



Queensland

# **Building and Other Legislation Amendment Bill 2008**





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# Building and Other Legislation Amendment Bill 2008

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**2008**

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**A Bill**

for

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

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Building and Other Legislation  
Amendment Act 2008*. 4  
5

**Part 2 Amendment of Building Act  
1975** 6  
7

**Clause 2 Act amended in pt 2** 8

This part and the schedule amend the *Building Act 1975*. 9

**Clause 3 Replacement of s 67 (Temporary building or structure  
that does not comply with other building assessment  
provisions)** 10  
11  
12

Section 67— 13

*omit, insert—* 14

**‘67 Temporary building or structures** 15

‘(1) A building development approval for any temporary building  
or structure must include a condition that— 16  
17

(a) limits the period during which the temporary building or  
structure may remain in place; and 18  
19

(b) requires removal or demolition of the temporary  
building or structure at the end of the period. 20  
21

‘(2) Subsection (3) applies to a building development application  
for a temporary building or structure if— 22  
23

- 
- (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.’.

**Clause 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]

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<i>Examples of possible alternative solution requirements relating to systems or procedures—</i>	1 2
• a requirement that all of the building’s final exit doors be unlocked before it is occupied on the start of any day	3 4
• a requirement to implement stated evacuation strategies or procedures	5 6
• a restriction on the number and the distribution of the building’s occupants	7 8
• a requirement that evacuation routes be kept clear of fittings and furnishings or be kept sterile	9 10
• a prohibition on carrying out any hazardous processes or storage mentioned in BCA, part E1.5, table E1.5, note 3, paragraph (a).’	11 12

<b>Clause 5</b>	<b>Insertion of new s 108A</b>	13
	Chapter 5, part 2—	14
	<i>insert—</i>	15
<b>‘108A</b>	<b>Owner’s obligations about access to certificate of classification</b>	16 17
‘(1)	This section applies to the owner of a building if—	18
	(a) a certificate of classification has been given for the building; and	19 20
	(b) the certificate was given on or after 1 July 1997; and	21
	(c) all or part of the building is occupied.	22
‘(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.	23 24 25
	Maximum penalty—165 penalty units.	26
	<i>Notes—</i>	27
	1 See, however, section 284 (Transitional provision for s 108A).	28
	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.	29 30 31

- 
- ‘(3) An authorised officer may require the owner to produce the certificate for inspection at the building. 1  
2
- ‘(4) The owner must comply with the requirement. 3  
Maximum penalty—165 penalty units. 4
- ‘(5) Subsections (3) and (4) do not apply if the certificate is displayed as mentioned in subsection (2). 5  
6
- ‘(6) For subsections (2) to (5), a reference to the certificate includes a reference to a copy of the certificate. 7  
8
- ‘(7) In this section— 9  
*authorised officer* means— 10
- (a) a fire service officer under the *Fire and Rescue Service Act 1990*; or 11  
12
- (b) an authorised person under the *Local Government Act 1993* carrying out functions in relation to this Act.’. 13  
14

**Clause 6 Insertion of new s 114A** 15

After section 114— 16

*insert—* 17

**‘114A Owner’s obligation to comply with certificate of classification** 18  
19

- ‘(1) This section applies if— 20
- (a) a certificate of classification has been given for a building; and 21  
22
- (b) the certificate states a restriction mentioned in section 103(d) or a requirement of a type mentioned in section 103(e). 23  
24  
25
- ‘(2) The owner of the building must, unless the owner has a reasonable excuse, ensure the requirement or restriction is complied with. 26  
27  
28
- Maximum penalty—165 penalty units.’. 29

[s 7]

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<b>Clause 7</b>	<b>Amendment of s 154 (Role of building surveying technician)</b>	1 2
	(1) Section 154(1)(a), ‘, other than a designated local government’—	3 4
	<i>omit.</i>	5
	(2) Section 154(2)—	6
	<i>omit.</i>	7
<b>Clause 8</b>	<b>Amendment of s 185 (Function of accreditation standards body)</b>	8 9
	(1) Section 185(3)—	10
	<i>renumber</i> as section 185(4).	11
	(2) Section 185—	12
	<i>insert</i> —	13
	‘(3) However, subsection (2)(b) does not apply in relation to the issuing of accreditation to—	14 15
	(a) a building surveying technician employed as mentioned in section 154(a); or	16 17
	(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).’.	18 19 20
<b>Clause 9</b>	<b>Amendment of s 216 (Meaning of <i>budget accommodation building</i>)</b>	21 22
	(1) Section 216(1)(b)(i), after ‘guesthouse’—	23
	<i>insert</i> —	24
	‘, share-house’.	25
	(2) Section 216(2)(d)—	26
	<i>omit.</i>	27
	(3) Section 216(2)(e) to (l)—	28

---

*renumber* as section 216(2)(d) to (k). 1

(4) Section 216(2) to (4)— 2

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

(5) Section 216— 4

*insert*— 5

‘(2) A building is not prevented from being a budget 6  
accommodation building under subsection (1) because of— 7

(a) the fact that none, or only some, of the 6 or more 8  
persons mentioned in subsection (1)(b) are provided 9  
with food or meals at the building; or 10

(b) the legal basis, or the absence of any established legal 11  
basis, on which the accommodation is provided for the 12  
persons; or 13

(c) the fact that all or some of the persons are provided the 14  
accommodation free of charge; or 15

(d) the fact that all or some of the persons have a right to 16  
occupy parts of the building other than parts used to 17  
provide the accommodation.’. 18

(6) Section 216(3), as renumbered, ‘However’— 19

*omit, insert*— 20

‘Despite subsections (1) and (2),’. 21

**Clause 10 Amendment of s 217 (Fire safety standard)** 22

Section 217(1)(a)— 23

*omit, insert*— 24

‘(a) QDC, part MP 2.1; and’. 25

**Clause 11 Amendment of s 256 (Prosecution of offences)** 26

(1) Section 256(2)(a) and (b)— 27

*renumber* as section 256(2)(b) and (c). 28

[s 12]

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	(2) Section 256(2)—	1
	<i>insert—</i>	2
	‘(a) for an offence against section 108A or 114A—	3
	(i) a fire service officer under the <i>Fire and Rescue Service Act 1990</i> ; or	4
	(ii) an authorised person under the <i>Local Government Act 1993</i> carrying out functions in relation to this Act; or’.	5
		6
		7
		8
<b>Clause 12</b>	<b>Omission of s 282 (Local government building surveying technicians)</b>	9
	Section 282—	10
	<i>omit.</i>	11
		12
<b>Clause 13</b>	<b>Amendment of s 283 (Existing rainwater tank provisions in planning schemes)</b>	13
	Section 283(4)—	14
	<i>insert—</i>	15
	‘ <i>Note—</i>	16
	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.’.	17
		18
		19
		20
		21
<b>Clause 14</b>	<b>Insertion of new ch 11, pt 6</b>	22
	After section 283—	23
	<i>insert—</i>	24

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<b>‘Part 6</b>	<b>Transitional provision for Building and Other Legislation Amendment Act 2008</b>	1 2 3
<b>‘284</b>	<b>Transitional provision for s 108A</b>	4
	‘If a certificate of classification was given for a building on or after 1 July 1997 but before the commencement of section 108A, section 108A does not apply to the owner of the building until the first anniversary of the commencement.	5 6 7 8
	<i>Editor’s note—</i>	9
	Section 108A (Owner’s obligations about access to certificate of classification).’	10 11
<b>Clause 15</b>	<b>Replacement of sch 1 (The QDC as at the commencement of s 13)</b>	12 13
	Schedule 1—	14
	<i>omit, insert—</i>	15
<b>‘Schedule 1</b>	<b>The QDC on 26 February 2008</b>	16
	section 13	17
	<i>‘Note—</i>	18
	‘The provisions of the QDC mentioned in this schedule were published under section 13(3) on 16 November 2007. They commenced on 1 January 2008. See the <i>Building Regulation 2006</i> , section 51A as in force on that day.	19 20 21 22

[s 15]

<b>Part</b>	<b>Description</b>	<b>Former part reference</b>
<b>Siting and amenity—detached housing</b>		
MP 1.1	Design and siting standard for single detached housing on lots under 450m <sup>2</sup> , 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 <sup>2</sup> 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
<b>Fire safety</b>		
MP 2.1	Fire safety in budget accommodation buildings	14
MP 2.2	Fire safety in residential care buildings	14.1
<b>Special buildings</b>		
MP 3.1	Floating buildings	31
MP 3.2	Tents	28

Part	Description	Former part reference
<b>Building sustainability</b>		
MP 4.1	Sustainable buildings	29
MP 4.2	Water savings targets	25
MP 4.3	Alternative water sources—commercial buildings	—
<b>General health, safety and amenity</b>		
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'

**Clause 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’—

[s 17]

---

*omit, insert—* 1  
'parts MP 1.1 and MP 1.2'. 2

**Part 3** **Amendment of Fire and Rescue Service Act 1990** 3  
4

**Clause 17** **Act amended in pt 3** 5  
This part amends the *Fire and Rescue Service Act 1990*. 6

**Clause 18** **Amendment of s 58C (Power to require production of certain documents)** 7  
8  
Section 58C(1)(b), after 'in a building'— 9  
*insert—* 10  
'or the fire safety systems for a building'. 11

**Clause 19** **Amendment of sch 6 (Dictionary)** 12  
Schedule 6, definition *fire safety system*, ', for part 9A, 13  
division 3A,'— 14  
*omit.* 15

**Part 4** **Amendment of Local Government Act 1993** 16  
17

**Clause 20** **Act amended in pt 4** 18  
This part and the schedule amend the *Local Government Act 1993*. 19  
20

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<b>Clause 21</b>	<b>Amendment of s 728 (Application of Ombudsman Act 2001)</b>	1 2
	(1) Section 728(1)(a)— <i>omit.</i>	3 4
	(2) Section 728(1)(b) to (d)— <i>renumber</i> as section 728(1)(a) to (c).	5 6
	(3) Section 728(2)— <i>renumber</i> as section 728(3).	7 8
	(4) Section 728— <i>insert</i> —	9 10
	‘(2) An LGOC prescribed under a regulation for this subsection is not a public authority under the <i>Ombudsman Act 2001</i> .’.	11 12
<b>Clause 22</b>	<b>Amendment of s 1170 (Definitions)</b>	13
	(1) Section 1170, definition <i>scheme</i> — <i>omit.</i>	14 15
	(2) Section 1170— <i>insert</i> — <i>‘LG Super scheme</i> see section 1180(1).’.	16 17 18
<b>Clause 23</b>	<b>Amendment of s 1180 (Scheme continued)</b>	19
	(1) Section 1180(1), after ‘Local Government Superannuation Scheme’— <i>insert</i> — <i>‘(the LG Super scheme)’.</i>	20 21 22 23
	(2) Section 1180(2), ‘scheme’— <i>omit, insert</i> — <i>‘LG Super scheme’.</i>	24 25 26

[s 24]

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<b>Clause 24</b>	<b>Replacement of s 1181 (Membership of scheme)</b>	1
	Section 1181—	2
	<i>omit, insert—</i>	3
	<b>‘1181 Membership of LG super scheme</b>	4
	‘(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 <i>automatic member</i> ).	5 6 7 8
	‘(2) Also, the following persons are eligible to be members of the LG Super scheme ( <i>eligible members</i> )—	9 10
	(a) a councillor of a local government;	11
	(b) an employee of a local government entity;	12
	(c) a contractor of a local government;	13
	(d) a member of the governing body of a local government entity;	14 15
	(e) another person for whom a local government or the board is required under the <i>Superannuation Guarantee (Administration) Act 1992</i> (Cwlth) to contribute to a superannuation scheme;	16 17 18 19
	(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;	20 21 22
	(g) an entitled former spouse;	23
	(h) a person—	24
	(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	25 26 27 28
	(ii) who has stopped being an automatic member or a person of that type; and	29 30
	(iii) whose benefit under the LG Super scheme has not been fully paid out, withdrawn or transferred from the LG Super scheme;	31 32 33

(i) another person of a type prescribed under a regulation. 1

‘(3) In this section— 2

*entitled former spouse* means a person who is entitled, or 3  
conditionally entitled, under an agreement under the *Family* 4  
*Law Act 1975* (Cwlth) or a court order under that Act, to 5  
payment of an amount from the LG Super scheme.’. 6

**Clause 25 Amendment of s 1182 (Local governments’ liability for 7  
permanent employees) 8**

(1) Section 1182(1) after ‘permanent employee’— 9

*insert—* 10

‘for whom it must make contributions under a law of the 11  
Commonwealth’. 12

(2) Section 1182(1) and (3), ‘scheme’— 13

*omit, insert* 14

‘LG Super scheme’. 15

(3) Section 1182(4)— 16

*omit, insert—* 17

‘(4) Despite subsections (1) to (3), the local government can not 18  
pay an amount as a contribution mentioned in subsection (1) 19  
to the extent the amount can not, under the Commonwealth 20  
Superannuation Act, be accepted by a regulated 21  
superannuation fund under that Act. 22

*Editor’s note—* 23

See the *Superannuation Industry (Supervision) Regulations 1994* 24  
(Cwlth), regulation 7.04 (Acceptance of contributions—regulated 25  
superannuation funds).’ 26

**Clause 26 Amendment of s 1183 (Permanent employees’ liability for 27  
contributions) 28**

Section 1183(1), ‘is required to pay yearly contributions to the 29  
scheme’— 30

[s 27]

---

*omit, insert—* 1  
'is, under section 1182, required to pay yearly contributions to 2  
the LG Super scheme'. 3

**Clause 27 Omission of s 1183A (Election by permanent employee to 4  
cease contributions) 5**  
Section 1183A— 6  
*omit.* 7

**Clause 28 Amendment of s 1184 (Additional contributions to 8  
scheme) 9**  
(1) Section 1184, 'scheme'— 10  
*omit, insert* 11  
'LG Super scheme'. 12  
(2) Section 1184— 13  
*insert—* 14  
'(3) Also, the member, or the local government for the member, 15  
can not pay an amount as a contribution mentioned in 16  
subsection (1) to the extent the amount can not, under the 17  
Commonwealth Superannuation Act, be accepted by a 18  
regulated superannuation fund under that Act.'. 19

**Clause 29 Amendment of s 1186 (Adjustment of contributions 20  
because of change in salary) 21**  
(1) Section 1186(1), after 'stated year'— 22  
*insert—* 23  
'or as at any other stated day during the year following any 24  
change to the salary of any of the employees'. 25  
(2) Section 1186(3) to (5)— 26  
*omit, insert—* 27

- ‘(3) If— 1
- (a) a permanent employee’s salary has decreased; and 2
  - (b) the employee gives the local government written notice 3  
that the employee wants to pay contributions as if the 4  
employee’s salary had not decreased; 5
- the local government must calculate the yearly contributions 6  
payable for the employee based on the employee’s former 7  
salary.’. 8
- (3) Section 1186(6)— 9  
*renumber* as section 1186(4). 10

<b>Schedule</b>	<b>Minor amendments</b>	1
	sections 2 and 20	2
<b>Building Act 1975</b>		3
<b>1</b>	<b>Section 174(1)(a), second occurring—</b>	4
	<i>renumber</i> as section 174(1)(b).	5
<b>2</b>	<b>Section 248(4), ‘Subsection (4)’—</b>	6
	<i>omit, insert—</i>	7
	‘Subsection (3)’.	8
<b>3</b>	<b>Schedule 2, definition <i>assessable development</i>, ‘the IPA’—</b>	9
	<i>omit, insert—</i>	10
	‘IPA’.	11
		12
<b>Local Government Act 1993</b>		13
<b>1</b>	<b>Section 4(1)(d)(ii)—</b>	14
	<i>omit, insert—</i>	15
	‘(ii) land mentioned in the <i>Mineral Resources Act 1989</i> ,	16
	schedule, definition <i>owner</i> ; or’.	17

<b>2</b>	<b>Section 159YU, '(1)'—</b>	1
	<i>omit.</i>	2
<b>3</b>	<b>Section 195(1) and schedule 2, definition <i>local governing body</i>, '<i>Local Government (Financial Assistance) Act 1986</i>'—</b>	3
	<i>omit, insert—</i>	4
	<i>'Local Government (Financial Assistance) Act 1995'.</i>	5
		6
		7
<b>4</b>	<b>Section 238(1) and 1170, definition <i>Commonwealth Superannuation Act</i>—</b>	8
	<i>omit.</i>	9
		10
<b>5</b>	<b>Section 238(3)(b) and section 721(1), definition <i>existing scheme</i>, '<i>Local Government Superannuation Scheme</i>'—</b>	11
	<i>omit, insert—</i>	12
	<i>'LG Super scheme'.</i>	13
		14
<b>6</b>	<b>Section 483M(2), paragraphs (a) to (e), after ';'—</b>	15
	<i>insert—</i>	16
	<i>'and'.</i>	17
<b>7</b>	<b>Section 492(2), paragraphs (a) to (d), after ';'—</b>	18
	<i>insert—</i>	19
	<i>'and'.</i>	20
<b>8</b>	<b>Section 499(a), 'section 500'—</b>	21
	<i>omit, insert—</i>	22
	<i>'section 500'.</i>	23

Schedule

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<b>9</b>	<b>Section 720(2), ‘Superannuation Industry (Supervision) Act 1993 (Cwlth)’—</b>	1
	<i>omit, insert—</i>	2
	<i>omit, insert—</i>	3
	‘Commonwealth Superannuation Act’.	4
<b>10</b>	<b>Section 955B(2), ‘\$1.00’—</b>	5
	<i>omit, insert—</i>	6
	‘\$1’.	7
<b>11</b>	<b>Chapter 13, part 6, division 4, heading, ‘pt 6’—</b>	8
	<i>omit, insert—</i>	9
	‘part 6’.	10
<b>12</b>	<b>Chapter 15, part 5, division 11, subdivision 4 hdg, ‘div 11’—</b>	11
	<i>omit, insert—</i>	12
	<i>omit, insert—</i>	13
	‘division 11’.	14
<b>13</b>	<b>Section 1170, definitions <i>contributory member, member</i> and <i>non-contributory member</i>, and sections 1174(a), 1178(2)(b), 1187 and 1188(1), ‘scheme’—</b>	15
	<i>omit, insert—</i>	16
	<i>omit, insert—</i>	17
	‘LG Super scheme’.	18
<b>14</b>	<b>Schedule 2—</b>	20
	<i>insert—</i>	21
	‘ <i>Commonwealth Superannuation Act</i> means the <i>Superannuation Industry (Supervision) Act 1993</i> (Cwlth).’	22
	‘ <i>LG Super scheme</i> see section 1180(1).’.	23
	‘ <i>LG Super scheme</i> see section 1180(1).’.	24

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