



New South Wales

Better Regulation Legislation Amendment (Miscellaneous) Act 2024 No 53

Contents

		Page
	1 Name of Act	2
	2 Commencement	2
Schedule 1	Minor amendments	3
Schedule 2	Amendments relating to dissolution of Building Insurers' Guarantee Corporation	8
Schedule 3	Amendments relating to administrative arrangements	11



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Better Regulation Legislation Amendment (Miscellaneous) Act 2024 No 53

Act No 53, 2024

An Act to amend various Acts and regulations administered by the Minister for Customer Service and Digital Government, the Minister for Better Regulation and Fair Trading and the Minister for Building. [Assented to 20 August 2024]

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Better Regulation Legislation Amendment (Miscellaneous) Act 2024*.

2 Commencement

This Act commences as follows—

- (a) for Schedule 1.14[2]—on a day or days to be appointed by proclamation,
- (b) otherwise—on the date of assent to this Act.

Schedule 1 Minor amendments

1.1 Associations Incorporation Act 2009 No 7

Section 77 Distribution of assets

Omit section 77(4). Insert instead—

- (4) A person aggrieved by the operation of this section in relation to an association's property may apply to the Supreme Court for an order about the disposal of the property.
- (5) The Supreme Court may deal with an application by making the orders the Court thinks fit in relation to the disposal of the association's property.

1.2 Building and Construction Industry Security of Payment Act 1999 No 46

Section 8 Right to progress payments

Insert at the end of the section—

- (2) A person is not entitled to a progress payment under subsection (1) if the construction contract—
 - (a) does not comply with the *Home Building Act 1989*, section 4, or
 - (b) involves construction work that is residential building work done in contravention of the *Home Building Act 1989*, section 92.

1.3 Charitable Fundraising Act 1991 No 69

Section 13A Application to authorities of Licensing and Registration (Uniform Procedures) Act 2002

Omit section 13A(3)(c).

1.4 Community Land Management Act 2021 No 7

Sections 83(2)(e), 109(3)(b) and 228(3)

Omit “common property” wherever occurring. Insert instead “association property”.

1.5 Conveyancers Licensing Act 2003 No 3

Section 11 Application to licences of Licensing and Registration (Uniform Procedures) Act 2002

Omit section 11(3)(h).

1.6 Fair Trading Act 1987 No 68

[1] Section 58 Scheme for publication of service station fuel prices

Insert “, whether or not the building or place is staffed” after “there” in section 58(6), definition of *service station*.

[2] Section 58(6), definition of “service station”

Insert at the end of the definition—

Example— a public electric vehicle charging station that is not staffed

[3] Section 58(6), definition of “standard retail price”

Omit the definition. Insert instead—

standard retail price, in relation to a prescribed fuel supplied by retail at a service station, means the following—

- (a) for hydrogen—the price per kilogram at which the fuel is available to retail customers, without discounts or special offers,
- (b) for electricity—the price calculated in accordance with arrangements approved by the Secretary by order published on the NSW legislation website,
- (c) otherwise—the price per litre at which the fuel is available to retail customers, without discounts or special offers.

[4] Section 60D Fit and proper person

Omit “suspension” from section 60D(3)(b)(ii). Insert instead “cancellation”.

1.7 Government Telecommunications Act 2018 No 67

Section 13 Membership of Advisory Board

Omit “personally or in the ordinary course of post” from section 13(4)(e).

1.8 Home Building Act 1989 No 147

[1] Sections 33E(1)(b)(i) and (1A)(b)(i), 33F(1)(b)(i) and (1A)(b)(i) and 33G(1)(b)(i) and (1A)(b)(i)

Insert “and test” after “Install” wherever occurring.

[2] Section 33F Additional requirements for obtaining endorsed contractor licenses and supervisor and tradesperson certificates relating to medical gasfitting work

Omit section 33F(1A)(a). Insert instead—

- (a) has successfully completed the VET qualification Certificate IV in Plumbing, and

[3] Section 33G Additional requirements for obtaining endorsed contractor licenses and supervisor and tradesperson certificates relating to medical gas technician work

Omit section 33G(1A)(a)(ii).

1.9 Motor Dealers and Repairers Act 2013 No 107

[1] Section 5 Motor dealers

Omit “second-hand” from section 5(5).

[2] Section 150 Purposes for which powers of authorised officer may be exercised

Omit “Part 4.5 of the *Road Transport Act 2013*” from section 150(b).

Insert instead “the *Road Transport Act 2013*, Part 4.5 or 4.5A”.

1.10 Pawnbrokers and Second-hand Dealers Act 1996 No 13

[1] Section 28 Pawnbroker’s record of pledges

Omit section 28(3). Insert instead—

- (3) A pledge is not validly made unless—

- (a) the person pawning the goods signs the record, including by, if the record is kept in electronic form, signing a hard copy or attaching an electronic signature, and
- (b) at the time of signing, the record contained all the particulars required by or under this Act to be included in the record.

[2] Section 28(4)

Omit “original record, or hard copy,”. Insert instead “record”.

[3] Section 29A Agreement to extend redemption period

Omit “original record” from section 29A(5)(a). Insert instead “record”.

[4] Section 29A(6)(a) and (b)

Omit the paragraphs. Insert instead—

- (a) the person entering the extending agreement with the pawnbroker signs the record, including by, if the record is kept in electronic form, signing a hard copy or attaching an electronic signature, and
- (b) at the time of signing, the document contained all the particulars required by or under this Act to be included in the document.

[5] Section 29A(7)

Omit “original of any such”.

1.11 Residential Tenancies Act 2010 No 42

[1] Section 178 Members of Rental Bond Board

Omit “of the Department of Customer Service” from section 178(1)(a).

Insert instead “, who is the Chairperson of the Board”.

[2] Section 178(1)(a), note

Insert at the end of section 178(1)(a)—

Note— *Secretary* is defined in section 3(1) to mean the Commissioner for Fair Trading or, if there is no person employed as Commissioner for Fair Trading, the Secretary of the Department of Customer Service.

[3] Section 178(2)

Omit the subsection.

[4] Schedule 1 Membership and procedure of Rental Bond Board

Omit clause 4(5). Insert instead—

- (5) To avoid doubt, the deputy of a member who is the Chairperson has the member’s functions as Chairperson and is taken to be Chairperson.

1.12 Residential Tenancies Regulation 2019

[1] Section 39, heading

Omit “—ss 44(2), 83(2)(a), 98(4), 115(3), 125(3), 134(3), 141(2), 175(3) and 190(1) of Act”.

[2] Section 39(6)

Omit the subsection.

1.13 Strata Schemes Development Act 2015 No 51

[1] Section 197 Application of Act to electronic form plans and other documents

Omit “, other than an office copy of a court order,” from section 197(1)(b).

[2] Section 197(3) and (3A)

Omit section 197(3). Insert instead—

- (3) If a plan is lodged electronically, any other document that is required to be lodged with the plan must also be lodged electronically in an electronic form approved by the Registrar-General.
- (3A) Subsection (3) does not apply to a document excepted from that subsection by the regulations or another Act or by the Registrar-General.

1.14 Strata Schemes Management Act 2015 No 50

[1] Section 186 Strata scheme information to be given to lessee

Insert at the end of section 186(3)—

Maximum penalty—5 penalty units.

[2] Section 191 Building work to which Part applies

Omit section 191(1). Insert instead—

- (1) This part applies to the following building work—
 - (a) residential building work carried out on a building or part of a building that is part of the parcel of a strata scheme,
 - (b) building work carried out on a building or part of a building that is—
 - (i) part of the parcel of a strata scheme, and
 - (ii) used or proposed to be used for mixed use purposes that include residential purposes,
 - (c) building work that—
 - (i) is carried out on a building or part of a building that is not part of the parcel of a strata scheme, and
 - (ii) the owners corporation is liable to pay for under a strata management statement or a building management statement registered under the *Conveyancing Act 1919*, Part 23, Division 3B.
- (1A) Building work specified in subsection (1)(c) is taken to be carried out on a building in a part of the parcel of a strata scheme for the purposes of this part.

1.15 Strata Schemes Management Regulation 2016

[1] Schedule 5 Penalty notice offences

Omit “Section 186(1) and (2)” from Column 1 under the heading **Offences under the Act**.

Insert instead “Section 186(1) and (3)”.

[2] Schedule 5, Offences under the Act, Column 1

Omit “Section 258(1), (2) and (3)”. Insert instead “Section 258(1) and (3)”.

1.16 Surveying and Spatial Information Act 2002 No 83

Schedule 1 The Board of Surveying and Spatial Information

Omit “personally or in the ordinary course of post” from clause 4(1)(b).

1.17 Tow Truck Industry Act 1998 No 111

[1] Section 22 Term of licence

Omit section 22(2)(b).

[2] Section 31 Term of drivers certificate

Omit section 31(2)(b).

Schedule 2 Amendments relating to dissolution of Building Insurers' Guarantee Corporation

2.1 Government Information (Public Access) Regulation 2018

Schedule 3 Agencies declared to be part of other agencies

Omit the matter relating to the Building Insurers' Guarantee Corporation.

2.2 Home Building Act 1989 No 147

[1] Section 103F Interpretation

Omit section 103F(1), definitions of *chief executive*, *claims administrator*, *former approved insurer*, *Guarantee Corporation*, *guarantee fund* and *insurer*.

Insert in alphabetical order—

guarantee fund or *Fund* means the Home Building Insurers Guarantee Fund.
insurer—

- (a) means a licensed insurer other than the Self Insurance Corporation, but
- (b) does not include an insolvent insurer.

[2] Section 103F(1), definition of “insolvent insurer”

Omit the note.

[3] Section 103I Indemnity

Omit section 103I(2)(f).

[4] Sections 103J, 103K(1) and (4), 103L, 103M(1) and (3)(b), 103N(1) and (2), 103S(1A), 103V, 103W, 103X(2), 103Z and 103ZB

Omit “a claims administrator” and “the claims administrator” wherever occurring.

Insert instead “the Authority”.

[5] Sections 103K(3), 103M(2), 103N(3) and (5), 103S(2) and (3) and 103U

Omit “A claims administrator” and “The claims administrator” wherever occurring.

Insert instead “The Authority”.

[6] Sections 103N, 103S, 103U, 103W, 103X, 103Z and 103ZA, headings

Omit “Claims administrator”, “claims administrators”, “claims administrator” and “Guarantee Corporation” wherever occurring.

Insert instead “Authority”.

[7] Part 6A, Division 3 Administrative and financial matters relating to former approved insurers

Omit the division.

[8] Section 103S

Omit section 103S(1).

[9] Section 103S(1AA)(a)

Omit “(other than claims relating to insolvent former approved insurers)”.

- [10] **Section 103S(1A)**
Omit “Without limiting subsection (1)(c), the”. Insert instead “The”.
- [11] **Section 103ZC Delegation**
Omit the section.
- [12] **Section 123A**
Omit “or claims administrator” and “or a claims administrator” wherever occurring.
- [13] **Section 124 Order for substituted service**
Omit “, Authority or a claims administrator” from section 124(1).
Insert instead “or the Authority”.
- [14] **Section 131 Certificate evidence**
Omit “or a claims administrator” from section 131(2)(e).
- [15] **Schedule 1 Definitions and other interpretative provisions**
Omit clause 1(1), definition of *claims administrator*.
- [16] **Schedule 4 Savings and transitional provisions**
Insert “before its amendment by the *Better Regulation Legislation Amendment (Miscellaneous) Act 2024*” after “Part 6A” in clause 149(4).
- [17] **Schedule 4**
Insert at the end of the schedule, with appropriate part and clause numbering—

Part Provision consequent on enactment of Better Regulation Legislation Amendment (Miscellaneous) Act 2024

Dissolution of Building Insurers' Guarantee Corporation and closure of Building Insurers' Guarantee Fund

On the day on which Part 6A, Division 3 is repealed—

- (a) the Building Insurers' Guarantee Corporation is dissolved, and
- (b) the Building Insurers' Guarantee Fund is closed, and
- (c) the balance of the Building Insurers' Guarantee Fund is transferred to the Self Insurance Corporation, and
- (d) the assets, rights and liabilities of the Building Insurers' Guarantee Corporation are transferred to the Self Insurance Corporation.

2.3 Home Building Regulation 2014

Clause 51 Evidence of acceptance of risk

Omit the clause.

2.4 Insurance Protection Tax Act 2001 No 40

[1] Section 3C Refunds of tax from Policyholders Protection Fund

Omit “Building Insurers' Guarantee Fund and the” from section 3C(1).

[2] Section 16 Definitions

Omit the definitions of *Building Insurers' Guarantee Fund* and *Guarantee Corporation*.

[3] Section 16B Policyholders Protection Fund

Omit section 16B(2)(b) and (3)(a).

[4] Sections 16D and 16F

Omit the sections.

[5] Section 16H Policyholders Protection Fund to reimburse additional money advanced from Consolidated Fund

Omit "Building Insurers' Guarantee Fund or the".

2.5 State Insurance and Care Governance Act 2015 No 19

Section 10 Functions of ICNSW

Omit section 10(2)(e).

Schedule 3 Amendments relating to administrative arrangements

3.1 Biofuels Act 2007 No 23

[1] Section 3 Definitions

Omit “Department of Finance, Services and Innovation” from section 3(1), definition of *Department*.

Insert instead “department in which this Act is administered”.

[2] Section 24 Expert Panel

Omit section 24(1)(a1).

3.2 Building and Construction Industry Security of Payment Act 1999 No 46

[1] Section 4 Definitions

Insert in alphabetical order in section 4(1)—

Department means the department in which this Act is administered.

[2] Section 4(1), definition of “Secretary”

Omit the definition. Insert instead—

Secretary means the Secretary of the Department.

[3] Section 32C Authorised officers

Omit “of Customer Service” wherever occurring.

3.3 Building and Development Certifiers Act 2018 No 63

Section 4 Definitions

Omit section 4(1), definitions of *Department* and *Secretary*.

Insert instead in alphabetical order—

Department means the department in which this Act is administered.

Secretary means the Secretary of the Department.

3.4 Building Products (Safety) Act 2017 No 69

[1] Section 3 Definitions

Insert in alphabetical order in section 3(1)—

Department means the department in which this Act is administered.

[2] Section 3(1), definition of “Secretary”

Omit the definition. Insert instead—

Secretary means the Secretary of the Department.

[3] Section 75 Persons eligible for appointment as authorised officers

Omit “of Customer Service” from section 75(1)(a).

3.5 Design and Building Practitioners Act 2020 No 7

Section 3 Definitions

Omit “Department of Customer Service” from section 3(1), definition of *Department*.
Insert instead “department in which this Act is administered”.

3.6 Home Building Act 1989 No 147

[1] Sections 48D(1), 114(1), 119(b), 128(1)(a) and 131(1)

Omit “of Customer Service” wherever occurring.

[2] Schedule 1 Definitions and other interpretative provisions

Insert in alphabetical order in clause 1(1)—

Department means the department in which this Act is administered.

[3] Schedule 1, clause 1(1), definition of “Secretary”

Omit the definition. Insert instead—

Secretary means the Secretary of the Department.

3.7 Plumbing and Drainage Act 2011 No 59

Section 3 Definitions

Omit section 3(1), definition of *plumbing regulator*. Insert instead—

plumbing regulator means the Secretary of the department in which this Act is administered.

3.8 Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 No 9

Section 3 Definitions

Omit “Department of Customer Service” from section 3(1), definition of *Department*.
Insert instead “department in which this Act is administered”.

3.9 Swimming Pools Act 1992 No 49

[1] Section 3 Definitions

Insert in alphabetical order in section 3(1)—

Department means the department in which this Act is administered.

[2] Section 3(1), definition of “Secretary”

Omit the definition. Insert instead—

Secretary means the Secretary of the Department.

[3] Section 27 Authorised officers may be appointed

Omit “of Customer Service” from section 27(1)(b).

[Second reading speech made in—
Legislative Council on 20 June 2024
Legislative Assembly on 14 August 2024]