



Building Act 1975

Building Regulation 2006

Current as at 18 December 2020

© State of Queensland 2021



This work is licensed under a Creative Commons Attribution 4.0 International License.



Queensland

Building Regulation 2006

Contents

		Page
Part 1	Preliminary	
1	Short title	9
2	Commencement	9
3	Definitions	9
Part 2	Accepted building work	
4	Accepted building work for the Planning Act—Act, s 21(2)(a) . . .	9
Part 3	Prescribed matters or aspects for local laws or local planning instruments	
6	Operation of pt 3	10
7	Additional water saving targets	10
10	Planning scheme provisions about particular performance criteria under QDC part 1.1 or QDC part 1.2	11
11	Swimming pool construction	12
12	Designation by local planning instrument of bush fire prone areas	12
13	Land liable to flooding	13
Part 3A	Smoke alarms for domestic dwellings	
13AA	Application of part	14
13AB	Definition for part	15
13AC	Smoke alarms for domestic dwellings	15
13AD	Requirements for placement of a smoke alarm	16
Part 4	Swimming pool safety	
Division 1	Swimming pool barriers and signs	
13A	Resuscitation sign requirements and display	17
14	Warning sign requirements and display—Act, s 233	18
Division 2	General provisions	
15	Prescribed local governments—Act, s 246ACA	19
16	Prescribed notification requirements—Act, s 246ATM	19

Contents

16A	Additional particulars for regulated pools register—Act, s 246AS	19
16B	Prescribed professional indemnity insurance—Act, s 246AV . . .	20
16C	Approved code of conduct for pool safety inspectors—Act, s 246BA	22
16D	Prescribed minor repairs—Act, s 246BE	22
16DA	Inspection of particular prescribed work	23
Division 2A	Continuing professional development	
16DB	Application of div 2A	23
16DC	Definitions for div 2A	23
16DD	Continuing professional development	24
16DE	CPD activities and points	24
Division 3	Provisions about demerit points	
Subdivision 1	General	
16E	Definitions for div 3	25
Subdivision 2	Calculation, allocation and accumulation of demerit points	
16F	Prescribed demerit points—Act, s 246CG(2)(d) and sch 2	26
16G	Allocation of demerit points for demerit contraventions	26
16H	When demerit points allocated for demerit offences	27
16I	QBCC commissioner must notify pool safety inspector about allocation of demerit points	27
16J	Limit on demerit points from single audit or investigation	28
16K	Procedure if the QBCC commissioner decides pool safety inspector has accumulated 16 demerit points	28
16L	Ending procedure without further action	29
16M	Notice of accumulation of 16 demerit points after submission period	29
Part 4A	Combustible cladding	
Division 1	Preliminary	
16N	Application of part	30
16O	Definitions for part	31
16P	References to owner	34
Division 2	Obligations on owners of private buildings	
Subdivision 1	Obligations relating to combustible cladding checklist (part 1)	
16Q	Registering and giving completed checklist to QBCC	35
16R	Keeping completed checklist	36
Subdivision 2	Obligations relating to combustible cladding checklist (part 2)	
16S	Application of subdivision	36
16T	Giving completed checklist and related statement to QBCC	37

16U	Keeping completed checklist and related statement	38
Subdivision 3	Obligations relating to combustible cladding checklist (part 3)	
16V	Application of subdivision	38
16W	Giving fire engineer details to QBCC	39
16X	Giving completed checklist and related assessment and statement to QBCC	40
16Y	Keeping completed checklist and related assessment and statement	41
Subdivision 4	Other obligations relating to affected private buildings	
16Z	Application of subdivision	42
16ZA	Displaying affected private building notice	42
16ZB	Giving copy of building fire safety risk assessment to lot owners and tenants	44
Subdivision 5	Change of ownership of private building	
16ZC	Definitions for subdivision	45
16ZD	Original owner to give notice of compliance	45
16ZE	New owner's obligations relating to giving checklists and related documents	46
16ZF	New owner's obligations relating to keeping checklists and related documents	46
16ZG	New owner's obligation to display affected private building notice	47
Division 3	Obligations on building industry professionals and fire engineers	
16ZH	Building industry professional statement	48
16ZHA	Notifying owner of fire safety risk mitigation measures	48
16ZI	Building fire safety risk assessment and fire engineer statement	49
Division 4	Miscellaneous	
16ZJ	Order to give completed combustible cladding checklist (part 1)	50
16ZK	Order to obtain building industry professional statement	50
16ZL	Order to obtain building fire safety risk assessment and fire engineer statement	50
16ZM	Notice about compliance period	51
16ZN	Proof of agency	51
16ZO	Responsibility for acts or omissions of agents	52
16ZP	When owner not required to comply with part	53
16ZQ	Giving replacement checklist	53
16ZR	Removal of documents and entries from online system	54
Part 5	Competent persons	
Division 1	General provisions about competent persons	

Contents

17	Appointment and functions	54
18	Restrictions on deciding competency	55
18A	Individuals competent to give inspection help	56
19	Building certifier's obligation to keep record of decision about competency	57
Division 2	Restrictions on functions competent persons may perform	
20	General restrictions	57
21	Restriction on signing inspection certificate for single detached class 1a or a class 10 building	57
22	Restrictions on giving inspection help	58
23	Competent person must not give false or misleading documents	58
Part 5A	Cadet building certifiers	
23A	Appointment of cadet building certifier	59
23B	Role of cadet building certifier and supervising certifier	59
23C	Application of pt 5 to cadet building certifier	60
Part 6	Inspections of assessable building work	
Division 1	Inspections by or for building certifier	
Subdivision 1	Preliminary	
24	What is a stage of assessable building work	60
25	Local government's power to exempt particular assessable building work from particular stages of inspection	62
26	Inspection guidelines	62
Subdivision 2	Notice for inspection	
27	Builder's obligation to give notice for inspection at completion of each stage	63
28	Prohibition on further building work until stage complies	63
29	Notifying QBCC if notice for inspection not given	63
Subdivision 3	Carrying out inspection	
30	Arranging inspection	64
31	Inspection procedure	64
32	Certificate of inspection	65
33	Noncompliance notice	65
Subdivision 4	Procedure if noncompliance notice given	
34	Builder's obligation to ensure stage complies with development approval	66
35	Consequences of builder not complying with obligation	67
Subdivision 4A	Additional inspections for chapter 8 pools and their fencing in particular circumstances	

35A	Application of sdiv 4A	67
35B	Inspection procedure and process after inspection	68
35C	Delaying inspection in particular circumstances	69
Subdivision 5	Miscellaneous provision	
36	Declaratory provision about inspections	70
Division 2	Referral agency inspections	
37	Application of div 2	71
38	Notice to referral agency to inspect	71
39	Referral agency inspection	71
40	Acting on referral agency's inspection notice	72
41	Consequence of no referral agency notice	73
Part 7	General provisions about certificates	
Division 1	QBCC licensee certificates	
42	Application of div 1	73
43	QBCC licensee certificate if building development approval	74
44	QBCC licensee certificate for accepted building work	74
45	QBCC licensee must not give false or misleading certificate	75
Division 2	Competent person certificates other than certificates of inspection	
46	Certificate about building design or specification	75
47	Aspect inspection certificate	75
47A	Competent persons (inspections)—restriction for giving certificates	76
48	Content requirements for certificates	76
Division 3	Accepting certificates	
49	Optional acceptability by building certifier	77
50	Optional acceptability by competent person (inspections)	77
Division 4	Certificates under CodeMark Scheme	
51	Certificate of conformity	78
Part 8	Miscellaneous provisions	
Division 1	Approvals and miscellaneous matters	
51A	Queensland Development Code—Act, s 13	79
51B	Approval of replacement of code of conduct—Act, s 129	79
51BA	Demerit offences—Act, s 214A, definition demerit offence	79
51BB	Demerit points—Act, s 214E	79
51BC	QDC residential design and siting provisions—Act, sch 2, definition QDC residential design and siting provisions	80
51BM	Prescribed day for giving notice about existing regulated pool—Act,	

Contents

	s 246AR	80
51C	Prescribed day for expiry of existing rainwater tank provisions—Act, s 283	80
52	Prescribed matters for private certification endorsement—Act, s 163	81
52A	Prescribed accreditation standards body—Act, s 184	82
53	Information to be supplied by the State—Act, s 255	82
53A	Notice requirement for particular development approvals for building work near sewers	83
53B	Notice requirement for particular development approvals for farm buildings	84
Division 2	Fees	
54	Fees	86
Division 2A	Displaying code checklist	
54A	Definitions for div 2A	87
54B	Form and content of code checklist	87
54C	Display of code checklist for particular temporary accommodation buildings	87
Division 3	Transitional provisions	
55	Definition for div 3	88
56	Undecided building development applications	88
57	Development applications made for relevant building work before designation of rainwater tank area	89
58	Declarations under repealed regulation, s 53	89
Part 9	Repeals	
59	Repeals	89
Part 10	Transitional provisions	
Division 1	Transitional provisions for Building Amendment Regulation (No. 3) 2012	
60	No continuing professional development prescribed for applications made before 1 December 2012	90
61	Completion of 2 CPD points prescribed for applications made on or after 1 December 2012 and before 1 January 2013	90
62	Completion of 4 CPD points prescribed for particular applications made on or after 1 January 2013 and before 1 February 2013	90
Division 2	Transitional provision for Building Amendment Regulation (No. 2) 2014	
63	Regulated pools constructed before 1 December 2009	91
Division 3	Transitional provisions for Building and Other Legislation Amendment Regulation (No. 1) 2014	

64	Definitions for div 3	92
65	Demerit points not allocated by PSC before commencement . . .	92
66	Demerit points allocated, but not notified, by PSC before commencement	92
Division 4	Transitional provision for Building (Swimming Pool Safety—CPR Signs) Amendment Regulation 2016	
67	Resuscitation signs for particular regulated pools	93
Division 5	Transitional provisions for Building and Other Legislation Amendment Regulation 2019	
68	Definitions for division	93
69	Application of particular provisions if documents given before commencement	94
70	Effect of ending of exemption period on particular private certifiers	96
Division 6	Transitional provisions for Building (Professional Indemnity Insurance) Amendment Regulation 2020	
71	Disapplication of s 70	96
72	Continued application of expired section 52(3A) in relation to exempted licences	97
Schedule 1	Building work that is accepted development if relevant provisions complied with	98
1	Work for particular fences	98
2	Work for particular non-load bearing devices	98
3	Work for particular retaining walls	99
4	Particular filling or excavation	100
5	Work for particular heating devices	100
6	Work for particular signs	101
7	Particular repairs, maintenance or alterations not affecting structural component or fire safety system	101
8	Particular repairs, maintenance or alterations only affecting minor structural component	101
9	Particular repairs, maintenance or alterations only affecting minor component of fire safety system	103
10	Work for particular budget accommodation buildings built, approved or applied for before 1 January 1992	104
11	Work for particular temporary things on building sites	104
12	Erecting particular tents	104
13	Other work for class 10 buildings or structures	104
14	Work for particular air conditioners	106
15	Work for solar hot water systems or photovoltaic solar panels . .	106

Contents

Schedule 2	Other building work that is accepted development	107
1	Work for particular class 10b structures or special structures . . .	107
2	Attaching particular sun hoods	107
3	Erecting particular tents	107
4	Other work for class 10 buildings or structures	107
Schedule 2A	Prescribed local governments	109
Schedule 2B	Minor repairs	111
1	Minor repairs of barriers for a regulated pool	111
2	Minor repairs of gates	112
3	Minor repairs of protected windows and doors	113
4	Non-climbable zone works	113
Schedule 2C	Repairs, maintenance and other work for regulated pools . .	115
1	Repairs and maintenance of barriers for a regulated pool	115
2	Repairs of gates	116
3	Repairs of protected windows and doors	116
4	Non-climbable zone works	117
5	Work for barriers for regulated pools in particular circumstances	117
Schedule 2D	Bodies and CPD points for membership for continuing professional development	120
Schedule 2E	Queensland Development Code	121
Schedule 2F	Demerit offences	126
Schedule 3	Fees	128
Schedule 4	Dictionary	131

Building Regulation 2006

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Building Regulation 2006*.

2 Commencement

This regulation commences immediately after the *Building and Other Legislation Amendment Act 2006*, section 5, commences.

3 Definitions

The dictionary in schedule 4 defines particular words used in this regulation.

Part 2 Accepted building work

4 Accepted building work for the Planning Act—Act, s 21(2)(a)

- (1) Schedules 1 and 2 prescribe building work for section 21(2)(a) of the Act.
- (2) Building work prescribed in schedule 1 is accepted development for the Planning Act only if the building work complies with the relevant provisions under section 21(5) of the Act for the work.
- (3) Also, building work prescribed in schedule 1 is accepted development for the Planning Act only to the extent that the building work does not include altering cladding forming part of, or attached or applied to, an external wall or another external part of a building other than the roof.

Part 3 Prescribed matters or aspects for local laws or local planning instruments

6 Operation of pt 3

This part prescribes, for section 32 of the Act—

- (a) matters that a local planning instrument may designate for the BCA or QDC; and
- (b) aspects of, or matters related or incidental to, building work about which a local government makes or amends in a provision of a local law or planning scheme or a resolution.

Notes—

- 1 A provision of a local law, local planning instrument or resolution about a prescribed aspect or matter is a *building assessment provision*. See section 30(1)(e) of the Act.
- 2 For public access to maps provided for under this part and registers under section 13(4), see the Planning Act, section 264 and the *Planning Regulation 2017*, schedule 22.

7 Additional water saving targets

- (1) This section applies for work (*relevant work*) that—
 - (a) is the subject of building assessment work or is accepted building work; and
 - (b) is for a class 1 building.
- (2) A provision of a local law or planning instrument or a local government resolution may impose a requirement (an *additional requirement*) for relevant work about the matters provided for under performance criteria 1 and 2 under QDC part 4.2.
- (3) However, an additional requirement may be imposed only if—

-
- (a) it includes acceptable solutions that apply for the performance criteria; and
 - (b) the acceptable solutions are—
 - (i) a more effective measure for saving water than under QDC part 4.2; and
 - (ii) a qualitative statement or quantifiable standard.

Examples of requirements that may comply with subsection (3)—

- a dual reticulation requirement under which 2 separate water pipelines must supply the building, one of which delivers recycled water and the other delivers drinking water
 - a stormwater reuse requirement under which stormwater is required to be harvested and stored, above or below ground, for reuse
 - a communal rainwater tank requirement under which harvested rainwater must be stored in an above or below ground community storage tank for use by a community the area of which includes the building
- (4) If there are additional requirements for relevant work, the work must comply with QDC part 4.2 and the additional requirements.

10 Planning scheme provisions about particular performance criteria under QDC part 1.1 or QDC part 1.2

- (1) This section applies for building work (*relevant work*) for a single detached class 1 building or a class 10 building or structure located on the same allotment as a single detached class 1 building.
- (2) A local government planning scheme—
 - (a) may provide that all or some of performance criteria 4, 5, 7, 8 or 9 under QDC part 1.1 or QDC part 1.2 and the relevant acceptable solutions under the part for the performance criteria apply for relevant work; or
 - (b) may, for relevant work, provide for qualitative statements for matters provided for under all or some of the performance criteria if the scheme also provides for quantifiable standards for the statements.

11 Swimming pool construction

- (1) A local law may require—
 - (a) the construction of fencing around swimming pools; or
 - (b) doors, windows and other openings giving access to swimming pools to comply with the local law.
- (2) However—
 - (a) the requirement can not allow the construction of fencing around outdoor swimming pools on residential land to a standard less effective than the standard under section 235 of the Act; and
 - (b) the local law has effect only if it can reasonably be characterised as being directed to inhibiting young children from accessing swimming pools.

12 Designation by local planning instrument of bush fire prone areas

- (1) A local government may, in a local planning instrument, designate all or part of its area as a designated bush fire prone area for the BCA or QDC.
- (2) On the making of the designation, the provisions of the BCA or QDC that apply to a designated bushfire prone area apply for any building assessment work that relates to the area.
- (3) The local government must, if it is practicable to do so, ensure its planning scheme maps show each of its designated bush fire prone areas.
- (4) If it is not practicable for the local government to show each of the areas in its planning scheme maps, it must—
 - (a) prepare maps showing the areas; and
 - (b) ensure the maps are updated from time to time to show its current designated bush fire prone areas.
- (5) The maps must state when each designation was made.

13 Land liable to flooding

- (1) A local government may, in a planning scheme or by a temporary local planning instrument under the Planning Act or a resolution—
 - (a) designate part of its area as a flood hazard area; and
 - (b) declare the following for all or part of a flood hazard area—
 - (i) the defined flood level;
 - (ii) the maximum flow velocity of water;
 - (iii) an inactive flow or backwater area;
 - (iv) a freeboard that is more than 300mm;
 - (v) the finished floor level of class 1 buildings built in all or part of the flood hazard area.

- (2) The local government must, on the making of a designation or declaration, state in the planning scheme, temporary local planning instrument or resolution that the designation or declaration is made under this section.

Note—

Under the QDC part MP 3.5, that part applies to the lawful carrying out of certain building work to the extent the building work is carried out wholly or partly within a flood hazard area and a defined flood level is declared by a local government for the area.

- (3) The local government must, in designating a flood hazard area, comply with—
 - (a) a State planning policy; and
 - (b) if there is a temporary State planning policy under the Planning Act in effect when the designation is made which affects the operation of a State planning policy for the designation—the temporary State planning policy to the extent it applies.
- (4) The local government must keep a register of the flood hazard areas it designates and when each designation was made.
- (5) In this section—

[s 13AA]

defined flood level means the level to which it is reasonably expected flood waters may rise.

finished floor level means the level of the uppermost surface of a finished floor not including any floor covering.

Examples of a floor covering—

carpet, tiles

freeboard means a height above the defined flood level that takes account of matters that may cause flood waters to rise above the defined flood level.

Example of matters that may cause a flood level to rise above the defined flood level—

wave action, localised hydraulic behaviour

inactive flow or backwater area means all or part of a flood hazard area where the maximum flow velocity of water is not likely to be greater than 1.5m/s.

maximum flow velocity of water, for all or part of a flood hazard area, means a flow velocity of water that is reasonably expected to be the maximum flow velocity of water for all or part of the flood hazard area.

State planning policy means a State planning policy under the Planning Act, other than a temporary State planning policy.

Part 3A Smoke alarms for domestic dwellings

13AA Application of part

- (1) This part applies to a building development application for the construction of a domestic dwelling.
- (2) Building assessment work for the application must be carried out under this part.
- (3) Subsection (2) applies in addition to any requirements in the BCA about smoke alarms for domestic dwellings.

13AB Definition for part

In this part—

domestic dwelling means either of the following—

- (a) a class 1a building;
- (b) a sole-occupancy unit, within the meaning of the BCA, in a class 2 building.

13AC Smoke alarms for domestic dwellings

- (1) A smoke alarm must be installed in each bedroom of the domestic dwelling, in a place that complies with section 13AD.
- (2) Each smoke alarm must—
 - (a) comply with AS 3786–2014; and
 - (b) contain a photoelectric sensor; and
 - (c) not also contain an ionisation sensor; and
 - (d) be hardwired to the domestic dwelling’s electricity supply; and
 - (e) be interconnected to every other smoke alarm installed in the dwelling.
- (3) A smoke alarm (the *first smoke alarm*) is interconnected to another smoke alarm if—
 - (a) the first smoke alarm sounds an alert if the other smoke alarm is activated because its sensor detects smoke; and
 - (b) the other smoke alarm sounds an alert if the first smoke alarm is activated because its sensor detects smoke.
- (4) Subsections (1) and (2) do not apply to a sole-occupancy unit in a class 2 building if a smoke detection system that complies with the BCA, specification E2.2a, clause 4 has been installed in the domestic dwelling.
- (5) If the BCA is inconsistent with this section, this section prevails to the extent of the inconsistency.

13AD Requirements for placement of a smoke alarm

For section 13AC(1), the place a smoke alarm is installed—

- (a) must be on—
 - (i) if it is practicable to mount a smoke alarm on a ceiling—the ceiling; or
 - (ii) if subparagraph (i) does not apply and an exposed joist or beam has a depth of no more than 300mm when measured from the ceiling—the underside of the exposed joist or beam; or
 - (iii) otherwise—a wall in an area that is between 100mm and 300mm from the ceiling and more than 300mm from the corner of 2 walls; and
- (b) if the smoke alarm is installed on a ceiling that slopes—must be in an area of the ceiling that is between 500mm and 1,500mm from the apex of the ceiling; or
- (c) must not be—
 - (i) within 300mm of a light fitting; and
 - (ii) if the smoke alarm is installed on a ceiling—within 300mm of a corner of the ceiling and a wall; and
 - (iii) if the smoke alarm is installed in a stairwell—where smoke rising in the stairwell will not reach the smoke alarm because of an obstruction; and
 - (iv) within 400mm of an opening from which air is supplied from an air conditioner or forced air ventilation; and
 - (v) within 400mm of the blades of a ceiling fan.

Part 4 Swimming pool safety

Division 1 Swimming pool barriers and signs

13A Resuscitation sign requirements and display

- (1) A standard prescribed for section 231D(1)(b) of the Act for a regulated pool is the display of a resuscitation sign complying with the requirements for a resuscitation sign in subsection (2).
- (2) The sign must—
 - (a) be attached to the barrier for the pool, or displayed near the pool, so that the sign is conspicuous and easily visible to anyone near the pool; and
 - (b) be at least 300mm x 300mm in size; and
 - (c) be made of durable and weatherproof material; and
 - (d) include a statement that is prominent on the sign explaining to anyone reading the sign how to act in an emergency, including, for example, telephoning for an ambulance, staying with the injured person, calling for help and providing first aid; and

Example of what sign must state—

‘In an emergency phone 000 and ask for ambulance. Stay with injured person, call for help and resuscitate.’

- (e) show information about the procedures for providing first aid, including performing cardiopulmonary resuscitation in the way stated in the document called ‘ANZCOR guideline 8—Cardiopulmonary resuscitation (CPR)’ published by the Australian Resuscitation Council in January 2016.

Note—

However, see sections 63 and 67.

- (3) Each diagram or letter on the sign must be durable, legible and clearly visible.

(4) In this section—

resuscitation sign means a sign showing procedures for providing first aid, including, for example, expired air resuscitation and external cardiac compression.

14 Warning sign requirements and display—Act, s 233

(1) This section prescribes, for section 233(2) of the Act—

- (a) the way a warning sign must be displayed on land before the construction of a regulated pool, other than a portable swimming pool, on the land; and
- (b) the requirements for the sign.

(2) The sign must—

- (a) warn members of the public in the vicinity of the land that—
 - (i) a swimming pool is under construction on the land; and
 - (ii) there is a potential danger to young children accessing the land; and

Example of what sign must state—

‘Danger. Swimming pool under construction. Keep children out.’

- (b) subject to subsection (4), be placed on, or within 1.5m of, the road frontage for the land; and
 - (c) be mounted so that the bottom of the sign is at least 300mm above ground level; and
 - (d) be positioned so that it is visible from the road; and
 - (e) be made of weatherproof material.
- (3) Any lettering on the sign that relates to the warning mentioned in subsection (2)(a) must be at least 50mm in height and in a bold style.
- (4) If the land has more than 1 road frontage, a sign need only be placed on 1 of the frontages.

-
- (5) The sign may include a reference to a matter other than the warning mentioned in subsection (2)(a).
- (6) In this section—
- road frontage***, for land, means—
- (a) if the only access to the land is across other land—the boundary between the other land and any road adjoining the other land at the point of access; or
- (b) otherwise—the boundary between the land and any road adjoining the land.

Division 2 General provisions

15 Prescribed local governments—Act, s 246ACA

For section 246ACA of the Act, a prescribed local government is a local government mentioned in schedule 2A.

16 Prescribed notification requirements—Act, s 246ATM

- (1) This section prescribes for section 246ATM(2) of the Act a notification requirement for the owner of regulated premises.
- (2) The owner must give a prospective purchaser of the premises, before entering into any contract for the sale of the premises, a notice in the approved form.

Editor's note—

The approved form can be accessed, free of charge, on QBCC's website.

Maximum penalty—20 penalty units.

16A Additional particulars for regulated pools register—Act, s 246AS

Each of the following matters is prescribed for section 246AS(3)(c) of the Act for a regulated pool—

[s 16B]

- (a) whether an alternative solution under section 14(4)(b) of the Act to a performance requirement under the pool safety standard has been used for the barriers for the pool;
- (b) whether the chief executive has decided under section 41 of the Act to vary how a provision of the pool safety standard relating to the barriers for the pool applies to the pool, and the effect of the variation;
- (c) whether an exemption granted by a local government under section 240 of the Act is in force for the barriers for the pool;
- (d) whether, on appeal to a building and development dispute resolution committee under the repealed *Sustainable Planning Act 2009*, the committee has granted an exemption for the pool under previous section 240 of the Act;
- (e) if there is a building certificate that applies to the pool under section 246AN of the Act—
 - (i) the day the building certificate was given; and
 - (ii) the period for which the building certificate may be used instead of a pool safety certificate for the pool.

16B Prescribed professional indemnity insurance—Act, s 246AV

- (1) For section 246AV of the Act, the prescribed professional indemnity insurance for a pool safety inspector is professional indemnity insurance that provides for all of the following—
 - (a) a minimum limit of indemnity of a total of \$1m during any 1 period of insurance that may arise from the performance by the pool safety inspector of a pool safety inspection function;
 - (b) as well as the limit of indemnity mentioned in paragraph (a)—

- (i) indemnity for costs and expenses incurred with the consent of the insurer for defending or settling a claim; and
 - (ii) no exclusion or special limitation for personal injury or property damage; and
 - (iii) no requirement for any particular disclaimer to be given by the pool safety inspector to the pool safety inspector's clients or customers before, during or after the performance of the pool safety inspection function;
- (c) indemnity for breaches of professional duty as a pool safety inspector arising from an act, error or omission of the inspector after the day the inspector first became a pool safety inspector;
 - (d) at least 1 automatic reinstatement of indemnity;
 - (e) indemnity for negligent performance of a pool safety inspection function (other than for claims for fraudulent or illegal acts or omissions);
 - (f) if the pool safety inspector performs a pool safety inspection function as an employee—indemnity to former principals, partners and directors of the employer of the pool safety inspector who were, but no longer are, pool safety inspectors.
- (2) For subsection (1), a pool safety inspector who is a member of a corporation, or an employee of an individual, a corporation or a public sector entity, has the prescribed professional indemnity insurance if the corporation, individual or entity has the professional indemnity insurance mentioned in subsection (1).
 - (3) For subsection (1)(b), the indemnity may, for any 1 claim, be limited to 20% of the limit of indemnity the insurance provides under subsection (1)(a) for the claim.
 - (4) Subsection (1) does not apply to a pool safety inspector employed as a pool safety inspector by any of the following if the pool safety inspector is performing a pool safety

inspection function in the course of the pool safety inspector's employment—

- (a) a local government;
- (b) the State;
- (c) the Commonwealth;
- (d) the Queensland Building and Construction Employing Office established under the *Queensland Building and Construction Commission Act 1991*, section 29A.

16C Approved code of conduct for pool safety inspectors—Act, s 246BA

The code of conduct for pool safety inspectors called 'Code of conduct for swimming pool safety inspectors' made by the chief executive on 23 September 2010 is approved.

Note—

Under section 338(3) of the Act, the code of conduct for pool safety inspectors continues in effect as if the code of conduct had been made by the QBCC commissioner.

Editor's note—

Copies of the code of conduct for pool safety inspectors are available for inspection at QBCC's head office and on its website.

16D Prescribed minor repairs—Act, s 246BE

For section 246BE(1) of the Act, the repairs and other works set out in schedule 2B are minor repairs.

Notes—

- 1 See also the *Queensland Building and Construction Commission Regulation 2018*, section 5(1), that provides that particular works of a value of \$3,300 or less is not building work for the *Queensland Building and Construction Commission Act 1991*, schedule 2, definition *building work*.
- 2 The electrical safety laws, including AS/NZ 3000 (Wiring Rules Standard), apply to fencing for a pool, support structures and other fixed conductive material near a pool. The standard also applies to fencing erected after a pool's electrical equipment and ancillary fittings are installed.

16DA Inspection of particular prescribed work

- (1) This section applies to an owner of a regulated pool if work prescribed under schedule 2C, section 5 is carried out in relation to the pool.
- (2) However, this section does not apply to the owner if the work carried out in relation to the pool consists only of work that is also prescribed under schedule 2B or 2C, sections 1 to 4.
- (3) The owner must, unless the owner has a reasonable excuse, ensure that a pool safety inspector inspects the pool—
 - (a) if the work is carried out during the reinspection period stated in a nonconformity notice given for the regulated pool—within the reinspection period; or
 - (b) if the work is for a specified pool in relation to which a nonconformity notice has not been given—on a day that is not more than 3 months after the day the owner arranged the inspection under schedule 2C, section 5(2)(c)(ii).

Maximum penalty—20 penalty units.

Division 2A Continuing professional development

16DB Application of div 2A

This division prescribes the continuing professional development for the Act, sections 246BN(3)(e) and 246BR(2)(c)(v).

16DC Definitions for div 2A

In this division—

activities—

- (a) include courses, seminars, workshops and conferences; but

[s 16DD]

- (b) do not include work experience, unless the work experience is gained while employed by the State or a local government.

CPD activities mean activities approved by the QBCC commissioner under section 16DE(1).

16DD Continuing professional development

- (1) A person must accumulate the following number of points (*CPD points*)—
 - (a) if the person is a building certifier—4 CPD points;
 - (b) otherwise—6 CPD points.
- (2) A person accumulates CPD points by—
 - (a) completing CPD activities; or
 - (b) holding membership of a body mentioned in section 16DE(5).

16DE CPD activities and points

- (1) The QBCC commissioner may approve activities as CPD activities if the commissioner considers the activities are relevant to pool safety inspection functions or matters incidental to those functions.
- (2) The QBCC commissioner must publish on the QBCC's website a list of CPD activities and the number of CPD points awarded for completion of each CPD activity.
- (3) The QBCC commissioner must allow 1 CPD point to be accumulated for each CPD activity a person undertakes.
- (4) The QBCC commissioner may allow additional CPD points to be completed for each hour or part of an hour a person undertakes a CPD activity, having regard to the following—
 - (a) the quality of the CPD activity;
 - (b) the topics covered by the CPD activity;

-
- (c) the extent to which the CPD activity is relevant to pool safety inspection functions or matters incidental to those functions.
- (5) A person holding membership of a body mentioned in schedule 2D, column 1 accumulates the CPD points mentioned in schedule 2D, column 2 shown opposite the body if the person holds the membership at the time the person applies for renewal or restoration of the person's licence.

Division 3 Provisions about demerit points

Subdivision 1 General

16E Definitions for div 3

In this division—

accumulate see section 16F(4).

continuous 3-year period, in relation to the accumulation of demerit points, means a continuous period of 3 years or less.

demerit contravention, by a pool safety inspector, means a contravention, after the commencement of this definition, of a requirement imposed under a relevant provision.

demerit points means demerit points allocated by the QBCC commissioner under this division for a demerit contravention.

relevant provision means any of the following provisions of the Act—

- (a) section 246AA(2);
- (b) section 246AB(2);
- (c) section 246AC(2);
- (d) section 246AC(4);
- (e) section 246AD(2);
- (f) section 246AJ(4);

- (g) section 246AM(2);
- (h) section 246AV.

Subdivision 2 Calculation, allocation and accumulation of demerit points

16F Prescribed demerit points—Act, s 246CG(2)(d) and sch 2

- (1) For section 246CG(2)(d) of the Act, the prescribed number of demerit points is 16 demerit points in a continuous 3-year period.
- (2) For schedule 2, definition *ground for disciplinary action*, paragraph (f) of the Act, the prescribed number of demerit points is 16 demerit points in a continuous 3-year period.
- (3) For subsections (1) and (2), to work out the number of demerit points a pool safety inspector has accumulated in a continuous 3-year period, the QBCC commissioner may add up the demerit points accumulated by the inspector during the relevant continuous 3-year period.
- (4) A pool safety inspector *accumulates* a demerit point when the demerit point takes effect.

16G Allocation of demerit points for demerit contraventions

- (1) This section applies to a pool safety inspector who has committed a demerit contravention.
- (2) The QBCC commissioner may allocate 2 demerit points under this division to the pool safety inspector for the demerit contravention.

Note—

For reviews of the decision, see the *Queensland Building and Construction Commission Act*, part 7, division 3.

- (3) This section is subject to section 16J.

16H When demerit points allocated for demerit offences

- (1) The QBCC commissioner must allocate demerit points to a pool safety inspector for a demerit contravention as soon as practicable after the commissioner becomes aware of the demerit contravention.
- (2) Demerit points for a demerit contravention take effect on the following day—
 - (a) for demerit points allocated for a demerit contravention other than a contravention of section 246AD(2) of the Act—the day after the last day on which the pool safety inspector was required to comply with the relevant provision;
 - (b) for demerit points allocated for a contravention of section 246AD(2) of the Act—the day on which the commissioner became aware of the demerit contravention.

16I QBCC commissioner must notify pool safety inspector about allocation of demerit points

- (1) This section applies if the QBCC commissioner allocates demerit points to a pool safety inspector.
- (2) The commissioner must, as soon as practicable after the demerit points are allocated, give the pool safety inspector a notice stating the following—
 - (a) the demerit points allocated;
 - (b) the demerit contravention for which the demerit points have been allocated;
 - (c) the day the demerit points were allocated;
 - (d) the day the demerit points took effect;
 - (e) that the accumulation of 16 demerit points in a continuous 3-year period is a matter to be considered by the commissioner under section 246CG(2)(d) of the Act if the commissioner is considering whether the pool safety inspector is a suitable person to hold a licence;

- (f) that the accumulation of 16 demerit points in a continuous 3-year period is a ground for disciplinary action under the Act and is a matter to be considered by—
 - (i) the commissioner, if the commissioner is deciding what, if any, disciplinary action to take under chapter 8, part 7, division 2 of the Act; or
 - (ii) the tribunal, if the tribunal is deciding what, if any, disciplinary action to take under chapter 8, part 7, division 3 of the Act.
- (3) The notice must include an information notice about the decision to allocate the demerit points.

16J Limit on demerit points from single audit or investigation

- (1) This section applies if a pool safety inspector commits a demerit contravention discovered by the QBCC commissioner as a result of a notice given to a pool safety inspector under section 246CP(1) of the Act.
- (2) Nothing in this section prevents other demerit points being allocated to the pool safety inspector for a demerit contravention discovered by the commissioner as a result of a later notice given under section 246CP(1) of the Act.
- (3) However, other demerit points must not be allocated for a demerit contravention discovered by the commissioner as a result of a later notice if the demerit contravention—
 - (a) was committed before the earlier notice; and
 - (b) was discovered as a result of the earlier notice and resulted in the allocation of demerit points.

16K Procedure if the QBCC commissioner decides pool safety inspector has accumulated 16 demerit points

- (1) This section applies if the QBCC commissioner decides that a pool safety inspector has accumulated 16 demerit points in a continuous 3-year period.

-
- (2) The commissioner must give the pool safety inspector a notice stating the following—
 - (a) the details of the demerit contraventions for which the demerit points have accumulated;
 - (b) the days the points were allocated;
 - (c) the days the points took effect;
 - (d) the effect of the inspector having accumulated 16 demerit points in a continuous 3-year period;
 - (e) that the pool safety inspector may, within a stated period, make written submissions about why the pool safety inspector has not accumulated 16 demerit points in the continuous 3-year period.
 - (3) The stated period must end at least 28 days after the pool safety inspector is given the notice.
 - (4) The commissioner must consider any submissions made by the pool safety inspector.

16L Ending procedure without further action

- (1) This section applies if, after considering any submissions made by the pool safety inspector in the stated period, the QBCC commissioner is satisfied the individual has not accumulated 16 demerit points in the continuous 3-year period.
- (2) The commissioner must, as soon as practicable, advise the pool safety inspector by notice that it does not intend to take any further action.

16M Notice of accumulation of 16 demerit points after submission period

- (1) This section applies if—
 - (a) after considering any submissions made by the pool safety inspector, the QBCC commissioner still considers

- the inspector has accumulated 16 demerit points in a continuous 3-year period; or
- (b) the pool safety inspector does not make any submissions.
- (2) The commissioner must, by notice given to the pool safety inspector, inform the inspector that—
- (a) the commissioner still considers the inspector has accumulated 16 demerit points in a continuous 3-year period; and
- (b) the accumulation of 16 demerit points in a continuous 3-year period is a matter to be considered by the commissioner under section 246CG(2)(d) of the Act if the commissioner is considering whether the pool safety inspector is a suitable person to hold a licence; and
- (c) the accumulation of 16 demerit points in a continuous 3-year period is a ground for disciplinary action under the Act and is a matter to be considered by—
- (i) the commissioner if the commissioner is deciding what, if any, disciplinary action to take under chapter 8, part 7, division 2 of the Act; or
- (ii) the tribunal if the tribunal is deciding what, if any, disciplinary action to take under chapter 8, part 7, division 3 of the Act.
- (3) The notice must include an information notice about the decision to allocate the demerit points.

Part 4A Combustible cladding

Division 1 Preliminary

16N Application of part

- (1) This part applies to a private building regardless of whether—

-
- (a) a building development approval was given for building work under which cladding was included in, or attached or applied to, the building; or
 - (b) there is a current recognised certificate for cladding that is included in, or attached or applied to, the building.
- (2) In this section—
recognised certificate see section 51(2).

160 Definitions for part

In this part—

affected private building means a private building that has combustible cladding forming part of, or attached or applied to, an external wall or another external part of the building other than the roof.

approved way, for giving the QBCC a document, means—

- (a) using the online system to give the document to the QBCC; or
- (b) if the QBCC commissioner approves another way for giving the document to the QBCC and publishes the way on the QBCC's website—giving the document to the QBCC in the way approved.

building fire safety risk assessment see section 16X(1)(b).

building industry professional—

1 A *building industry professional* is—

- (a) a building certifier—level 1; or
- (b) a person who holds a licence of 1 or more of the following classes under the QBCC Act—
 - (i) builder—open;
 - (ii) building design—open;
 - (iii) fire safety professional; or

- (c) a practising architect under the *Architects Act 2002*; or
 - (d) a practising professional engineer under the *Professional Engineers Act 2002* registered in 1 or more of the following areas of engineering—
 - (i) civil engineering;
 - (ii) fire engineering;
 - (iii) fire safety;
 - (iv) structural engineering.
- 2 Also, for a private building that is no more than 3 storeys and has a total floor area of less than 2,000m², a *building industry professional* includes—
- (a) a building certifier—level 2; and
 - (b) a person who holds a licence of 1 or more of the following classes under the QBCC Act—
 - (i) builder—medium rise;
 - (ii) building design—medium rise.

building industry professional statement see section 16T(1)(b).

cladding fire risk, for a private building, means a risk of injury or illness happening to a person—

- (a) arising from fire or smoke, or falling debris related to a fire, at the building; and
- (b) relating to cladding forming part of, or attached or applied to, an external wall or another external part of the building other than the roof.

combustible cladding means cladding that—

- (a) is made of a material of a kind that is not mentioned in the BCA, clause C1.9(e)(i), (ii), (iii), (iv) or (v); or
- (b) is deemed to be combustible under AS 1530.1—1994 (Methods for fire tests on building materials,

components and structures, Part 1: Combustibility test for materials), section 3.4(a), (b) or (c).

combustible cladding checklist (part 1) means the checklist of that name on the online system.

combustible cladding checklist (part 2) means the checklist of that name on the online system.

combustible cladding checklist (part 3) means the checklist of that name on the online system.

completed, for a checklist, means—

- (a) the checklist is filled out on the online system by the owner; and
- (b) the filled-out checklist is—
 - (i) printed; and
 - (ii) signed and dated by the owner in the presence of a qualified witness; and
 - (iii) signed and dated by the qualified witness.

convicted means found guilty, or having a plea of guilty accepted, by a court, whether or not a conviction is recorded.

fire engineer means a practising professional engineer under the *Professional Engineers Act 2002* registered in either or both of the following areas of engineering—

- (a) fire engineering;
- (b) fire safety.

fire engineer statement see section 16X(1)(c).

online system means the online system established by the department for the administration of this part.

Note—

The online system can be accessed at www.saferbuildings.qld.gov.au.

private building means a building—

- (a) that is—
 - (i) a class 2, 3, 4, 5, 6, 7, 8 or 9 building; and

- (ii) of a type A or type B construction; and
- (b) for which a building development approval was given, after 1 January 1994 but before 1 October 2018, for building work—
 - (i) to build the building; or
 - (ii) to alter the cladding on the building; and
- (c) that is owned by—
 - (i) only 1 or more private entities; or
 - (ii) 1 or more private entities and 1 or more other entities, if the private entities jointly hold more than 50% interest in the building.

private entity means an entity that is not—

- (a) the State, the Commonwealth, or another State; or
- (b) an agent, authority, instrumentality or other entity of the State, the Commonwealth, or another State.

QBCC investigator means an investigator appointed under the *Queensland Building and Construction Commission Act 1991*, section 104B.

qualified witness means a person mentioned in the *Oaths Act 1867*, section 13(1)(a), (b) or (c).

relevant local government, for a private building, means the local government in whose local government area the building is situated.

type A construction means the type of construction referred to as Type A construction in the BCA, part C1.

type B construction means the type of construction referred to as Type B construction in the BCA, part C1.

16P References to owner

For this part—

- (a) a reference to an owner is taken to be a reference to the owner of a private building; and

- (b) the owner of a private building that comprises 2 or more lots is taken to be the relevant body corporate, however called.

Division 2 Obligations on owners of private buildings

Subdivision 1 Obligations relating to combustible cladding checklist (part 1)

16Q Registering and giving completed checklist to QBCC

- (1) An owner must, within the compliance period—
 - (a) register, by using the online system, the owner’s name and the address of the owner’s private building; and
 - (b) give a copy of a completed combustible cladding checklist (part 1) for the building to the QBCC by using the online system.

Maximum penalty—20 penalty units.

- (2) The owner may apply to the QBCC commissioner to extend the period for complying with subsection (1).
- (3) The application must be made—
 - (a) in the approved form; and
 - (b) at least 28 days before the end of the period.
- (4) The QBCC commissioner may extend the period if the QBCC commissioner considers the extension is reasonable in the circumstances.
- (5) In this section—

compliance period means—

 - (a) the period ending on 29 March 2019 or, if the QBCC has given the owner a notice under section 16ZM(2) for

the owner's private building, the period stated in the notice; or

- (b) if, under subsection (4), the QBCC commissioner extends the period for complying with subsection (1)—the extended period.

16R Keeping completed checklist

An owner must keep the completed combustible cladding checklist (part 1) for the owner's private building—

- (a) for at least 7 years after a copy of the checklist is given to the QBCC; and
- (b) if the owner is required to keep a plan or document for the building under the *Building Fire Safety Regulation 2008*, section 71—with that plan or document at each place the plan or document is required to be kept under that section.

Maximum penalty—10 penalty units.

Subdivision 2 Obligations relating to combustible cladding checklist (part 2)

16S Application of subdivision

- (1) This subdivision applies if—
 - (a) the online system indicates to an owner who has filled out a combustible cladding checklist (part 1) for the owner's private building that the building may be an affected private building; or
 - (b) a QBCC investigator—
 - (i) reasonably suspects that either the registration mentioned in section 16Q(1)(a) or the completed combustible checklist (part 1) for an owner's private building is false or misleading in a material particular; and

- (ii) gives the owner notice of the suspicion; or
 - (c) an owner has not complied with section 16Q for the owner's private building.
- (2) However, this subdivision does not apply to an owner in relation to a private building if, before the compliance period under section 16T ends—
- (a) the owner knows or suspects that the building is an affected private building; and
 - (b) the owner gives the QBCC notice, in the approved way, of that knowledge or suspicion.

16T Giving completed checklist and related statement to QBCC

- (1) The owner must, within the compliance period, give to the QBCC, in the approved way, a copy of—
- (a) a completed combustible cladding checklist (part 2) for the owner's private building; and
 - (b) a statement, complying with subsection (2), about whether or not the building may be an affected private building (a *building industry professional statement*).

Maximum penalty—20 penalty units.

- (2) A building industry professional statement must be—
- (a) in the approved form; and
 - (b) prepared by—
 - (i) a building industry professional; or
 - (ii) if the QBCC commissioner authorises a QBCC investigator to prepare a building industry professional statement—the QBCC investigator.
- (3) The owner may apply to the QBCC commissioner to extend the period for complying with subsection (1).
- (4) The application must be made—
- (a) in the approved form; and

- (b) at least 28 days before the end of the period.
- (5) The QBCC commissioner may extend the period if the QBCC commissioner considers the extension is reasonable in the circumstances.
- (6) In this section—
 - compliance period* means—
 - (a) the period ending on 31 July 2019 or, if the QBCC has given the owner a notice under section 16ZM(2) for the owner’s private building, the period stated in the notice; or
 - (b) if, under subsection (5), the QBCC commissioner extends the period for complying with subsection (1)—the extended period.

16U Keeping completed checklist and related statement

The owner must keep the completed combustible cladding checklist (part 2) and the building industry professional statement for the owner’s private building—

- (a) for at least 7 years after a copy of the checklist or statement is given to the QBCC; and
- (b) if the owner is required to keep a plan or document for the building under the *Building Fire Safety Regulation 2008*, section 71—with that plan or document at each place the plan or document is required to be kept under that section.

Maximum penalty—10 penalty units.

Subdivision 3 Obligations relating to combustible cladding checklist (part 3)

16V Application of subdivision

This subdivision applies if—

-
- (a) the online system indicates to an owner who has filled out a combustible cladding checklist (part 2) for the owner's private building that the building may be an affected private building; or
 - (b) an owner gives the QBCC notice under section 16S(2)(b) for the owner's private building; or
 - (c) a QBCC investigator—
 - (i) reasonably suspects the completed combustible cladding checklist (part 2) for an owner's private building is false or misleading in a material particular; and
 - (ii) gives the owner notice of the suspicion; or
 - (d) an owner has not complied with section 16T for the owner's private building.

16W Giving fire engineer details to QBCC

- (1) The owner must, unless the owner has a reasonable excuse, within the compliance period, give to the QBCC, by using the online system, the name and registration number of the fire engineer engaged by the owner for complying with this subdivision.

Maximum penalty—50 penalty units.

- (2) The owner may apply to the QBCC commissioner to extend the period for complying with subsection (1).
- (3) The application must be made—
 - (a) in the approved form; and
 - (b) at least 28 days before the end of the period.
- (4) The QBCC commissioner may extend the period if the QBCC commissioner considers the extension is reasonable in the circumstances.
- (5) In this section—

compliance period means—

- (a) the period ending on 31 October 2019; or
- (b) if, under subsection (4), the QBCC commissioner extends the period for complying with subsection (1)—the extended period.

16X Giving completed checklist and related assessment and statement to QBCC

- (1) The owner must, within the compliance period, give to the QBCC, in the approved way, a copy of each of the following documents for the owner's private building—
 - (a) a completed combustible cladding checklist (part 3);
 - (b) a report, complying with subsection (2), about the cladding forming part of, or attached or applied to, an external wall or another external part of the building other than the roof (a *building fire safety risk assessment*);
 - (c) a statement, complying with subsection (3), about the building fire safety risk assessment (a *fire engineer statement*).

Maximum penalty—165 penalty units.

- (2) A building fire safety risk assessment must—
 - (a) be prepared, signed and dated by a fire engineer; and
 - (b) include an assessment of the combustibility of the material that makes up the cladding; and
 - (c) if the cladding is assessed to be combustible cladding—include an assessment of the combustibility of the insulation or sarking located behind the cladding.
- (3) A fire engineer statement must—
 - (a) be in the approved form; and
 - (b) be prepared and signed by a fire engineer on the same day as the building fire safety risk assessment; and

-
- (c) state, based on the matters mentioned in subsection (2)(b) and (c), whether or not there is a cladding fire risk for the building.
 - (4) The owner may apply to the QBCC commissioner to extend the period for complying with subsection (1).
 - (5) The application must be made—
 - (a) in the approved form; and
 - (b) at least 28 days before the end of the period.
 - (6) The QBCC commissioner may extend the period if the QBCC commissioner considers the extension is reasonable in the circumstances.
 - (7) In this section—

compliance period means—

 - (a) the period ending on 3 May 2021 or, if the QBCC has given the owner a notice under section 16ZM(2), the period stated in the notice; or
 - (b) if, under subsection (6), the QBCC commissioner extends the period for complying with subsection (1)—the extended period.

16Y Keeping completed checklist and related assessment and statement

- (1) The owner must keep each of the following documents for the owner's private building for the period mentioned in subsection (2) or (3)—
 - (a) the completed combustible cladding checklist (part 3);
 - (b) the building fire safety risk assessment;
 - (c) the fire engineer statement.

Maximum penalty—10 penalty units.
- (2) A document mentioned in subsection (1)(a) must be kept for at least 7 years after a copy of the document is given to the QBCC.

- (3) A document mentioned in subsection (1)(b) or (c) must be kept—
- (a) if the fire engineer statement states there is a cladding fire risk for the building, until the latest of the following—
 - (i) the day the combustible cladding is removed from the building;
 - (ii) the day a building certifier gives the owner a compliance certificate stating the combustible cladding complies with the BCA;
 - (iii) the day that is 7 years after a copy of the assessment is given to the QBCC; or
 - (b) otherwise—for at least 7 years after a copy of the assessment is given to the QBCC.

Subdivision 4 Other obligations relating to affected private buildings

16Z Application of subdivision

This subdivision applies in relation to an owner's private building if a fire engineer statement states there is a cladding fire risk for the building.

16ZA Displaying affected private building notice

- (1) The owner must display a notice in the approved form for the building (an *affected private building notice*) in compliance with subsections (2) and (3).

Maximum penalty—30 penalty units.

- (2) The affected private building notice must be—
- (a) displayed in a conspicuous position; and
 - (b) securely attached to a wall, or the internal side of a door, near a main entry point to the building; and

- (c) if the building has a fire indicator panel—also securely attached to a wall, or the internal side of a door, that is adjacent to the panel.
- (3) The affected private building notice must be displayed—
 - (a) within 60 business days after the fire engineer statement is given to the owner; and
 - (b) until either—
 - (i) the combustible cladding is removed from the building; or
 - (ii) a building certifier gives the owner a compliance certificate stating the combustible cladding complies with the BCA.
- (4) The owner must give the QBCC, in the approved way, a compliance notice within the period—
 - (a) starting on the day the owner displays the affected private building notice; and
 - (b) ending 5 business days after the day mentioned in paragraph (a).

Maximum penalty—10 penalty units.

- (5) Also, if the circumstance in subsection (3)(b)(ii) happens, the owner must give the QBCC, in the approved way, a copy of the compliance certificate within the period—
 - (a) starting on the day the building certifier gives the owner the compliance certificate; and
 - (b) ending 5 business days after the day mentioned in paragraph (a).

Maximum penalty—10 penalty units.

- (6) In this section—

compliance notice means a notice, in the approved form, stating an affected private building notice is being displayed in accordance with subsection (2).

16ZB Giving copy of building fire safety risk assessment to lot owners and tenants

- (1) This section applies if the building comprises 2 or more lots.
- (2) If there is a body corporate roll kept for the building, the owner must give a copy of the building fire safety risk assessment to each lot owner, and each leasehold interest holder, for a lot in the building—
 - (a) for a person who is a lot owner or leasehold interest holder when the fire engineer statement is given to the owner—within 60 business days after the statement is given to the owner; or
 - (b) for another person—within 60 business days after the person’s name is entered on the body corporate’s roll.

Maximum penalty—20 penalty units.

- (3) If there is no body corporate roll kept for the building, the owner must, within 60 business days after the fire engineer statement is given to the owner, leave a copy of the building fire safety risk assessment at, or post a copy of the assessment to, the address of each lot in the building.

Maximum penalty—20 penalty units.

- (4) However, the owner is not required to comply with subsection (2) for a person, or subsection (3) for a lot, if any of the following happens before the period for complying with the subsection for the person or lot ends—
 - (a) the combustible cladding is removed from the building;
 - (b) a building certifier gives the owner a compliance certificate stating the combustible cladding complies with the BCA;
 - (c) 7 years have passed since a copy of the assessment was given to the QBCC.

- (5) In this section—

leasehold interest holder, for a lot in a private building, means a person who holds a leasehold interest in the lot.

lot owner, for a lot in a private building, means a person mentioned in schedule 2, definition *owner*, of a building or structure, paragraphs (a)(i), (b)(i), (c)(i), (d)(i) or (e)(i) of the Act.

Subdivision 5 **Change of ownership of private building**

16ZC **Definitions for subdivision**

In this subdivision—

new owner, for a private building, means the person who owns the building immediately after ownership of the building changes.

relevant provision means section 16Q(1), 16T(1), 16W(1), 16X(1), 16ZA(4) or (5), or 16ZQ(5).

16ZD **Original owner to give notice of compliance**

- (1) This section applies if the ownership of a private building changes after the commencement but before the owner of the building (the *original owner*) has complied with 1 or more relevant provisions.
- (2) Before ownership of the building changes, the original owner must—
 - (a) give the new owner—
 - (i) a notice, in the approved form, about the extent to which the original owner has complied with this part; and
 - (ii) a copy of each document given by or to the original owner under this part; and
 - (b) give the QBCC a copy of the notice that is given to the new owner under paragraph (a)(i).

Maximum penalty—20 penalty units.

[s 16ZE]

- (3) Subsection (2)(a)(ii) does not apply in relation to a document the original owner has given to the new owner under section 16ZF(3).

16ZE New owner's obligations relating to giving checklists and related documents

- (1) This section applies if—
- (a) an owner (the *original owner*) is required to comply with a relevant provision for the owner's private building; and
 - (b) before the end of the period for complying with the relevant provision, ownership of the building changes; and
 - (c) the original owner has not complied with the relevant provision for the building.
- (2) From when ownership of the building changes, the obligation to comply with the relevant provision for the building applies to the new owner.
- (3) For subsection (2)—
- (a) anything done by or in relation to the original owner for the relevant provision is taken to have been done by or in relation to the new owner; and
 - (b) the relevant provision applies with any other necessary changes.

16ZF New owner's obligations relating to keeping checklists and related documents

- (1) This section applies if—
- (a) an owner (the *original owner*) is required to keep a document, under section 16R, 16U or 16Y, that the owner has given to the QBCC for the owner's private building; and

- (b) ownership of the building changes before the end of the period for which the document must be kept under the section.
- (2) From when ownership of the building changes, the obligation to keep the document under the section applies to the new owner.
- (3) The original owner must give the new owner the document before the ownership of the building changes.

Maximum penalty for subsection (3)—20 penalty units.

16ZG New owner's obligation to display affected private building notice

- (1) This section applies if—
 - (a) an owner (the *original owner*) is required to display an affected private building notice under section 16ZA for the owner's private building; and
 - (b) ownership of the building changes before the end of the period for which the notice must be displayed.
- (2) From when ownership of the building changes, the obligation to display the notice under the section applies to the new owner.
- (3) However, if, when ownership of the building changes, the notice is not displayed under the section, the period mentioned in section 16ZA(3)(a) is taken to be—
 - (a) within 60 business days after the fire engineer statement was given to the original owner; or
 - (b) if the period mentioned in paragraph (a) has passed—within 5 business days after ownership of the building changes.

Division 3 Obligations on building industry professionals and fire engineers

16ZH Building industry professional statement

- (1) A person who prepares and signs a building industry professional statement about a private building for the purposes of section 16T or 16ZK must, within 5 business days after the statement is signed—
 - (a) give the statement to the owner of the building; and
 - (b) give a copy of the statement to the relevant local government for the building; and
 - (c) if the person is a building industry professional—give a copy of the statement to the QBCC.

Maximum penalty—10 penalty units.

- (2) If the person is a building industry professional, the person must keep a copy of the building industry professional statement for at least 5 years after the statement is signed.

Maximum penalty—10 penalty units.

16ZHA Notifying owner of fire safety risk mitigation measures

- (1) This section applies if a fire engineer is engaged by the owner of a private building under section 16W.
- (2) If the fire engineer decides a fire safety risk mitigation measure should be put in place at the building (the *recommendation*), the fire engineer must, within 5 business days of making the decision, either—
 - (a) prepare and sign a building fire safety risk assessment for the building stating the recommendation; or
 - (b) notify the QBCC, in the approved form, of the recommendation.

Maximum penalty—10 penalty units.

- (3) In this section—

fire safety risk mitigation measure, in relation to a private building, means a measure that reduces the risk of—

- (a) a fire at the building; or
- (b) injury or illness to a person arising from a fire at the building.

Examples—

- immediate, or more frequent, servicing and maintenance of the fire safety system of a building
- the removal of vegetation, vehicles or other flammable things from a building
- the removal of material forming part of, or attached or applied to, an external wall or another external part of a building
- the carrying out of emergency evacuation drills
- partial or complete evacuation of a building

16ZI Building fire safety risk assessment and fire engineer statement

- (1) This section applies if a fire engineer prepares and signs a building fire safety risk assessment, or a fire engineer statement, for a private building for the purposes of section 16X or 16ZL.
- (2) The fire engineer must, within 5 business days after the building fire safety risk assessment or fire engineer statement is signed—
 - (a) give the assessment or statement to the owner of the building; and
 - (b) give a copy of the assessment or statement to the QBCC and the relevant local government for the building.

Maximum penalty—10 penalty units.

- (3) The fire engineer must keep a copy of the building fire safety risk assessment or fire engineer statement for at least 5 years after the assessment or statement is signed.

Maximum penalty—10 penalty units.

Division 4 Miscellaneous

16ZJ Order to give completed combustible cladding checklist (part 1)

If a person is convicted of an offence against section 16Q(1) for the person's private building, the court may, in addition to any other order the court may make, order the person to—

- (a) complete a combustible cladding checklist (part 1) for the building; and
- (b) give a copy of the completed checklist to the QBCC in the approved way.

16ZK Order to obtain building industry professional statement

If a person is convicted of an offence against section 16T(1) for the person's private building, the court may, in addition to any other order the court may make, order the person to—

- (a) obtain a building industry professional statement for the building; and
- (b) give a copy of the statement to the QBCC in the approved way.

16ZL Order to obtain building fire safety risk assessment and fire engineer statement

If a person is convicted of an offence against section 16X(1) for the person's private building, the court may, in addition to any other order the court may make, order the person to—

- (a) obtain, for the building—
 - (i) a building fire safety risk assessment; and
 - (ii) a fire engineer statement; and
- (b) give a copy of the assessment and statement to the QBCC in the approved way.

16ZM Notice about compliance period

- (1) This section applies if—
 - (a) section 16Q, 16T or 16X (each a *relevant section*) applies to an owner; and
 - (b) the QBCC reasonably believes there is a cladding fire risk for the owner's private building.
- (2) The QBCC may give the owner a notice stating that the owner must comply with the relevant section within a stated period.
- (3) The stated period may be shorter than the period that would otherwise apply to the owner under this part but must be reasonable in the circumstances.

16ZN Proof of agency

- (1) This section applies if a person (an *agent*) does an act for an owner to comply with this part.
- (2) Before the agent does the act, the agent must give to the QBCC, in the approved way, a copy of—
 - (a) if the owner's private building comprises 2 or more lots and the agent is the owner's body corporate manager—
 - (i) a document evidencing the body corporate manager's authority to act for the owner; and
 - (ii) another document, in the approved form, about the document mentioned in subparagraph (i); or
 - (b) otherwise—a document, in the approved form, evidencing the agent's authority to act for the owner.

Maximum penalty—20 penalty units.

- (3) In this section—

body corporate manager, for an owner of a private building comprising 2 or more lots, see—

- (a) if the building is subject to the *Body Corporate and Community Management Act 1997*—section 14 of that Act; or

[s 16ZO]

- (b) if the building is subject to the *Building Units and Group Titles Act 1980*—section 7 of that Act; or
- (c) if the building is subject to the *Integrated Resort Development Act 1987*—schedule 7 of that Act; or
- (d) if the building is subject to the *Mixed Use Development Act 1993*—schedule 5 of that Act; or
- (e) if the building is subject to the *Sanctuary Cove Resort Act 1985*—schedule 9 of that Act; or
- (f) if the building is subject to the *South Bank Corporation Act 1989*—schedule 4, section 7 of that Act.

16ZO Responsibility for acts or omissions of agents

- (1) This section applies in a proceeding for an offence against this part.
- (2) If it is relevant to prove an owner's state of mind about a particular act or omission, it is enough to show—
 - (a) the act was done or omitted to be done by an agent of the owner within the scope of the agent's actual or apparent authority; and
 - (b) the agent had the state of mind.
- (3) An act done or omitted to be done for an owner by an agent of the owner within the scope of the agent's actual or apparent authority is taken to have been done or omitted to be done also by the owner, unless the owner proves the owner could not have, by the exercise of reasonable diligence, prevented the act or omission.
- (4) In this section—

state of mind, of an owner, includes—

 - (a) the owner's knowledge, intention, opinion, belief or purpose; and
 - (b) the owner's reasons for the intention, opinion, belief or purpose.

16ZP When owner not required to comply with part

An owner is not required to comply with a provision of this part in relation to the owner's private building if—

- (a) the building is owned by the owner and at least 1 other owner (*another owner*); and
- (b) another owner has complied with the provision in relation to the building.

16ZQ Giving replacement checklist

- (1) This section applies if a person has given the QBCC 1 or more of the following documents for a private building (each the *original checklist*)—
 - (a) a completed combustible cladding checklist (part 1) under section 16Q(1)(b);
 - (b) a completed combustible cladding checklist (part 2) under section 16T(1)(a);
 - (c) a completed combustible cladding checklist (part 3) under section 16X(1)(a).
- (2) The owner of the building may at any time apply, in the approved form, to the QBCC commissioner to replace the original checklist.
- (3) If the QBCC commissioner considers the replacement of the original checklist is reasonable in the circumstances, the QBCC commissioner may permit the owner to give the QBCC a copy of a completed checklist (the *replacement checklist*), that is of the same type as the original checklist—
 - (a) in the approved way; and
 - (b) within a reasonable stated period.
- (4) If the QBCC commissioner reasonably suspects the original checklist contains an error or omission, the QBCC commissioner may give the owner of the building a notice that—
 - (a) states the suspected error or omission; and

[s 16ZR]

- (b) requires the owner to give the QBCC either of the following in the approved way and within a reasonable stated period—
 - (i) a copy of a completed checklist (also the *replacement checklist*), that is of the same type as the original checklist, with the suspected error or omission corrected;
 - (ii) a statement explaining why the original checklist does not contain the suspected error or omission.
- (5) The owner must comply with the notice unless the owner has a reasonable excuse.
Maximum penalty—20 penalty units.
- (6) A replacement checklist given to the QBCC in the approved way, and within the period mentioned in subsection (3) or (4)(b), is taken to be given to the QBCC within the compliance period applying under section 16Q, 16T or 16X to the replaced original checklist.

16ZR Removal of documents and entries from online system

The QBCC commissioner may remove a document or entry in relation to a private building from the online system if the QBCC commissioner considers the removal is reasonable in the circumstances.

Part 5 Competent persons

Division 1 General provisions about competent persons

17 Appointment and functions

- (1) Subject to section 18, a building certifier may decide an individual—

-
- (a) is, or has from a particular day been, competent to perform functions that help (*design/specification help*) the certifier perform building certifying functions for building design or specification; or
 - (b) is, from the making of the decision, competent to perform functions that help (*inspection help*) the certifier perform building certifying functions for the inspection of assessable building work.
- (2) The decision may be that the individual may give the building certifier—
- (a) design/specification help or inspection help generally; or
 - (b) help limited to a particular aspect of design/specification help or inspection help; or
 - (c) design/specification help or inspection help only for particular assessable building work.
- (3) An individual the subject of a decision under subsection (1) is a *competent person*.
- (4) A competent person decided under subsection (1)(a) is a *competent person (design/specification)*.
- (5) A competent person decided under subsection (1)(b) is a *competent person (inspections)*.
- (6) A person may be decided to be a competent person (design/specification) and a competent person (inspections) at the same time or for the same matter.

18 Restrictions on deciding competency

- (1) A building certifier may decide an individual is a competent person to give design/specification help or inspection help only under subsections (2) to (4) and section 18A.
- (2) If, under a relevant law, the individual must be licensed or registered to be able to give the help—
 - (a) the individual must be so licensed or registered; and

Example—

The help the subject of the decision is considering whether the design of a building is structurally adequate. The registration required is registration under the *Professional Engineers Act 2002* as a civil engineer for structural matters.

- (b) the building certifier must assess the individual to be competent to be able to give the help, having regard to the individual's experience, qualifications and skills for the matter.
- (3) If no relevant law requires the individual to be licensed or registered to be able to give the help, the building certifier must assess the individual as having appropriate experience, qualifications or skills to be able to give the help.

Example—

The help the subject of the decision is assessing whether a building complies with the performance requirements for energy efficiency under the BCA, part 3.12. An individual with the skills to carry out appropriate computer modelling for the assessment has appropriate skills to give the help.

- (4) If the chief executive approves guidelines for making an assessment under this section, the assessment must comply with the guidelines.
- (5) In this section—

relevant law means a law applying in the State that is relevant to practising in the matter the subject of the help.

18A Individuals competent to give inspection help

- (1) An individual must be a cadastral surveyor to be competent to give inspection help to a building certifier for the boundary clearances aspect of building work for a single detached class 1a building.
- (2) An individual must be a registered professional engineer to be competent to give inspection help to a building certifier for the reinforcement of footing system aspect of building work for a single detached class 1a building.

[s 22]

- (2) Unless a competent person is a building certifier, the person can not sign a certificate of inspection for—
 - (a) the stage of the work that is after excavation of foundation material and before any footings for the building or structure are laid; or
 - (b) the final stage of the work.
- (3) Subsection (2) does not stop a competent person (inspections) who is not a building certifier from giving other inspection help for a stage mentioned in subsection (2) if the building certifier has, under section 17, decided the person can give the help.

22 Restrictions on giving inspection help

- (1) This section applies to assessable building work for a building of any class.
- (2) A competent person can only give inspection help if the building certifier has already decided the person is a competent person (inspections) for the work.
- (3) A competent person (inspections) can not sign a certificate of inspection for a stage of the building work if the person—
 - (a) is the builder for the work; or
 - (b) has carried out building work for any aspect of the stage.
- (4) Subsection (3) does not stop the person giving a certificate under part 7 for the work if, under that part, the person can give the certificate.

23 Competent person must not give false or misleading documents

A competent person must not, in giving design/specification help or inspection help, give the building certifier a certificate or other document containing information the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

Part 5A Cadet building certifiers

23A Appointment of cadet building certifier

- (1) A person may be appointed as a cadet building certifier to assist a building certifier (the *supervising certifier*) in the performance of building certifying functions, if—
 - (a) the person has been employed by a local government or private certifier for at least 3 months assisting in the performance of building certifying functions under the direct supervision of a building certifier; and
 - (b) the period of employment mentioned in paragraph (a) was completed not more than 6 months before the appointment; and
 - (c) the person is undertaking a course of study that, if successfully completed, meets the educational standard required for accreditation by an accreditation standards body.
- (2) In this section—

direct supervision, of a cadet building certifier by a supervising certifier, means that the supervising certifier gives or has given the cadet building certifier technical direction about assisting in the performance of a building certifying function before or during the giving of the assistance, or as soon as reasonably practicable after it has been given.

23B Role of cadet building certifier and supervising certifier

- (1) A cadet building certifier may assist a supervising certifier in the performance of building certifying functions only if the functions are permitted under the level of licence held by the supervising certifier.
- (2) If a cadet building certifier assists a supervising certifier in the performance of a function, the supervising certifier is the person responsible for the function.

[s 23C]

- (3) In deciding whether to allow a cadet building certifier to assist in the performance of a function, a supervising certifier must have regard to the cadet building certifier's level of ability, experience, qualifications and skills.

23C Application of pt 5 to cadet building certifier

- (1) A building certifier may, under part 5, decide a cadet building certifier is a competent person to give design/specification help or inspection help.
- (2) However, a building certifier can not decide a cadet building certifier is a competent person if the building certifier is—
 - (a) the cadet building certifier's supervising certifier; or
 - (b) the cadet building certifier's employer; or
 - (c) employed by the same employer as the cadet building certifier.
- (3) To remove any doubt, it is declared that the appointment of a person as a cadet building certifier does not, of itself, mean the person appointed is competent to give design/specification help or inspection help under part 5.

Part 6 Inspections of assessable building work

Division 1 Inspections by or for building certifier

Subdivision 1 Preliminary

24 What is a *stage* of assessable building work

- (1) This section provides for what are the stages of assessable building work.

-
- (2) Generally, the stages are all stages at which the building development approval states the work must be inspected.
 - (3) If the work is the construction of a single detached class 1a building, the stages also include—
 - (a) after excavation of foundation material and before the footings for the building are laid; and
 - (b) if the building is to have a slab—after the placement of formwork and steel for the slab but before the concrete for the slab is poured; and
 - (c) to the extent the bracing for the frame of the building consists of cladding or lining—after the cladding or lining has been fixed to the frame; and
 - (d) to the extent the bracing for the frame of the building does not consist of cladding or lining—before the cladding or lining is fixed to the frame; and
 - (e) if reinforced masonry construction is used for the frame of the building—before the wall cavities are filled; and
 - (f) at the completion of all aspects of the work.
 - (4) If the work is an alteration to a single detached class 1a building, the stages also include each stage mentioned in subsection (3) that is relevant to the alteration.
 - (5) If the work is the construction of, or an alteration to, a class 10 building or structure, other than a swimming pool, the stages also include at the completion of the building or structure or the alteration.
 - (6) If the work is the construction of, or an alteration to, a swimming pool, the stages also include—
 - (a) if a temporary fence for the pool is constructed—
 - (i) after the temporary fence for the pool is constructed and before the pool is filled with water to a depth of 300mm or more; and
 - (ii) if the building certifier for the work extends the period that the temporary fence for the pool can be in place—before the extension is given; and

[s 25]

- (b) at the completion of the pool and its fencing and, if no temporary fence for the pool was constructed, before the pool is filled with water to a depth of 300mm or more.

25 Local government's power to exempt particular assessable building work from particular stages of inspection

- (1) A local government may, by resolution, declare localities and forms of buildings or structures in its area exempt from inspection at a stage of assessable building work if the work—
 - (a) is, or is an alteration to, a single detached class 1a building or a class 10 building or structure; and
 - (b) is not for a swimming pool or fencing around it.
- (2) However, the resolution may be made only if the local government is satisfied the absence of a notice for inspection for the stage will not adversely affect public safety.

26 Inspection guidelines

- (1) This section applies if, under section 258 of the Act, the chief executive makes guidelines (*inspection guidelines*) about—
 - (a) what aspects or items make up the completion of assessable building work or a particular stage of assessable building work; and
 - (b) ways of inspecting building work.
- (2) For section 24, the guidelines are evidence of what aspects or items make up the completion of assessable building work or particular stages of assessable building work.
- (3) A person inspecting and certifying aspects of assessable building work is taken to have complied with this part if the person inspects and certifies the work as required under the inspection guidelines.

Subdivision 2 Notice for inspection

27 Builder's obligation to give notice for inspection at completion of each stage

- (1) This section applies to a builder for assessable building work if it has been carried out to the completion of a stage of the work, other than a stage exempted under section 25.
- (2) The builder must ensure the building certifier is given a notice (a *notice for inspection*) claiming the stage has been completed.

Maximum penalty—20 penalty units.

- (3) The notice for inspection may be written or verbal.
- (4) If the building certifier is a local government building certifier, the notice for inspection may be given to the certifier by giving it in writing to the local government.

28 Prohibition on further building work until stage complies

- (1) This section applies if a builder for assessable building work has given a notice for inspection for a stage of the work (the *relevant stage*).
- (2) The builder must not start the next stage of the work until the builder has been given a certificate of inspection for the relevant stage stating that stage complies with the building development approval.

Maximum penalty—20 penalty units.

29 Notifying QBCC if notice for inspection not given

If—

- (a) the builder for assessable building work is a licensed builder; and
- (b) the builder does not give a notice for inspection for a stage of the work, as required under section 27;

the building certifier must, as soon as practicable after becoming aware of the failure to give the notice for inspection, give QBCC a notice stating that fact.

Subdivision 3 Carrying out inspection

30 Arranging inspection

- (1) This section applies if the building certifier for assessable building work (the *relevant certifier*) receives a notice for inspection for a stage of the work.
- (2) The relevant certifier must ensure the stage is, at a time agreed by the builder for the work, inspected by one of the following persons (the *inspecting person*)—
 - (a) generally—the relevant certifier or another building certifier;
 - (b) if section 21 does not prevent a competent person from giving a certificate of inspection for the stage—a competent person (inspections) whom the relevant certifier has decided may carry out the inspection.

Maximum penalty—20 penalty units.

- (3) For subsection (2), the inspecting person must not unreasonably refuse to agree to a time to inspect the stage.

31 Inspection procedure

- (1) This section applies if, under section 30, the inspecting person inspects a stage of assessable building work.
- (2) The inspecting person must inspect the work to ensure the person is satisfied all relevant aspects of the stage under the building development approval have been completed and comply with the approval.
- (3) However, subject to subsection (4), the inspecting person may accept an aspect inspection certificate, for an aspect of the stage, instead of inspecting the work.

- (4) For a single detached class 1a building, the inspecting person must not accept aspect inspection certificates for all aspects of the final stage.
- (5) The inspection must be carried out under best industry practice.

32 Certificate of inspection

- (1) This section applies only if the inspecting person—
 - (a) has complied with section 31 for a stage of assessable building work; and
 - (b) is satisfied as mentioned in section 31(2) in relation to the stage.
- (2) The inspecting person must give the builder for the work a certificate of inspection for the stage.

Notes—

- 1 If the stage is the final stage, 2 certificates must be given—the certificate of inspection for the final stage and, if particular requirements under the Act are complied with, a final inspection certificate to the owner of the building.
 - 2 For final inspection certificates and the giving of inspection documentation see chapter 5, part 1 and section 124 of the Act.
- (3) The certificate of inspection must—
 - (a) be in the approved form; and
 - (b) be signed by the inspecting person; and
 - (c) state in detail—
 - (i) the basis for giving the certificate; and
 - (ii) the extent to which the inspecting person has, in carrying out the inspection, relied on tests, specifications, rules, standards, codes of practice or other publications.

33 Noncompliance notice

- (1) This section applies if the inspecting person—

[s 34]

- (a) has complied with section 31 for a stage of assessable building work; and
 - (b) is not satisfied as mentioned in section 31(2) in relation to the stage.
- (2) The inspecting person must give the builder for the work a notice (a ***noncompliance notice***) stating—
- (a) the stage does not comply with the building development approval; and
 - (b) how it does not comply with the approval.
- (3) If the inspecting person is a competent person (inspections), the person must also give the building certifier a copy of the noncompliance notice.

Subdivision 4 Procedure if noncompliance notice given

34 Builder's obligation to ensure stage complies with development approval

If a builder for assessable building work is given a noncompliance notice—

- (a) the builder must perform the work required to ensure the stage the subject of the notice complies with the building development approval; and
- (b) after paragraph (a) has been complied with, the builder must, under section 27, give the building certifier another notice for inspection for the work.

Note—

For the relevant appeal right, see the Planning Act, chapter 6, part 1 and schedule 1.

35 Consequences of builder not complying with obligation

- (1) If a builder for assessable building work does not comply with section 34, the building certifier must, under chapter 9 of the Act, take enforcement action against the builder for the work.
- (2) However, if the noncompliance notice was given by a competent person (inspections), the building certifier need only take the enforcement action if the certifier agrees the stage the subject of the notice does not comply with the building development approval.
- (3) If, under subsection (2), the building certifier decides not to take the enforcement action, the certifier must give—
 - (a) the competent person written reasons for not taking the action; and
 - (b) the builder a certificate of inspection for the stage.
- (4) If the building certifier gives the builder an enforcement notice and the builder does not comply with it, the certifier must notify the following of that fact—
 - (a) the QBCC;
 - (b) if the assessment manager was a private certifier (class A)—the local government.

Subdivision 4A Additional inspections for chapter 8 pools and their fencing in particular circumstances

35A Application of sdiv 4A

- (1) This subdivision applies if—
 - (a) a building development approval is given on or after 1 December 2009 for building work that is the construction of, or alteration to, a chapter 8 pool or its fencing (the *pool work*); and
 - (b) the relevant entity for the pool work is not given a notice for inspection for the final stage of the pool work—

[s 35B]

- (i) for a building development approval that is only for the pool work—by the earlier of the following days (the *inspection day*)—
 - (A) the day that is 6 months after the building development approval is given;
 - (B) the day that is 2 weeks before the building development approval lapses; or
 - (ii) for a building development approval that includes work that is the construction of, or alteration to, a class 1 building or class 2 building—by the earlier of the following days (also the *inspection day*)—
 - (A) the day that is 2 years after the building development approval is given;
 - (B) the day that is 2 weeks before the building development approval lapses.
- (2) In this section—
- relevant entity*, for the pool work, means—
- (a) generally—the building certifier for the pool work; or
 - (b) if the building certifier for the pool work is a local government building certifier—the local government.

35B Inspection procedure and process after inspection

- (1) The building certifier for the pool work must, unless the building certifier has a reasonable excuse, inspect, or ensure another building certifier inspects, the pool work as soon as practicable after the inspection day and before the building development approval lapses.

Example of a reasonable excuse—

the building certifier is refused access to the premises on which the pool work is being carried out

Maximum penalty—50 penalty units.

- (2) The building certifier who inspects the stage is called the *inspecting certifier*.

-
- (3) The inspection must be carried out under best industry practice.
 - (4) The building certifier must, for at least 3 years after the inspection is carried out, keep a record of the inspection, including details of the time the inspection was carried out and the results of the inspection.
 - (5) If the pool work has not started, the inspecting certifier need not take any further action in relation to the inspection.

Note—

If the builder later carries out the pool work, the builder for the work must take action under section 27 for each stage of the pool work.

- (6) If the inspecting certifier is satisfied all relevant aspects of the final stage of the pool work under the building development approval have been completed and comply with the approval, the inspecting certifier must give the builder for the work a certificate of inspection for the stage.
- (7) If a stage of the pool work has been completed and the inspecting certifier is not satisfied the stage complies with the building development approval, the inspecting certifier must give the builder for the work a noncompliance notice for the stage.
- (8) If the occupier of the premises on the relevant land or the builder for the pool work refuses to allow the inspecting certifier to enter the relevant land to carry out the inspection, the building certifier must, within 2 business days after the refusal, give the local government notice of the refusal.
- (9) This section is subject to section 35C.
- (10) In this section—

relevant land means the land on which the chapter 8 pool or its fencing is, or is intended to be, constructed.

35C Delaying inspection in particular circumstances

- (1) The builder for the pool work may, before the inspection day, give the building certifier for the pool work a notice asking the

[s 36]

building certifier to inspect the pool work on a day that is later than the inspection day (the *later day*).

- (2) The later day must be before the building development approval lapses.
- (3) If the building certifier is a local government building certifier, a notice under subsection (1) may be given to the building certifier by giving it to the local government.
- (4) Subsections (5) and (6) apply despite section 35B(1).
- (5) If the building certifier receives a notice under subsection (1), the pool work need not be inspected before the later day.
- (6) The building certifier must, unless the building certifier has a reasonable excuse, inspect, or ensure another building certifier inspects, the pool work before the building development approval lapses.

Maximum penalty—50 penalty units.

- (7) Section 35B(2) to (8) and (10) apply in relation to an inspection mentioned in subsection (6).

Subdivision 5 Miscellaneous provision

36 Declaratory provision about inspections

- (1) To remove any doubt, it is declared that the giving of a notice under this division about a stage of assessable building work does not, of itself, prevent any of the following from inspecting any aspect of another stage of the work—
 - (a) the building certifier for the work (the *relevant certifier*);
 - (b) another building certifier;
 - (c) a competent person (inspections) whom the relevant certifier has decided may carry out the inspection.
- (2) Subsection (1) applies whether or not a notice for inspection has been given for the other stage.

Division 2 Referral agency inspections

37 Application of div 2

This division applies if—

- (a) an entity was, for a building development application, a referral agency for aspects of the building work (the *referral agency aspects*); and
- (b) the building development approval applied for is granted; and
- (c) a condition of the approval requires the builder for the work to give the agency a notice to inspect it to check the referral agency aspects comply with the approval.

Note—

For the condition allowing QFRS to inspect and test special fire service installation, see section 74 of the Act.

38 Notice to referral agency to inspect

- (1) This section does not apply if the condition is imposed under section 74 of the Act.
- (2) The builder must—
 - (a) give the referral agency a notice to inspect the building work when, under the building development approval, the referral agency aspects are at a stage at which they must be inspected by the agency; and
 - (b) give a copy of the notice to the building certifier when it is given to the referral agency.

39 Referral agency inspection

- (1) This section applies if the referral agency receives—
 - (a) a notice to inspect under section 38; or
 - (b) a notice to inspect the installation of, or test, a special fire service under section 74 of the Act.

[s 40]

- (2) The agency may inspect the building work or inspect or test the service to check the referral agency aspects comply with the building development approval.
- (3) The agency must—
 - (a) within 5 business days after receiving a notice under subsection (1), give the builder and the building certifier a notice stating it does not propose to inspect the building work or inspect or test the service; or
 - (b) within 15 business days after receiving a notice under subsection (1), inspect the work or inspect or test the service, and give the builder and the building certifier a notice stating—
 - (i) the referral agency aspects comply with the building development approval; or
 - (ii) the referral agency aspects do not comply with the approval, and the reasons why they do not.
- (4) If the building certifier is a local government building certifier, a notice under subsection (3) may be given to the certifier by giving it in writing to the local government.

40 Acting on referral agency's inspection notice

- (1) The building certifier must, in performing functions under the Act for the building work, accept and act on a notice given under section 39(3)(b).
- (2) However, subsection (1) does not apply if, within 5 business days after the building certifier receives the notice, the certifier—
 - (a) decides to disagree with the decision the subject of the notice; and
 - (b) gives the referral agency an information notice about the decision.

Note—

For the relevant appeal right, see the Planning Act, chapter 6, part 1 and schedule 1.

41 Consequence of no referral agency notice

If the referral agency does not comply with section 39(3) within the following period, the referral agency aspects are taken to comply with the building development approval—

- (a) 15 business days after the agency receives the notice to inspect;
- (b) any longer period agreed to between the agency and the building certifier within the 15 business days.

Part 7 General provisions about certificates

Division 1 QBCC licensee certificates

42 Application of div 1

- (1) This division applies if—
 - (a) building work is for a single detached class 1a building or a class 10 building or structure; and
 - (b) work (the *aspect work*) is carried out for an aspect of the building work; and

Example of aspect work—

waterproofing

- (c) either—
 - (i) the aspect work is carried out by a person (the *QBCC licensee*) who, when it was carried out, held a licence of an appropriate class under the QBCC Regulation for the aspect work; or

Example of a licence of an appropriate class—

for waterproofing—a waterproofing licence

- (ii) under the QBCC Regulation, a person (also the *QBCC licensee*) other than the person mentioned

in subparagraph (i) may give a QBCC licensee certificate for the aspect work.

- (2) However this division does not apply if, when the aspect work was carried out—
- (a) there was more than 1 class of licence under the QBCC Regulation under which the aspect work may be carried out; and
 - (b) under the QBCC Regulation, schedule 2, only a licence (a *certification licence*) of 1 or some of the classes allows the QBCC licensee to give a QBCC licensee certificate for the aspect work; and
 - (c) the QBCC licensee does not hold a certification licence for the work.
- (3) In this section—

QBCC Regulation means the *Queensland Building and Construction Commission Regulation 2018*.

waterproofing means work mentioned in the QBCC Regulation, schedule 2, part 60, section 2.

waterproofing licence a licence under the QBCC Regulation, schedule 2, part 60.

43 QBCC licensee certificate if building development approval

If the building work is subject to a building development approval, the QBCC licensee may give the building certifier a certificate in the approved form that the aspect work complies with the approval.

Note—

For when a building certifier or competent person may accept and rely on the certificate, see sections 49 and 50.

44 QBCC licensee certificate for accepted building work

- (1) This section applies if the building work—

-
- (a) is building work prescribed under schedule 1; and
 - (b) is not subject to a building development approval.
- (2) The QBCC licensee may give the builder for the building work or the owner of the building a certificate in the approved form that the aspect work complies with the relevant provisions under section 21(5) of the Act for the work.
- (3) A certificate under subsection (2) is evidence that the building work is accepted building work.

45 QBCC licensee must not give false or misleading certificate

The QBCC licensee must not give a QBCC licensee certificate that the licensee knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

Division 2 Competent person certificates other than certificates of inspection

46 Certificate about building design or specification

- (1) A competent person (design/specification) may give the building certifier a certificate that a building design or specification will, if installed or carried out under the certificate, comply with the building assessment provisions.
- (2) The certificate must comply with section 48.

47 Aspect inspection certificate

- (1) Subject to section 47A, a competent person (inspections) for assessable building work may give the building certifier a certificate for a stated aspect of the work if—
- (a) the competent person inspects the aspect of the work; and

[s 47A]

- (b) the competent person is satisfied that the aspect of the work has been completed and complies with the building development approval.
- (2) The inspection must be carried out under best industry practice.
- (3) The certificate must comply with section 48.

47A Competent persons (inspections)—restriction for giving certificates

A competent person (inspections) must not give a building certifier an aspect inspection certificate for an aspect of assessable building work for a single detached class 1a building unless—

- (a) if the certificate is for the boundary clearances aspect of the building—the competent person is a cadastral surveyor; or
- (b) if the certificate is for the reinforcement of footing system aspect of the building—the competent person is a registered professional engineer.

48 Content requirements for certificates

A certificate by a competent person must—

- (a) be in the approved form; and
- (b) be signed by the competent person; and
- (c) state in detail—
 - (i) the basis for giving the certificate; and
 - (ii) the extent to which the person has relied on tests, specifications, rules, standards, codes of practice or other publications.

Division 3 Accepting certificates

49 Optional acceptability by building certifier

- (1) A building certifier may, in performing functions under the Act for a building development application or assessable building work, accept and, without further checking, rely on a certificate from a competent person if—
 - (a) the certifier has, under part 5, decided the person is a competent person of a type relevant to the functions; and
 - (b) if the person was decided to be a competent person only for a particular aspect of the decided type—the certificate relates to the aspect; and
 - (c) if the person was decided to be a competent person only for particular assessable building work—the certificate relates to the building work; and
 - (d) the person was, under part 5 and this part, permitted to give the certificate; and
 - (e) for a certificate that is an aspect inspection certificate, the person complied with section 47A; and
 - (f) the certificate complies with section 48.
- (2) A building certifier may, in performing functions under the Act for assessable building work, accept and, without further checking, rely on a QBCC licensee certificate given under section 43 if the certificate relates to the work.

50 Optional acceptability by competent person (inspections)

- (1) This section applies to a competent person (inspections) who is giving a building certifier inspection help for assessable building work.
- (2) The competent person may accept and, without further checking, rely on a certificate from another competent person if—

[s 51]

- (a) the building certifier has, under part 5, decided the other competent person is a competent person of a type relevant to the inspection help; and
 - (b) if the other competent person was decided to be a competent person only for a particular aspect of the decided type—the certificate relates to the aspect; and
 - (c) if the other competent person was decided to be a competent person only for particular assessable building work—the certificate relates to the building work; and
 - (d) the person was, under part 5 and this part, permitted to give the certificate; and
 - (e) for a certificate that is an aspect inspection certificate, the person complied with section 47A; and
 - (f) the certificate complies with section 48.
- (3) The competent person may accept and, without further checking, rely on a QBCC licensee certificate given under section 43 if the certificate relates to the work.

Division 4 Certificates under CodeMark Scheme

51 Certificate of conformity

- (1) If there is a current recognised certificate about a building element, the element is, to the extent stated in the certificate, taken to comply with the BCA.
- (2) In this section—

building element means the properties and performance of a material, system, method of building or other thing relating to building work.

recognised certificate means a certificate of conformity issued by the Australian Building Codes Board or under the scheme known as the CodeMark Scheme administered by the Australian Building Codes Board.

Part 8 Miscellaneous provisions

Division 1 Approvals and miscellaneous matters

51A Queensland Development Code—Act, s 13

- (1) For section 13(1) of the Act, the parts, or the aspects of the parts, of the document called ‘Queensland Development Code’ stated in schedule 2E are prescribed.
- (2) For section 13(2) of the Act, the part, or the aspect of the part, takes effect on the day stated in schedule 2E, column 3, for the part or the aspect of the part.

51B Approval of replacement of code of conduct—Act, s 129

- (1) The replacement of the code of conduct by the chief executive on 9 September 2020 with the document called ‘Code of conduct for building certifiers’ made by the chief executive on 9 September 2020 is approved under section 129(3) of the Act.
- (2) The replacement takes effect on 1 October 2020.

51BA Demerit offences—Act, s 214A, definition *demerit offence*

For section 214A of the Act, definition *demerit offence*, an offence against a provision of the Act stated in schedule 2F, column 1 is prescribed.

51BB Demerit points—Act, s 214E

For section 214E(2) of the Act, the number of demerit points stated in schedule 2F, column 2 opposite a demerit offence is prescribed for the offence.

[s 51BC]

51BC QDC residential design and siting provisions—Act, sch 2, definition *QDC residential design and siting provisions*

For schedule 2 of the Act, definition *QDC residential design and siting provisions*, the aspects of parts MP 1.1 and MP 1.2 of the QDC, stated in schedule 2E, are prescribed.

51BM Prescribed day for giving notice about existing regulated pool—Act, s 246AR

For section 246AR(2) of the Act, the prescribed day is 4 November 2011.

51C Prescribed day for expiry of existing rainwater tank provisions—Act, s 283

(1) The following days are prescribed for section 283(3)(a) of the Act—

- (a) for a rainwater tank provision made by any of the prescribed local governments—1 January 2007;
- (b) for a rainwater tank provision made by another local government—1 July 2007.

(2) In this section—

prescribed local governments means—

- (a) the councils of the cities of Brisbane, Caloundra, Gold Coast, Ipswich, Logan, Maryborough, Redcliffe and Toowoomba; and
- (b) the councils of the shires of Beaudesert, Boonah, Caboolture, Cooloola, Crow's Nest, Esk, Gatton, Jondaryan, Kilcoy, Laidley, Maroochy, Nanango, Noosa, Pine Rivers, Redland and Rosalie.

rainwater tank provision means a rainwater tank provision under section 283 of the Act.

52 Prescribed matters for private certification endorsement—Act, s 163

- (1) For section 163(1) of the Act, the insurance prescribed for private certification is professional indemnity insurance that provides for all of the following—
 - (a) a minimum limit of indemnity of \$1m for any 1 claim and a total during any 1 period of insurance that may arise from the performance of private certifying functions;
 - (b) as well as the limit of indemnity mentioned in paragraph (a)—indemnity for costs and expenses incurred with the consent of the insurer of defending or settling a claim;
 - (c) indemnity for breaches of professional duty as a private certifier arising from an act, error or omission of the private certifier after the day the certifier first became a private certifier;
 - (d) at least 1 automatic reinstatement of indemnity;
 - (e) indemnity for negligent performance of a building certifying function (other than for claims for fraudulent or illegal acts or omissions);
 - (f) if the private certifying functions are performed as an employee—indemnity to former principals, partners and directors of the employer who were, but no longer are, private certifiers.
- (2) For subsection (1), a private certifier who is a member of a corporation, or an employee of an individual, corporation or public sector entity, has the required insurance if the corporation, individual or entity has the professional indemnity insurance mentioned in subsection (1).
- (3) For subsection (1)(b), the indemnity may, for any 1 claim, be limited to 20% of the limit of indemnity the insurance provides under subsection (1)(a) for the claim.
- (3A) However, subsection (1) does not apply in relation to a private certifier during the exemption period to the extent the certifier

[s 52A]

performs private certifying functions directly related to external cladding, or the use of external cladding, that does not comply with any of the following—

- (a) an Act or other law of the Commonwealth or a State;
 - (b) an Australian Standard;
 - (c) the BCA.
- (4) For section 163(2) of the Act, the prescribed course is the course called ‘Issuing development permits for building work’, conducted by Mackee and Associates Pty Ltd, trading as AssentTECS.

- (5) In this section—

exemption period means the period starting on the commencement and ending on 30 June 2022.

external cladding means cladding or a cladding system—

- (a) forming part of, or attached or applied to, an external wall or other external part of a building other than a roof; and
 - (b) made, in whole or in part, of composite material.
- (6) Subsections (3A) and (5) and this subsection expire on 1 July 2022.

52A Prescribed accreditation standards body—Act, s 184

For section 184(1)(b) of the Act, the following entities are prescribed to be accreditation standards bodies—

- (a) the Australian Institute of Building Surveyors;
- (b) the Royal Institution of Chartered Surveyors.

53 Information to be supplied by the State—Act, s 255

- (1) The information prescribed for section 255 of the Act is—

- (a) a 1:100 scale drawing of the building or structure showing floor plans and elevations; and

- (b) a site plan of a scale enabling the local government to provide water supply, sewerage and stormwater drainage for the land on which the building work is to be carried out.
- (2) However, if the Minister responsible for the building work to which this section applies considers the giving of the information mentioned in subsection (1)(a) is not in the public interest, subsection (1)(a) does not apply.

53A Notice requirement for particular development approvals for building work near sewers

- (1) This section applies if—
- (a) a private certifier approves a building development application for building work for a class 1 building or a class 10 building or structure; and
 - (b) the application is for building work on a lot that contains, or is adjacent to a lot that contains, a sewer of a sewerage service provider; and
 - (c) the sewerage service provider is not a local government or a referral agency for the application; and
 - (d) the QDC, part 1.4 applies to the building work because of the distance between the building work and the sewer.
- (2) The private certifier must, within 5 business days after approving the building development application, give the sewerage service provider notice in the approved form about the building work.

Editor's note—

The approved form can be accessed, free of charge, on the department's website.

- (3) For this section, a reference to a sewer includes a maintenance cover for the sewer.
- (4) In this section—

maintenance cover means a cover, whether above, at, or below ground level, for a chamber through which a person,

[s 53B]

machine or device may gain access to a sewer for the purpose of inspecting, maintaining or replacing the sewer.

sewer means a sewer that is part of a sewerage system under the *Plumbing and Drainage Act 2018*.

sewerage service provider see the *Water Supply (Safety and Reliability) Act 2008*, schedule 3.

53B Notice requirement for particular development approvals for farm buildings

- (1) This section applies to the decision-maker for a building development application if—
 - (a) the application is for building work for a farm building; and
 - (b) the decision-maker approves the application in whole or in part; and
 - (c) the building work that is approved complies with the QDC, part 3.7, acceptable solution A3(2) or (3).
- (2) The decision-maker must, within 5 business days after approving the building development application, give QFES a notice in the approved form about the approved building work.

Editor's note—

The approved form can be accessed, free of charge, on the department's website.

- (3) In this section—

decision-maker means—

- (a) if the building development application is a development application—the assessment manager for the application; or
- (b) if the building development application is a change application—the responsible entity for the application.

farm animal means an animal whose meat or produce is intended for human consumption.

Examples of produce—

eggs, milk, wool

farm building means—

- (a) a class 7 building situated on land used primarily for farming, if the building is used primarily for—
 - (i) farming; or
 - (ii) housing 3 or more farm vehicles; or
- (b) a class 8 building situated on land used primarily for farming, if the building is also used primarily for farming.

farming means the use of land for 1 or more of the following—

- (a) cultivating or propagating plants or fungi or constituent parts of plants or fungi;

Examples of a constituent part of a plant—

a seed, a bulb

Example of a constituent part of a fungus—

a fungal spore

- (b) harvesting or packing a thing mentioned in paragraph (a), other than cutting timber or preparing timber for sale;
- (c) keeping farm animals for 1 or more of the following purposes—
 - (i) gathering or packing produce of the animals in a way that does not result in the death of the animals;

Examples—

gathering eggs laid by chickens, gathering wool shorn from sheep, milking cows or goats

- (ii) selling the animals or their produce;
- (iii) breeding the animals.

farm vehicle means a vehicle used in relation to farming.

Examples—

tractor, harvester, quad bike, utility truck

Division 2 Fees

54 Fees

- (1) The fees payable under the Act are in schedule 3.
- (2) The fee (the *fast-track fee*) accompanying a request, under section 39 of the Act, to fast-track a decision for a variation application is in addition to the fee payable for the application.
- (3) If the chief executive refuses a request to fast-track the decision, the chief executive must refund the fast-track fee to the applicant.
- (4) The chief executive may refund the fee for a variation application if—
 - (a) if the application is accompanied by a request to fast-track a decision for the application—the decision is not made within 2 business days after the application is made; or
 - (b) otherwise—a decision for the application is not made within 20 business days after the application is made.
- (5) In deciding whether to refund the fee, the chief executive must have regard to each of the following—
 - (a) if the chief executive requested further information about the application, whether the applicant provided the information in a timely way;
 - (b) any matter about the complexity of the building work that is the subject of the application, including—
 - (i) the scale of the building work; and
 - (ii) whether the department made a request for specialist advice to decide the application.

Division 2A Displaying code checklist

54A Definitions for div 2A

In this division—

code checklist means the code checklist under section 54B.

temporary accommodation building means a temporary building or structure containing an area used, or intended to be used, for sleeping.

54B Form and content of code checklist

- (1) The code checklist must be in the approved form.
- (2) The approved form may only make provision for indicating whether the acceptable solutions for temporary accommodation buildings, under the QDC part MP 3.3, have been complied with in relation to temporary accommodation buildings to which section 54C applies.

54C Display of code checklist for particular temporary accommodation buildings

- (1) This section applies to a temporary accommodation building that—
 - (a) is located at a site for more than 42 consecutive days; and
 - (b) is occupied, or available for occupation, by a person—
 - (i) under an agreement relating to the person's employment; or
 - (ii) in return for the payment of rent.
- (2) The prescribed person for the temporary accommodation building must ensure a copy of the code checklist is—
 - (a) completed for the temporary accommodation building; and

[s 55]

(b) clearly displayed on or near the temporary accommodation building.

Maximum penalty—20 penalty units.

(3) In this section—

prescribed person, for a temporary accommodation building, means the person who allows occupation of the building—

- (a) under an agreement relating to a person's employment; or
- (b) in return for the payment of rent.

Division 3 Transitional provisions

55 Definition for div 3

In this division—

repealed regulation means the repealed Standard Building Regulation 1993.

56 Undecided building development applications

- (1) This section applies if, immediately before 1 September 2006—
 - (a) a building development application had not been decided; and
 - (b) the application is a properly made application.
- (2) The application must be decided as if the repealed regulation had not been repealed and this regulation were not in force.

Note—

Section 278 of the Act makes a corresponding provision for amendments made under the related *Building and Other Legislation Amendment Act 2006*.

57 Development applications made for relevant building work before designation of rainwater tank area

- (1) This section applies if—
 - (a) before a designation, under former section 7 or the repealed regulation, by a local government of a designated rainwater tank area a building development application was made for relevant building work in the area; and
 - (b) immediately before the designation, the application had not been decided.
- (2) The application must be decided as if the designation had not been made.
- (3) In this section—

former section 7 means section 7 as in force immediately before 1 January 2007.

relevant building work means relevant building work under this regulation immediately before 1 January 2007.

58 Declarations under repealed regulation, s 53

On 1 September 2006—

- (a) a declaration under the repealed regulation, section 53(1)(a) becomes a designation under section 13(1)(a) of this regulation; and
- (b) a declaration under the repealed regulation, section 53(1)(b) becomes a designation under section 13(1)(b) of this regulation.

Part 9 Repeals

59 Repeals

The following are repealed—

- Standard Building Regulation 1993

- Building Regulation 2003 SL No. 175.

Part 10 Transitional provisions

Division 1 Transitional provisions for Building Amendment Regulation (No. 3) 2012

60 No continuing professional development prescribed for applications made before 1 December 2012

Part 4, division 2A does not apply to an application to renew or restore a pool safety inspector's licence if the application is made on or after 1 September 2012 and before 1 December 2012.

61 Completion of 2 CPD points prescribed for applications made on or after 1 December 2012 and before 1 January 2013

Part 4, division 2A applies to an application to renew or restore a pool safety inspector's licence made on or after 1 December 2012 and before 1 January 2013 as if—

- (a) a reference in section 16DD(1)(a) to 4 CPD points was a reference to 2 CPD points; and
- (b) a reference in section 16DD(1)(b) to 6 CPD points was a reference to 2 CPD points.

62 Completion of 4 CPD points prescribed for particular applications made on or after 1 January 2013 and before 1 February 2013

- (1) This section applies if—
 - (a) a person makes an application to renew or restore a pool safety inspector's licence on or after 1 January 2013 and before 1 February 2013; and

-
- (b) the person making the application is not a building certifier.
 - (2) Part 4, division 2A applies to the person's application as if a reference in section 16DD(1)(b) to 6 CPD points was a reference to 4 CPD points.

Division 2 Transitional provision for Building Amendment Regulation (No. 2) 2014

63 Regulated pools constructed before 1 December 2009

- (1) This section applies if a regulated pool was constructed before 1 December 2009.
- (2) If immediately before the commencement a resuscitation sign for the pool complied with former section 13A(2)(e), that section continues to apply to the sign until it becomes illegible.
- (3) If—
 - (a) the sign becomes illegible as mentioned in subsection (2); or
 - (b) immediately before the commencement there was no resuscitation sign for the pool complying with former section 13A(2)(e);section 13A(2)(e) applies to the pool.

- (4) In this section—

commencement means the commencement of this section.

former section 13A(2)(e) means section 13A(2)(e) as in force immediately before the commencement.

resuscitation sign see section 13A(4).

Division 3 **Transitional provisions for Building and Other Legislation Amendment Regulation (No. 1) 2014**

64 **Definitions for div 3**

In this division—

former council means the PSC under the *Building Act 1975* as in force immediately before the commencement of the *Professional Engineers and Other Legislation Amendment Act 2014*.

unamended regulation means the *Building Regulation 2006* as in force immediately before the commencement.

65 **Demerit points not allocated by PSC before commencement**

- (1) This section applies if, before the commencement, the former council—
 - (a) was satisfied that a pool safety inspector had committed a demerit contravention; but
 - (b) had not allocated demerit points to the pool safety inspector for the demerit contravention under the unamended regulation.
- (2) The QBCC commissioner may be satisfied that the pool safety inspector had committed a demerit contravention merely because the former council was satisfied the pool safety inspector had committed a demerit contravention.

66 **Demerit points allocated, but not notified, by PSC before commencement**

- (1) This section applies if, before the commencement, the former council—

-
- (a) had allocated demerit points to a pool safety inspector for a demerit contravention under the unamended regulation; but
 - (b) had not given the pool safety inspector a notice for the allocation of the demerit points under the unamended regulation.
- (2) The allocation of the demerit points continues in effect as if it had been done by the QBCC commissioner.

Division 4 Transitional provision for Building (Swimming Pool Safety—CPR Signs) Amendment Regulation 2016

67 Resuscitation signs for particular regulated pools

- (1) This section applies for a regulated pool if, immediately before the commencement, a resuscitation sign that complied with former section 13A(2)(e) was displayed for the pool.
- (2) Former section 13A(2)(e) continues to apply until the sign becomes illegible.
- (3) In this section—
former section 13A(2)(e) means section 13A(2)(e) as in force immediately before the commencement.
resuscitation sign see section 13A(4).

Division 5 Transitional provisions for Building and Other Legislation Amendment Regulation 2019

68 Definitions for division

In this division—

amended, in relation to a provision, means the provision as in force from the commencement.

amending regulation means the *Building and Other Legislation Amendment Regulation 2019*.

exempted licence means a private certifier's licence—

- (a) with a private certification endorsement made during the exemption period in reliance on section 52(3A) as in force during the exemption period; and
- (b) that is in force at the end of the exemption period.

exemption period means the period starting on the commencement of the amending regulation and ending on 30 June 2021.

external cladding means cladding or a cladding system—

- (a) forming part of, or attached or applied to, an external wall or other external part of a building other than a roof; and
- (b) made, in whole or in part, of composite material.

former, in relation to a provision, means the provision as in force from time to time before the commencement.

69 Application of particular provisions if documents given before commencement

- (1) This section applies in relation to a private building if—
 - (a) before the commencement, the QBCC was given a copy of a building fire safety risk assessment, or a fire engineer statement, for the building under former section 16X, 16ZI or 16ZL; and
 - (b) from the commencement, the QBCC reasonably believes, based on the matters mentioned in the assessment or the statement, there is a cladding fire risk for the building.
- (2) The QBCC may, within 60 business days after the commencement, give the owner of the building a notice (the

cladding fire risk notice) stating there is a cladding fire risk for the building.

- (3) Subject to subsections (4) to (6), if the QBCC gives the owner the cladding fire risk notice, the following provisions are taken to apply in relation to the building as if the fire engineer statement stated there is a cladding fire risk for the building—
 - (a) amended section 16Y; and
 - (b) amended part 4A, division 2, subdivision 4.
- (4) The owner is taken to have complied with amended sections 16Y, 16ZA and 16ZB to the extent the owner has complied with former sections 16Y, 16ZA and 16ZB.
- (5) If the owner is not complying with amended section 16ZA(1) when the owner receives the cladding fire risk notice, the period mentioned in amended section 16ZA(3)(a) is taken to be—
 - (a) within 60 business days after the fire engineer statement was given to the owner; or
 - (b) if the notice is given to the owner less than 15 business days before the expiry of the period mentioned in paragraph (a)—within 15 business days after the notice is given to the owner.
- (6) If the owner has not complied with former section 16ZB(2)(a) or (3), the period mentioned in amended section 16ZB(2)(a) and (3) is taken to be—
 - (a) within 60 business days after the fire engineer statement was given to the owner; or
 - (b) if the cladding fire risk notice is given to the owner less than 15 business days before the expiry of the period mentioned in paragraph (a)—within 15 business days after the notice is given to the owner.

70 Effect of ending of exemption period on particular private certifiers

- (1) This section applies to a private certifier who holds an exempted licence.
- (2) From 1 July 2021, section 52(1) applies in relation to the private certifier to the extent the certifier performs private certifying functions directly related to external cladding, or the use of external cladding, that does not comply with any of the following—
 - (a) an Act or other law of the Commonwealth or a State;
 - (b) an Australian Standard;
 - (c) the BCA.
- (3) This section does not limit section 52(1).
- (4) This section applies subject to section 71.

Division 6 Transitional provisions for Building (Professional Indemnity Insurance) Amendment Regulation 2020

71 Disapplication of s 70

- (1) This section applies to a private certifier who holds a private certifier's licence—
 - (a) with a private certification endorsement made during the exemption period within the meaning of section 68 in reliance on section 52(3A) as in force during that period; and
 - (b) that is in force on 30 June 2021.
- (2) Section 70 does not apply to the private certifier.

Note—

See also section 52(3A) and (5), definition *exemption period*.

72 Continued application of expired section 52(3A) in relation to exempted licences

- (1) This section applies in relation to a private certifier who holds an exempted licence.
- (2) Expired section 52(3A) continues to apply in relation to the private certifier until the exempted licence expires.

Example—

If the private certifier holds an exempted licence that expires on 12 September 2022, section 52(1) does not apply to the certifier until 13 September 2022 to the extent the certifier performs private certifying functions mentioned in expired section 52(3A).

- (3) For subsection (2), the reference in expired section 52(3A) to the exemption period is taken to be a reference to the period starting on 1 July 2022 and ending when the exempted licence expires.
- (4) This section does not limit section 52(1).
- (5) In this section—

exempted licence means a private certifier's licence—

- (a) with a private certification endorsement made during the extended exemption period in reliance on section 52(3A) as in force during that period; and
- (b) that is in force at the end of the extended exemption period.

expired section 52(3A) means section 52(3A) as in force immediately before its expiry on 1 July 2022.

extended exemption period means the period—

- (a) that started on the commencement of the *Building and Other Legislation Amendment Regulation 2019*; and
- (b) that ends on 30 June 2022.

Schedule 1 Building work that is accepted development if relevant provisions complied with

section 4

1 Work for particular fences

- (1) Building work for a fence is prescribed if the fence—
 - (a) is no higher than 2m above the fence's natural ground surface; and
 - (b) is not for a regulated pool.
- (2) Despite subsection (1), the building work is prescribed if the work consists of—
 - (a) minor repairs mentioned in schedule 2B if the minor repairs are carried out by—
 - (i) a pool safety inspector under section 246BE of the Act; or
 - (ii) a person other than a pool safety inspector and a pool safety inspector issues a pool safety certificate for the minor repairs; or
 - (b) repairs or maintenance of, or other work for, a barrier for a regulated pool mentioned in schedule 2C.

2 Work for particular non-load bearing devices

- (1) This section applies to building work for any of the following devices if they are non-load bearing—
 - (a) an aerial;
 - (b) an antenna;
 - (c) a satellite dish with a maximum diameter of 900mm;

- (d) a flagpole, mast or tower, outside areas covered by airport Obstacle Limitation Surfaces Standards (O.L.S.) of the Civil Aviation Safety Authority.
- (2) The building work is prescribed if the device is no more than—
 - (a) if the device is attached to a building or structure—3.5m above the building or structure; or
 - (b) if the device is detached from any building or structure—10m above the device's natural ground surface.

3 Work for particular retaining walls

- (1) Building work for a retaining wall is prescribed if—
 - (a) there is no surcharge loading over the zone of influence for the wall; and
 - (b) the total height of the wall and of the fill or cut retained by the wall is no more than 1m above the wall's natural ground surface; and
 - (c) the wall is no closer than 1.5m to a building or another retaining wall.
- (2) Despite subsection (1), the building work is not prescribed if it is for a retaining wall that forms part of the fencing for a regulated pool.
- (3) In this section—

surcharge loading means a load applied to a soil stratum that has, or may have, the effect of consolidating the stratum, other than a load arising only from—

- (a) persons or vehicles on, or moving over, the stratum; or
- (b) the effects of rain on the stratum.

Example of a surcharge loading—

a concrete driveway laid over the stratum

zone of influence, for the retaining wall, means the volume of soil stratum behind the wall that affects the wall's structural integrity.

4 Particular filling or excavation

Filling or excavation is prescribed if—

- (a) the proposed cut or fill is no deeper than 1m above or below the natural ground surface for the relevant building or structure; and
- (b) any cut embankment is only into soil of a following type and no steeper than gradient stated for the soil type—
 - (i) for sand—2 horizontal to 1 vertical;
 - (ii) for silt—4 horizontal to 1 vertical;
 - (iii) for firm clay—1 horizontal to 1 vertical;
 - (iv) for soft clay—3 horizontal to 2 vertical; and
- (c) any fill embankment is no steeper than 4.0 horizontal to 1.0 vertical; and
- (d) any compacted fill embankment is only into soil of a following type and no steeper than gradient stated for the soil type—
 - (i) for sand—3 horizontal to 2 vertical;
 - (ii) for silt—4 horizontal to 1 vertical;
 - (iii) for firm clay—2 horizontal to 1 vertical.

5 Work for particular heating devices

Building work is prescribed if it consists of the installation, repair, maintenance or alteration of a heating device for a building, other than a heating device that is an integral part of, or abuts, the building.

Example—

a free-standing pot belly stove or other combustion heater, the chimney of which passes through the building's ceiling and roof space

6 Work for particular signs

Building work is prescribed if it consists of the erection of a sign that is—

- (a) detached from a building; and
- (b) no higher than 2m; and
- (c) no wider than 1.2m.

7 Particular repairs, maintenance or alterations not affecting structural component or fire safety system

(1) This section applies to building work that consists of repairs, maintenance or alterations to an existing building or structure, other than—

- (a) alterations to existing fencing for a regulated pool; or
- (b) repairs, maintenance or alterations to an existing solar hot water system or photovoltaic solar panel attached to the roof of a building.

(2) The building work is prescribed if it does not—

- (a) change the building or structure's floor area or height; or
- (b) affect a structural component or the fire safety system of the building or structure.

8 Particular repairs, maintenance or alterations only affecting minor structural component

(1) This section applies to building work if—

- (a) the building work consists of repairs, maintenance or alterations to an existing building other than—
 - (i) alterations to existing fencing for a regulated pool; or
 - (ii) repairs, maintenance or alterations to an existing solar hot water system or photovoltaic solar panel attached to the roof of a building; and

(b) the building work—

- (i) does not change the building or structure's floor area or height; and
 - (ii) is for, or only affects, a minor structural component of the building.
 - (2) The building work is prescribed if—
 - (a) the work does not affect more than 20% of the building's structural components of the same type; or
 - (b) if the work is carried out on a sole-occupancy unit in the building—the work and other building work of the same type carried out on the unit in the previous 3 years does not affect more than the lesser of the following—
 - (i) 20% of the unit's gross floor area;
 - (ii) 40m² of the unit's floor area; or
 - (c) if the building consists of stories and the work is not carried out on a sole-occupancy unit—the work and other building work of the same type carried out on the same storey in the previous 3 years does not affect more than the lesser of the following—
 - (i) 20% of the storey's gross floor area;
 - (ii) 40m² of the storey's floor area.
 - (3) For subsection (1)(b), a structural component is minor only if—
 - (a) the component is—
 - (i) a roof beam or lintel supporting no more than 5m² of roof area; or
 - (ii) a sun hood or sun blind projecting no more than 1m from the building; or
 - (b) if the work is repairing or maintaining the component—were it not present in the building, the building's general safety and structural integrity would not be at risk; or

Examples—

 - replacing a verandah post
 - replacing a metal connector or bracing member

- (c) if the work is adding the component to the building—the addition does not pose a risk to the building’s general safety and structural integrity.
- (4) In this section—
building includes structure.
gross floor area, of a sole-occupancy unit or storey, means the total area of—
- (a) all parts of the unit or storey within its external walls; and
- (b) any other roofed part of the unit or storey.
- Example for paragraph (b)—*
a roofed balcony

9 Particular repairs, maintenance or alterations only affecting minor component of fire safety system

- (1) This section applies to building work that consists of repairs, maintenance or alterations to an existing building if they—
- (a) do not change the building’s floor area or height; and
- (b) only affect a minor component of the building’s fire safety system.
- (2) The building work is prescribed if the work—
- (a) only affects a minor component of the system; and
- (b) does not affect more than 20% of the system’s components of the same type.
- (3) For subsection (2)(a), a component is minor only if, were it not present in the fire safety system, the safety of occupants of the building would not be compromised.

Examples of a minor component of a fire safety system—

- a sprinkler head
- a smoke alarm

- (4) In this section—
building includes structure.

10 Work for particular budget accommodation buildings built, approved or applied for before 1 January 1992

- (1) Building work is prescribed if it consists of the installation of any of the following for a budget accommodation building to which chapter 7, part 3 of the Act applies—
- (a) smoke alarms;
 - (b) a smoke detection system unless—
 - (i) the system is a 1670 system; and
 - (ii) the fire safety standard requires the installation of a 1670 system in the building;
 - (c) internally illuminated exit signs;
 - (d) fire extinguishers.
- (2) Subsection (1) applies despite section 9 of this schedule.
- (3) In this section—

1670 system means a fire safety system to which AS 1670.1-1995 applies.

11 Work for particular temporary things on building sites

Building work is prescribed if it is for a temporary site office, gantry or scaffolding on a building site.

12 Erecting particular tents

Building work is prescribed if it consists of erecting a tent if the tent's floor area is no more than 500m².

13 Other work for class 10 buildings or structures

- (1) This section applies to building work for a class 10 building or structure (the *class 10*), unless the building work is—
- (a) within Wind Region C (tropical cyclone area) mentioned in AS 1170.2 SAA Wind Loading Code; or
 - (b) for a rainwater tank for a new building; or

- (c) for a deck that is roofed or higher than 1m above the deck's natural ground surface; or
- (d) for a chapter 8 pool or its fence; or
- (e) for a solar hot water system or photovoltaic solar panel.

Editor's note—

BCA (2009 edition), part A3.2 (Classifications)—

Class 10: A non-habitable building or structure—

- (a) **Class 10a**—a non-habitable building being a *private garage*, carport, shed or the like; or
- (b) **Class 10b**—a structure being a fence, mast, antenna, retaining or free-standing wall, *swimming pool* or the like.

- (2) The building work is prescribed if—
 - (a) the plan area of the class 10 is no more than 10m²; and
 - (b) the class 10 has, above its natural ground surface—
 - (i) a height of no more than 2.4m; and
 - (ii) if the class 10 is not a rainwater tank—a mean height of no more than 2.1m, worked out by dividing its total elevational area facing the boundary by its horizontal length facing the boundary; and
 - (c) any side of the class 10 is no longer than 5m.
- (3) Despite subsection (2), the building work is not prescribed if—
 - (a) another section of this schedule applies to the work; and
 - (b) the work does not comply with the requirements under the other section for it to be prescribed.

- (4) In this section—

plan area, of the class 10, means the area contained within its extremities after the building work has been completed, including, overhangs and, if the class 10 is existing, its existing area.

rainwater tank means—

- (a) a covered tank used to collect rainwater from a building;
and
- (b) any stand or other structure that supports the tank.

14 Work for particular air conditioners

Building work is prescribed if it consists of the installation, repair, maintenance or alteration of an air conditioner for cooling or heating a building of any class, other than an air conditioner that is an integral part of the building.

Example of air conditioner that is an integral part of a building—

air conditioner that is part of the fire safety system or mechanical ventilation system for the building

15 Work for solar hot water systems or photovoltaic solar panels

Building work is prescribed if it consists of—

- (a) the installation of a solar hot water system or photovoltaic solar panel on the roof of a building; or
- (b) repairs, maintenance or alterations to an existing solar hot water system or photovoltaic solar panel attached to the roof of a building.

Schedule 2 Other building work that is accepted development

section 4(1)

1 **Work for particular class 10b structures or special structures**

Building work for a class 10b structure or special structure is prescribed if—

- (a) the structure is not—
 - (i) a fence; or
 - (ii) a retaining wall; or
 - (iii) a free standing wall; or
 - (iv) a swimming pool; and
- (b) the structure is no higher than 3m above its natural ground surface.

Examples—

playground and sporting equipment, garden furniture, temporary market stalls, minor plant and equipment covers that are no more than 3m above their natural ground surface

2 **Attaching particular sun hoods**

Attaching a sun hood to an existing building is prescribed if the sun hood's area is less than 2m².

3 **Erecting particular tents**

Erecting a tent is prescribed if the tent's floor area is no more than 100m².

4 **Other work for class 10 buildings or structures**

- (1) Building work for a class 10 building or structure (the *class 10*) is prescribed if—

- (a) the work is not building work to which another section of this schedule applies; and
 - (b) the class 10 is on land used for agricultural, floricultural, horticultural or pastoral purposes; and
 - (c) no part of the class 10 is within 200m of a road or a boundary of the land on which the class 10 is situated; and
 - (d) the class 10 is not a chapter 8 pool or its fence.
- (2) Despite subsection (1), the building work is not prescribed if—
- (a) another section of this schedule applies to the work; and
 - (b) the work does not comply with the requirements under the other section for it to be prescribed.

Schedule 2A Prescribed local governments

section 15

Aurukun Shire Council
Balonne Shire Council
Banana Shire Council
Barcaldine Regional Council
Barcoo Shire Council
Blackall Tambo Regional Council
Boulia Shire Council
Bulloo Shire Council
Burke Shire Council
Carpentaria Shire Council
Cassowary Coast Regional Council
Central Highlands Regional Council
Charters Towers Regional Council
Cloncurry Shire Council
Cook Shire Council
Croydon Shire Council
Diamantina Shire Council
Doomadgee Aboriginal Shire Council
Etheridge Shire Council
Flinders Shire Council
Hinchinbrook Shire Council
Hope Vale Aboriginal Shire Council
Isaac Regional Council
Kowanyama Aboriginal Shire Council

Lockhart River Aboriginal Shire Council
Longreach Regional Council
Mapoon Aboriginal Shire Council
Maranoa Regional Council
McKinlay Shire Council
Mornington Shire Council
Mount Isa City Council
Murweh Shire Council
Napranum Aboriginal Shire Council
Northern Peninsula Area Regional Council
Palm Island Aboriginal Shire Council
Paroo Shire Council
Pormpuraaw Aboriginal Shire Council
Quilpie Shire Council
Richmond Shire Council
Tablelands Regional Council
Torres Shire Council
Torres Strait Island Regional Council
Whitsunday Regional Council
Winton Shire Council
Woorabinda Aboriginal Shire Council
Wujal Wujal Aboriginal Shire Council

Schedule 2B Minor repairs

section 16D and schedule 1, section 1(2)(a)

1 Minor repairs of barriers for a regulated pool

- (1) Repairing, replacing or adjusting part of the existing barriers for a regulated pool is prescribed if—
 - (a) the repairing, replacing or adjusting of the part is carried out to comply with the pool safety standard; and
 - (b) the part repaired, replaced or adjusted is no longer than a total of 5m and includes no more than 6 posts.
- (2) Subsection (1)(b) does not apply to the following minor repairs to the barriers for a regulated pool—
 - (a) reducing a gap under the barriers other than by lowering the panels or palings of the barriers;
Example of reducing a gap under the barriers for the pool—
laying paving to reduce the gap under the barriers
 - (b) increasing the height of the barriers for a regulated pool other than by raising the panels or palings of the barriers;
Example of increasing the height of the barriers for the pool—
installing capping along the top of the barriers
 - (c) installing shielding material.
- (3) Also, erecting a new part of the barriers for a regulated pool is prescribed if—
 - (a) the erecting of the part is carried out to comply with the pool safety standard; and
 - (b) the part erected is no longer than a total of 5m and includes no more than 6 posts.
- (4) The work prescribed in subsections (1) and (3) includes the following—

- (a) repairing, replacing or adjusting loose or damaged panels for the barriers for the pool;
- (b) raising the panels of the barriers for the pool to increase the height of the barriers;
- (c) lowering panels of the barriers for the pool to reduce a gap under the barriers;
- (d) replacing brackets or other fixings for panels of the barriers for the pool;
- (e) erecting a new part of the fencing to join 2 existing parts of the barriers for the regulated pool.

Examples for paragraph (e)—

- erecting a new part of the barriers for a regulated pool to create a corral outside a self-closing door that opens into a pool area
- installing a new part of the barriers for a regulated pool between an existing dividing fence for the land and a wall of a building that forms part of the barriers for the pool

2 Minor repairs of gates

- (1) Repairing, replacing, adjusting or installing a gate in the barriers for a regulated pool is prescribed if the repairing, replacing, adjusting or installing of the gate is carried out to comply with the pool safety standard.
- (2) The work prescribed in subsection (1) includes the following—
 - (a) replacing, adjusting or installing strikers or latches;
 - (b) tightening, adjusting or installing hinges to ensure they are capable of holding the gate;
 - (c) tightening, adjusting or installing a self-closing mechanism on a gate to ensure the gate self-closes;
 - (d) replacing, repairing, adjusting or installing hinges to ensure a gate self-closes;
 - (e) making alterations to a gate to change the direction of the gate's swing;

-
- (f) installing a new gate in a new part of the barriers for the pool.

3 Minor repairs of protected windows and doors

- (1) Protecting a window or door is prescribed if the protecting of the window or door is carried out to comply with the pool safety standard.
- (2) The work prescribed in subsection (1) includes the following—
 - (a) permanently disabling a window or door opening;
 - (b) stopping a window or door from opening more than 100mm;
 - (c) installing a security screen for a window or door;
 - (d) inserting rivets, screws or chocks in windows;
 - (e) removing tracks and running gear from a window or door.

4 Non-climbable zone works

- (1) Minor works to protect the barriers for a regulated pool, including the fencing or a gate for the pool, or an object adjacent to the barriers, is prescribed if the minor work is carried out to ensure a person is not able to climb the barriers for the pool.
- (2) The work prescribed in subsection (1) includes the following—
 - (a) installing shielding material that is suitably durable to protect footholds in the barriers for the pool;
 - (b) adding return barriers to a barrier that is a permanent body of water;
 - (c) removing a climbable object adjoining the barriers for the pool;

- (d) installing shielding material that is suitably durable on a part of the barriers for the pool that adjoins a retaining wall;
- (e) closing gaps between a part of the barriers for the pool and another part of the barriers for the pool or a dividing fence for the land;
- (f) installing material to make the barriers for the pool non-climbable;
- (g) installing shielding material that is suitably durable in front of a latch on a gate;
- (h) removing or shielding footholes or other climbable objects that affect the barriers for the pool;
- (i) trimming or removing trees, branches or vegetation on or adjoining the barriers for the pool.

Schedule 2C Repairs, maintenance and other work for regulated pools

schedule 1, section 1(2)(b)

1 Repairs and maintenance of barriers for a regulated pool

- (1) Repairing or adjusting part of the existing barriers for a regulated pool is prescribed if—
 - (a) the repairing or adjusting of the part is carried out to comply with the pool safety standard; and
 - (b) the part repaired or adjusted is no longer than a total of 2.4m and includes no more than 2 posts.
- (2) Subsection (1)(b) does not apply to the following repairs or maintenance to a barrier for a regulated pool—
 - (a) reducing a gap under the barriers for the pool other than by lowering the panels or palings of the barriers;
Example of reducing a gap under the barriers for the pool—
laying paving to reduce the gap under the barriers
 - (b) increasing the height of the barriers for a regulated pool other than by raising the panels or palings of the barriers;
Example of increasing the height of the barriers for the pool—
installing capping along the top of the barriers
 - (c) installing shielding material;
 - (d) work mentioned in section 5 of this schedule.
- (3) The work prescribed in subsection (1) includes the following—
 - (a) repairing, replacing or adjusting loose or damaged palings for the barriers for the pool;
 - (b) raising the panels of the barriers for the pool to increase the height of the barriers;

- (c) lowering panels of the barriers for the pool to reduce a gap under the barriers;
- (d) replacing brackets or other fixings for panels of the barriers for the pool.

2 Repairs of gates

- (1) Repairing, replacing or adjusting a gate in the barriers for a regulated pool is prescribed if the repairing, replacing or adjusting of the gate is carried out to comply with the pool safety standard.
- (2) The work prescribed in subsection (1) includes the following—
 - (a) replacing, adjusting or installing strikers or latches;
 - (b) tightening, adjusting or installing hinges to ensure they are capable of holding the gate;
 - (c) tightening, adjusting or installing a self-closing mechanism on a gate to ensure the gate self-closes;
 - (d) replacing, repairing, adjusting or installing hinges to ensure a gate self-closes;
 - (e) making alterations to a gate to change the direction of the gate's swing.

3 Repairs of protected windows and doors

- (1) Protecting a window or door for a regulated pool is prescribed if the protecting of the window or door is carried out to comply with the pool safety standard.
- (2) The work prescribed in subsection (1) includes the following—
 - (a) permanently disabling a window or door opening;
 - (b) stopping a window or door from opening more than 100mm;
 - (c) installing a security screen for a window or door;
 - (d) inserting rivets, screws or chocks in windows;

- (e) removing tracks and running gear from a window or door.

4 Non-climbable zone works

- (1) Work to protect the barriers for a regulated pool, including the fencing or a gate for the pool, or an object adjacent to the barriers, is prescribed if the work is carried out to ensure a person is not able to climb the barriers for the pool.
- (2) The work prescribed in subsection (1) includes the following—
 - (a) installing shielding material that is suitably durable to protect footholds in the barriers for the pool;
 - (b) removing a climbable object adjoining the barriers for the pool;
 - (c) installing shielding material that is suitably durable on a part of the barriers for the pool that adjoins a retaining wall;
 - (d) closing gaps between a part of the barriers for the pool and another part of the barriers for the pool or a dividing fence for the land;
 - (e) installing material to make the barriers for the pool non-climbable;
 - (f) installing shielding material that is suitably durable in front of a latch on a gate;
 - (g) removing or shielding footholes or other climbable objects that affect the barriers for the pool;
 - (h) trimming or removing trees, branches or vegetation on or adjoining the barriers for the pool.

5 Work for barriers for regulated pools in particular circumstances

- (1) The following work is prescribed in relation to a regulated pool if the matters in subsection (2) are satisfied—

- (a) constructing a fence that forms the whole or part of a barrier for the regulated pool;
 - (b) repairing, replacing or adjusting an existing fence that forms the whole or part of a barrier for the regulated pool.
- (2) For subsection (1), the matters are—
- (a) either—
 - (i) the only part of the building assessment provisions that applies to the work is the pool safety standard; or
 - (ii) both of the following apply—
 - (A) the pool safety standard and any other part of the building assessment provisions apply to the work;
 - (B) the work would be accepted building work if only that other part of the building assessment provisions applied to the work; and
 - (b) either of the following applies—
 - (i) the fence is no higher than 2m above its natural ground surface;
 - (ii) if the fence is situated on an existing retaining wall, on part of an existing class 1a or class 10 building or on another existing structure—the fence is no higher than 2m above the wall, building or structure and no part of the fence that is higher than 2m above its natural ground surface is within 1.5m of a boundary; and
- Note—*
- See QDC, MP 1.1, MP 1.2 and MP 1.3 for siting requirements for buildings and structures.
- (c) either—
 - (i) the work is carried out during the reinspection period stated in a nonconformity notice given for the regulated pool; or

- (ii) the regulated pool is a specified pool in relation to which no nonconformity notice has been given and, before the work commences, the owner of the regulated pool has arranged for an inspection of the pool by a pool safety inspector on a day that is not more than 3 months after the day the owner arranged the inspection.

Note—

If work prescribed under this section is carried out in relation to a regulated pool, the owner of the pool must ensure the pool is inspected in the way required under section 16DA.

Schedule 2D Bodies and CPD points for membership for continuing professional development

section 16DE(5)

Column 1 Body	Column 2 CPD points
Australian Institute of Building Surveyors ACN 004 540 836	2
Institute of Building Consultants as a division of the Queensland Master Builders Association Industrial Organisation of Employers ABN 96 641 989 386	2
RICS Australasia Pty Ltd ACN 089 873 067	2
Swimming Pool & Spa Association of Queensland Inc ABN 13 935 751 789	2

Schedule 2E Queensland Development Code

sections 51A and 51BC

Part	Description of part or aspect of the part	Day part or aspect takes effect
Siting and amenity—detached housing and duplexes		
MP 1.1 published 11 March 2010	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 acceptable solutions for the performance criteria; and (d) definitions relevant to the provisions mentioned in paragraphs (a) to (c)	26 March 2010
MP 1.2 published 11 March 2010	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 acceptable solutions for the performance criteria; and (d) definitions relevant to the provisions mentioned in paragraphs (a) to (c)	26 March 2010
MP 1.3 published 11 March 2010	Design and siting standard for duplex housing	26 March 2010

Part	Description of part or aspect of the part	Day part or aspect takes effect
MP 1.4 published 13 November 2014	Building over or near relevant infrastructure	15 December 2014
Fire safety		
MP 2.1 published 5 March 2008	Fire safety in budget accommodation buildings	4 April 2008
MP 2.2 published 5 March 2008	Fire safety in residential care buildings	4 April 2008
MP 2.3 published 14 June 2011	Fire safety in existing residential buildings (pre 1 June 2007)	1 September 2011
MP 2.5 published 8 December 2020	Use of external cladding	18 December 2020
Special buildings and structures		
MP 3.1 published 16 November 2007	Floating buildings	1 January 2008

Part	Description of part or aspect of the part	Day part or aspect takes effect
MP 3.2 published 16 November 2007	Tents	1 January 2008
MP 3.3 published 6 May 2014	Temporary accommodation buildings and structures	27 June 2014
MP 3.4 published 18 July 2012	Swimming pool barriers	27 July 2012
MP 3.5 published 12 December 2013	Construction of buildings in flood hazard areas	20 December 2013
MP 3.6 published 23 January 2014	Commonwealth games village accommodation buildings	7 February 2014
MP 3.7 published 25 May 2015	Farm buildings	1 June 2015
Building sustainability		

Part	Description of part or aspect of the part	Day part or aspect takes effect
MP 4.1 published 15 January 2013	Sustainable buildings	1 February 2013
MP 4.2 published 15 January 2013	Rainwater tanks and other supplementary water supply systems	1 February 2013
MP 4.3 published 15 January 2013	Supplementary water sources – commercial buildings	1 February 2013
MP 4.4 published 29 May 2015	Buildings in a transport noise corridor	17 August 2015
General health, safety and amenity		
MP 5.2 published 16 November 2007	Higher risk personal appearance services	1 January 2008
MP 5.3 published 16 November 2007	Retail meat premises	1 January 2008

Part	Description of part or aspect of the part	Day part or aspect takes effect
MP 5.5 published 16 November 2007	Private health facilities	1 January 2008
MP 5.6 published 16 November 2007	Pastoral workers' accommodation	1 January 2008
MP 5.7 published 16 November 2007	Residential services building standard	1 January 2008
Maintenance of buildings		
MP 6.1 published 6 May 2014	Maintenance of fire safety installations	1 July 2014

Note—

Parts, or aspects of a part, mentioned in this schedule may have taken effect before the commencement of this schedule. For those parts or aspects, the date stated in column 3 for the part or aspect is the date the part or aspect took effect under section 13 of the Act as in force before the commencement.

Schedule 2F Demerit offences

sections 51BA and 51BB

Column 1	Column 2
Demerit offence	Demerit points
s 83(1)	8
s 84(1)	8
s 84(2)	8
s 86(1)	2
s 88(2)	3
s 88(2B)	8
s 88(6)	1
s 99(2)	2
s 102(2)	1
s 107(2)	2
s 108	2
s 122	5
s 124A(3)	1
s 125	8
s 126	8
s 134	8
s 135(1)	8
s 135(2)	8
s 136(1)	10

Column 1	Column 2
Demerit offence	Demerit points
s 143(2)	2
s 143A(3)	2
s 143A(4)	2
s 143B(5)	2
s 143B(6)	1
s 147(2)	1
s 148(2)	5
s 149(1)	2
s 149(3)	2
s 150	1
s 183(2) if paragraph (b) of the penalty applies	2
s 195(4)	3
s 202(1)	8
s 203(1)	8

Schedule 3 Fees

section 54(1)

\$

- | | | |
|---|--|--|
| 1 | Fee for a variation application (Act, s 38(3))— | |
| | (a) if a site inspection of a building by the chief executive is not required and the building has a floor area of— | |
| | (i) 500m ² or less | 594.55 |
| | (ii) more than 500m ² | 859.45 |
| | (b) if a site inspection of a building by the chief executive is required and the building has a floor area of— | |
| | (i) 500m ² or less | 859.45 |
| | (ii) more than 500m ² | 1,274.00 |
| 2 | Fee for a request to fast-track a decision for a variation application (Act, s 39(2)) | 50% of the fee payable for the application |
| 3 | Application fee for licence as a building certifier (Act, s 156(c)(i)) | 161.50 |
| 4 | Licence fee for licence as a building certifier (Act, s 156(c)(ii)) | 859.45 |
| 5 | Fee for an application for an approval of a pool safety management plan for a swimming pool (Act, s 245M(2)(b)(ii))— | |
| | (a) if a pool safety management plan has not previously been approved for the pool— | |
| | (i) standard fee | 2,195.70 |

	\$
(ii) additional fee if the pool safety management plan relates to more than 1 swimming pool	123.10 for each additional pool
(iii) additional fee if the QBCC commissioner requires a site inspection for the pool	1,234.20
(b) if a pool safety management plan has previously been approved for the pool—	
(i) standard fee if the pool safety measures under the pool safety management plan are the same, or substantially the same, as the pool safety measures under the previously approved plan	439.70
(ii) standard fee if subparagraph (i) does not apply	2,195.70
(iii) additional fee if the QBCC commissioner requires a site inspection for the pool	1,234.20
6 Fee for an identification number for a pool safety certificate (Act, s 246AJ(3))	41.05
7 Fee to inspect the regulated pools register (Act, s 246AT(1)(a))	nil
8 Fee for a paper copy of all or part of the information held in the regulated pools register (Act, s 246AT(1)(b))—	
(a) for the first page	6.65
(b) for each additional page	2.80
9 Application fee for a pool safety inspector's licence (Act, s 246BI(1)(c)(i))	411.95
10 Licence fee for a pool safety inspector's licence (Act, s 246BI(1)(c)(ii))	205.35

Schedule 3

	\$
11 Renewal fee for renewal of a pool safety inspector's licence (Act, s 246BN(3)(a))	205.35
12 Licence fee for renewal of a pool safety inspector's licence (Act, s 246BN(3)(b))	103.40
13 Restoration fee for restoration of a pool safety inspector's licence (Act, s 246BR(2)(c)(i))	411.95
14 Licence fee for restoration of a pool safety inspector's licence (Act, s 246BR(2)(c)(ii))	205.35
15 Fee for replacement of a pool safety inspector's licence (Act, s 246CE(2)(b))	68.85

Schedule 4 Dictionary

section 3

accumulate, for part 4, division 3, see section 16F(4).

activities, for part 4, division 2A, see section 16DC.

affected private building, for part 4A, see section 16O.

approved way, for giving the QBCC a document, for part 4A, see section 16O.

aspect, of building work, means a component of a stage of the work.

aspect inspection certificate means a certificate given under section 47.

aspect work see section 42(1)(b).

assessable building work means building work that is not accepted development.

boundary clearances aspect means the boundary clearances aspect as described in the inspection guideline called ‘Guidelines for inspection of class 1a and 10 buildings and structures’, published by the department in May 2010.

builder, for building work, means the person in charge of carrying out the work.

Examples of a builder for building work—

- 1 a person who contracts with an owner to perform building work for the owner
- 2 a person who holds an owner-builder permit under the *Queensland Building and Construction Commission Act 1991* for building work and who, under that Act, engages subcontractors to perform all or part of the work

building certifier for—

- (a) a provision about a competent person, means the building certifier who decided the person is a competent person; or

- (b) a provision about assessable building work, means the building certifier who performed, or is performing, building certifying functions for the building development approval for the work.

building design or specification means any material, system, method of building or other thing related to the design of or specifications for building work.

building fire safety risk assessment, for part 4A, see section 16X(1)(b).

building industry professional, for part 4A, see section 16O.

building industry professional statement, for part 4A, see section 16T(1)(b).

cadastral surveyor means a person registered as a cadastral surveyor under the *Surveyors Act 2003*.

certificate of inspection means a certificate under section 32 that states a stage of assessable building work complies with the building development approval.

chapter 8 pool means a swimming pool to which chapter 8 of the Act applies.

cladding fire risk, for a private building, for part 4A, see section 16O.

combustible cladding, for part 4A, see section 16O.

combustible cladding checklist (part 1), for part 4A, see section 16O.

combustible cladding checklist (part 2), for part 4A, see section 16O.

combustible cladding checklist (part 3), for part 4A, see section 16O.

competent person see section 17(3).

competent person (design/specification) see section 17(4).

competent person (inspections) see section 17(5).

completed, for part 4A, see section 16O.

continuous 3-year period, for part 4, division 3, see section 16E.

convicted, for part 4A, see section 16O.

CPD activities, for part 4, division 2A, see section 16DC.

CPD points see section 16DD(1).

demerit contravention, for part 4, division 3, see section 16E.

demerit points, for part 4, division 3, see section 16E.

design/specification help, for a competent person, see section 17(1)(a).

final stage, of building work, means the last stage of the building work provided for under section 24.

fire engineer, for part 4A, see section 16O.

fire engineer statement, for part 4A, see section 16X(1)(c).

floor area, of a building or structure, sole-occupancy unit or storey, means its floor area as defined under the BCA.

inspecting person see section 30(2).

inspection day, for part 6, division 1, subdivision 4A, see section 35A(1)(b).

inspection guidelines see section 26(1).

inspection help, for a competent person, see section 17(1)(b).

natural ground surface, for a building, device or structure, means the ground surface located at site of the building or structure on the day the first plan of survey showing the relevant allotment was first registered.

new owner, for part 4A, division 2, subdivision 5, see section 16ZC.

noncompliance notice see section 33(2).

notice for inspection see section 27(2).

online system, for part 4A, see section 16O.

planning scheme maps means maps used in a planning scheme.

pool work, for part 6, division 1, subdivision 4A, see section 35A(1)(a).

private building, for part 4A, see section 16O.

private entity, for part 4A, see section 16O.

QBCC investigator, for part 4A, see section 16O.

QBCC licensee see section 42(1)(c).

QBCC licensee certificate means a certificate under section 43 or 44.

qualified witness, for part 4A, see section 16O.

qualitative statement means a statement about a performance or outcome sought to be achieved when buildings or structures for relevant work are completed.

quantifiable standard means a standard that achieves a performance or outcome sought under a qualitative statement.

referral agency aspects see section 37(a).

registered professional engineer means a person registered as a registered professional engineer under the *Professional Engineers Act 2002*.

reinforcement of footing system aspect means the reinforcement of slab and footing system aspect for the reinforcement of footings as described in the inspection guideline called 'Guidelines for inspection of class 1a and 10 buildings and structures', published by the department in May 2010.

relevant local government, for a private building, for part 4A, see section 16O.

relevant provision, for part 4, division 3, see section 16E.

relevant provision, for part 4A, division 2, subdivision 5, see section 16ZC.

road—

1 a road is—

(a) an area of land dedicated to public use as a road; or

- (b) an area open to, or used by, the public and developed for, or has, as 1 of its main uses, the driving or riding of motor vehicles.

2 However a *road* does not include a pedestrian or bicycle path.

solar hot water system includes any part of a water heating system designed to heat water using light or heat from the sun.

sole-occupancy unit means a sole-occupancy unit as defined under the BCA.

specified pool means—

- (a) a complying pool; or
- (b) a pool that is the subject of a current pool safety certificate; or
- (c) a pool that is the subject of a building certificate mentioned in the Act, section 246AN.

stage, of assessable building work, means a stage of the work provided for under section 24.

storey means a storey as defined under the BCA.

structural component, of a building, means an element or a part of a building that carries or transfers a load in addition to its own weight.

supervising certifier see section 23A.

temporary fence means a temporary fence that complies with QDC part MP 3.4.

tent means a temporary structure clad in canvas, plastic or similar material, with or without walls, supported by poles or similar supports and fastened to the ground using ropes, pegs or ballast.

Examples—

circus tent, box frame marquee

type A construction, for part 4A, see section 16O.

type B construction, for part 4A, see section 16O.