) Section 728(2)—
renumber as section 728(3).
 - (4) Section 728—
insert—
- ‘(2) An LGOC prescribed under a regulation for this subsection is not a public authority under the *Ombudsman Act 2001*.’.

22 Amendment of s 1170 (Definitions)

- (1) Section 1170, definition *scheme*—
omit.
- (2) Section 1170—
insert—
‘LG Super scheme see section 1180(1).’.

23 Amendment of s 1180 (Scheme continued)

- (1) Section 1180(1), after ‘Local Government Superannuation Scheme’—
insert—
‘(the LG Super scheme)’.
- (2) Section 1180(2), ‘scheme’—
omit, insert—
‘LG Super scheme’.

[s 24]

24 Replacement of s 1181 (Membership of scheme)

Section 1181—

omit, insert—

‘1181 Membership of LG super scheme

- ‘(1) An employee of a local government, other than a local government entity or the board is, while the employment continues, automatically a member of the LG Super scheme (an *automatic member*).
- ‘(2) Also, the following persons are eligible to be members of the LG Super scheme (*eligible members*)—
- (a) a councillor of a local government;
 - (b) an employee of a local government entity;
 - (c) a contractor of a local government;
 - (d) a member of the governing body of a local government entity;
 - (e) another person for whom a local government or the board is required under the *Superannuation Guarantee (Administration) Act 1992* (Cwlth) to contribute to a superannuation scheme;
 - (f) the spouse of an automatic member or of a person who under any of paragraphs (a) to (e) or (g) to (i) is an eligible member;
 - (g) an entitled former spouse;
 - (h) a person—
 - (i) who was an automatic member or who was a member of the LG Super scheme because the person was a person of a type mentioned in any of paragraphs (a) to (e) or (i); and
 - (ii) who has stopped being an automatic member or a person of that type; and
 - (iii) whose benefit under the LG Super scheme has not been fully paid out, withdrawn or transferred from the LG Super scheme;

(i) another person of a type prescribed under a regulation.

‘(3) In this section—

entitled former spouse means a person who is entitled, or conditionally entitled, under an agreement under the *Family Law Act 1975* (Cwlth) or a court order under that Act, to payment of an amount from the LG Super scheme.’.

25 **Amendment of s 1182 (Local governments’ liability for permanent employees)**

(1) Section 1182(1) after ‘permanent employee’—

insert—

‘for whom it must make contributions under a law of the Commonwealth’.

(2) Section 1182(1) and (3), ‘scheme’—

omit, insert

‘LG Super scheme’.

(3) Section 1182(4)—

omit, insert—

‘(4) Despite subsections (1) to (3), the local government can not pay an amount as a contribution mentioned in subsection (1) to the extent the amount can not, under the Commonwealth Superannuation Act, be accepted by a regulated superannuation fund under that Act.

Editor’s note—

See the *Superannuation Industry (Supervision) Regulations 1994* (Cwlth), regulation 7.04 (Acceptance of contributions—regulated superannuation funds).’.

26 **Amendment of s 1183 (Permanent employees’ liability for contributions)**

Section 1183(1), ‘is required to pay yearly contributions to the scheme’—

[s 27]

omit, insert—

‘is, under section 1182, required to pay yearly contributions to the LG Super scheme’.

27 Omission of s 1183A (Election by permanent employee to cease contributions)

Section 1183A—

omit.

28 Amendment of s 1184 (Additional contributions to scheme)

(1) Section 1184, ‘scheme’—

omit, insert

‘LG Super scheme’.

(2) Section 1184—

insert—

‘(3) Also, the member, or the local government for the member, can not pay an amount as a contribution mentioned in subsection (1) to the extent the amount can not, under the Commonwealth Superannuation Act, be accepted by a regulated superannuation fund under that Act.’.

29 Amendment of s 1186 (Adjustment of contributions because of change in salary)

(1) Section 1186(1), after ‘stated year’—

insert—

‘or as at any other stated day during the year following any change to the salary of any of the employees’.

(2) Section 1186(3) to (5)—

omit, insert—

- ‘(3) If—
- (a) a permanent employee’s salary has decreased; and
 - (b) the employee gives the local government written notice that the employee wants to pay contributions as if the employee’s salary had not decreased;
- the local government must calculate the yearly contributions payable for the employee based on the employee’s former salary.’.
- (3) Section 1186(6)—
renumber as section 1186(4).

-
- 2 Section 159YU, '(1)'—**
omit.
- 3 Section 195(1) and schedule 2, definition *local governing body*, '*Local Government (Financial Assistance) Act 1986*'—**
omit, insert—
'Local Government (Financial Assistance) Act 1995'.
- 4 Section 238(1) and 1170, definition *Commonwealth Superannuation Act*—**
omit.
- 5 Section 238(3)(b) and section 721(1), definition *existing scheme*, '*Local Government Superannuation Scheme*'—**
omit, insert—
'LG Super scheme'.
- 6 Section 483M(2), paragraphs (a) to (e), after ';'—**
insert—
'and'.
- 7 Section 492(2), paragraphs (a) to (d), after ';'—**
insert—
'and'.
- 8 Section 499(a), '*section 500*'—**
omit, insert—
'section 500'.

9 Section 720(2), ‘*Superannuation Industry (Supervision) Act 1993 (Cwlth)*’—

omit, insert—

‘Commonwealth Superannuation Act’.

10 Section 955B(2), ‘\$1.00’—

omit, insert—

‘\$1’.

11 Chapter 13, part 6, division 4, heading, ‘pt 6’—

omit, insert—

‘part 6’.

12 Chapter 15, part 5, division 11, subdivision 4 hdg, ‘div 11’—

omit, insert—

‘division 11’.

13 Section 1170, definitions *contributory member, member* and *non-contributory member*, and sections 1174(a), 1178(2)(b), 1187 and 1188(1), ‘scheme’—

omit, insert—

‘LG Super scheme’.

14 Schedule 2—

insert—

‘*Commonwealth Superannuation Act* means the *Superannuation Industry (Supervision) Act 1993 (Cwlth)*.

LG Super scheme see section 1180(1).’.

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