
Design and Building Practitioners Bill 2019

Amendments made by Legislative Assembly on 13 November 2019.

No. 1 **Regulated designs**

Page 3, clause 5, lines 31–34. Omit all words on those lines. Insert instead—

For the purposes of this Act, *regulated design* means—

- (a) a design that is prepared for a building element for building work, or
- (b) a design that is prepared for a performance solution for building work (including a building element), or
- (c) any other design of a class prescribed by the regulations that is prepared for building work.

No. 2 **Building elements**

Page 3, clause 6. Insert after line 42—

- (e) the services for a building, as prescribed by the regulations,

No. 3 **Documents with building compliance declarations**

Page 9, clause 16(1), line 7. Insert “, contractor document” after “building work”.

No. 4 **Documents with building compliance declarations**

Page 9, clause 16(2), line 12. Insert “, contractor document or other required document” after “building compliance declaration”.

No. 5 **Documents with building compliance declarations**

Page 9, clause 16(3), line 17. Insert “, contractor documents and other required documents” after “building compliance declarations”.

No. 6 **Issue of occupation certificate**

Page 9, clause 16. Insert after line 21—

- (5) A person who is provided with a building compliance declaration under subsection (1) must provide the declaration to the principal certifier who is responsible for issuing an occupation certificate for the building work before or when the application for the certificate is made.

Maximum penalty—300 penalty units (in the case of a body corporate) or 100 penalty units (in any other case).

No. 7 **Documents with building compliance declarations**

Page 9, clause 16(5). Insert after line 22—

contractor document means the following—

- (a) a list of persons who have agreed under a contract or arrangement with the registered building practitioner to do any of the building work,
 - (b) a list of any other persons prescribed by the regulations who have done building work on the building,
-

-
- (c) a list of the work done by each of the persons referred to in paragraphs (a) and (b) in relation to the building work,
 - (d) copies of final designs used for the building work that are not regulated designs and are designs of a class prescribed by the regulations for the purposes of this paragraph,
 - (e) other documents prescribed by the regulations.

No. 8 **Issue of occupation certificate**

Page 13. Insert after line 10—

26 Principal certifier must consider compliance certificates

- (1) A principal certifier who is responsible for issuing an occupation certificate for building work must not determine an application for an occupation certificate unless the principal certifier is satisfied that all compliance declarations required for the building work have been lodged in accordance with this Act.
- (2) A principal certifier who is responsible for issuing an occupation certificate for building work must consider any instances of non-compliance specified in the compliance declarations provided to the certifier relating to the building work when deciding whether to issue the certificate.
- (3) Nothing in this section prevents a regulation from being made under section 25 that prohibits the issue of occupation certificates unless compliance declarations are provided.

No. 9 **Duty of care**

Page 15, clause 29(1), line 6. Omit all words on that line. Insert instead—

building means—

- (a) a class 1a, 1b, 2, 3, 10a, 10b or 10c building or a building containing parts classified as class 1a, 1b, 2, 3, 10a, 10b or 10c, or
- (b) a building of another class or type prescribed by the regulations.

No. 10 **Duty of care**

Page 15, clause 29(1), lines 7 and 8. Omit all words on those lines. Insert instead—

building product has the same meaning as in the *Building Products (Safety) Act 2017*.

construction work means any of the following—

- (a) building work,
- (b) the preparation of regulated designs and other designs for building work,
- (c) the manufacture or supply of a building product used for building work.

No. 11 **Duty of care**

Page 15, clause 29(1). Insert after line 26—

- (4) In this Part, a reference to a person who carries out construction work includes a reference to a person who manufactures, or is a supplier (within the meaning of the *Building Products (Safety) Act 2017*) of, a building product used for building work.

No. 12 **Transitional arrangements**

Page 41, Schedule 1, clause 3, lines 28–30. Omit all words on those lines. Insert instead—

3 Application of Act (other than Part 3) to work done under existing arrangements

This Act (other than Part 3) applies to the preparation of designs, building work or other work done in respect of a building under an existing arrangement if the first application for the issue of a complying development certificate or construction certificate (within the meaning of the *Environmental Planning and Assessment Act 1979*) for the building is made on or after a day prescribed by the regulations for the purposes of this clause.

No. 13 **Transitional arrangements**

Page 41, Schedule 1, clause 4, line 33. Insert “to which this Act does not apply” after “work”.

No. 14 **Duty of care**

Page 41, Schedule 1, clause 5, lines 34–36. Omit all words on those lines. Insert instead—

5 Application of duty of care provisions to existing buildings and contracts and arrangements

- (1) Part 3 of this Act extends to construction work carried out before the commencement of section 30 as if the duty of care under that Part was owed by the person who carried out the construction work to the owner of the land and to subsequent owners when the construction work was carried out.
- (2) However, this clause does not confer rights on an owner to take action in relation to a particular economic loss if—
 - (a) the owner commenced an action for breach of a common law duty of care against any person before the commencement of section 30 in relation to the economic loss, or
 - (b) the loss first became apparent before the commencement of the period of 6 years immediately preceding the commencement of section 30, or
 - (c) in the case of construction work other than the manufacture or supply of a building product used for building work, the date of completion of the construction work was more than 10 years before the commencement of section 30.
- (3) Section 33 of this Act extends to a contract, agreement or stipulation relating to the construction work whenever made.
- (4) Section 6.20(2) of the *Environmental Planning and Assessment Act 1979* applies for the purposes of determining when construction work was completed for the purposes of subclause (2)(c) as if a reference in that subsection to building work includes a reference to construction work.
- (5) For the purposes of this clause—
 - (a) a loss becomes apparent when an owner entitled to the benefit of the duty of care under Part 3 of this Act first becomes aware (or ought reasonably to have become aware) of the loss, and
 - (b) a reference to construction work includes a reference to work that is prescribed as construction work for the purposes of Part 3 of this Act after the commencement of this clause (whether as a regulated design or otherwise), unless the regulations otherwise provide.
- (6) Words and expressions used in this clause have the same meanings as in Part 3 of this Act